

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **29TH MAY 2019**

REPORT BY: **CHIEF OFFICER (PLANNING,
ENVIRONMENT AND ECONOMY)**

SUBJECT: **FULL APPLICATION - ERECTION OF 32
NO. DWELLINGS AT LAND AT
HAWARDEN ROAD, PENYFFORDD**

**APPLICATION
NUMBER:** **059352**

SITE: **LAND AT HAWARDEN ROAD,
PENYFFORDD**

APPLICANT: **MACBRYDE HOMES LIMITED**

**APPLICATION
VALID DATE:** **4TH DECEMBER 2018**

LOCAL MEMBERS: **CLLR DTM WILLIAMS
CLLR MRS C HINDS**

**TOWN/COMMUNITY
COUNCIL:** **PENYFFORDD COMMUNITY COUNCIL**

**REASON FOR
COMMITTEE:** **SCALE OF DEVELOPMENT**

SITE VISIT: **NO**

1.00 SUMMARY

1.01 Members will recall this item was deferred at the Planning Committee meeting on 6th March 2019. This was to allow the consideration of whether the contributions required by virtue of a S106 agreement were compliant with CIL regulations. This matter is addressed within the body of the report.

This is a full application for the erection of 32 no. dwellings at land at Hawarden Road, Penyffordd CH4 0EP

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-

2.01 The conditional planning permission be granted subject to the applicant entering into a Section 106 Obligation to provide the following:

- The provision of 10 no. affordable homes to be a mix of Shared Equity Housing, namely 70% Open Market Value with the balance of 30% held by the Council, or other such tenure and affordable rented properties, to be agreed with the Local Planning Authority, and to remain so in perpetuity.

Conditions

1. Time Limit (2 years)
2. Plans
3. Materials
4. Details of Play and open space area including management and maintenance
5. Landscaping scheme
6. Landscaping Implementation
7. Detailed scheme to reinforce the public sewerage system
8. Only foul water to be discharged from site
10. Surface Water drainage scheme
11. No surface water/land drainage to be allowed to connect with public sewerage network
12. Accoustic measures in noise assessment to be implemented
13. Tree protection measures
14. Land contamination investigation and remediation
15. Lighting Scheme
16. Siting, Design and Layout of means of access to be agreed
17. Formation and construction of means of access
18. Site access to be kerbed
19. Visibility splay
20. Visibility splay to be made available during site construction phase
21. Parking and tuning facilities to be provided
22. Front of garages shall be set back minimum of 5.5m behind back of footway
23. Detailed layout, design, means of traffic calming and signage, surface water drainage, street lighting and construction of internal estate roads
24. A 1.8m wide footway to be provided on site frontage
25. Positive means to prevent surface water run off onto highway to be provided
26. Construction Traffic Management Plan

3.00 CONSULTATIONS

3.01 Local Member

Councillor DTM Williams

The outstanding issues we have are.

1. Open market properties on the site are all relatively expensive detached properties. Unfortunately this matter has not been discussed during our meetings due to the welcome provision of affordable housing on the site that resulted in the matter being overlooked. The compromise we would like to see would be that some of these designs are modified and turned into two or three bedroom semi-detached that would help first time buyers onto the housing ladder. This could possibly result in additional properties on the site, but we believe that this would be acceptable due to the benefits that could result. If the applicant is willing consider this proposal I would hope that it could be made a condition and our planning department can be obliging with support..

2. Despite the assistance of highways, we still believe that the entrance to the site needs to be amended to opposite Famau view drive. This was a matter that the Inspector identified where he stressed that a mini roundabout in this location would be a much safer inclusion rather than a new access point close to the bypass entrance. Although the proposed access location complies with all highway requirements, there is no doubt that despite possible calming measures, the position of this access is potentially very dangerous.

As discussed with all relevant parties, this may require an amended plan to the existing and the one approved on appeal, but for the long term benefits and increased road safety in this location, I would hope that planning, highways and the applicant can come to an acceptable compromise to try to accommodate the move of the access and inclusion of mini roundabout as advised by the Inspector during his site visit.

With regards to other matters that I am requesting to be taken into account, these are as follows.

a. It has been discussed that the design of the dwellings could potentially have improved character, and although this may be a subjective matter, given the location it is hope that the external finishes can be reviewed in

consultation with applicant, village representatives and appropriate officers. The potential benefits of making any possible improvements could not just be for the benefit of the appearance and streetscene view at and highly visible location, but could also benefit the reputation of the developers product. It is therefore hoped that this suggestion can be taken on board by the applicant and conditioned accordingly.

b. POS is an agreed contribution to the Millstone playing fields. The Community Council has set up a recreation/amenities fund where the village is engaged in a range of initiatives to make improvements at a number of locations. It has been accepted that a commuted sum be made in lieu of play provision on the site, but the request here is for this to be paid into the Communities fund to be allocated where the community considers most appropriate for the overall benefit of the village.

c. Given the extensively used location that the site is located in, I would ask that the applicant considers an additional landscaping scheme outside the development land with the permission of the LA. By undertaking a sensitive planting scheme on the corner of the site and along its frontage of the local road, the site and village could be enhanced considerably for the benefit of both the appearance of village and developers promotional purposes. If this can be agreed in principal, further discussions can take place to consider appropriate schemes as the scheme evolves.

Further comments from Councillor Williams – April 2019

Formally ask Development Management, Planning Strategy and Streetscene to consider the following;

1. Re-location of the access and creation of a roundabout to form a natural traffic calming feature on a fast and busy stretch of road which speed cushions are not effective. Would create a safer access from Fammau view onto Hawarden Road which is extensively used by traffic from the Penymynydd estates. This would also benefit traffic entering and exiting the new development. The current proposed access is quite close to the bypass. Although approved and compliant with regulations, it is inevitably creates an addition hazard being so close to the bypass and residents homes opposite. Provide long term provision

potential for future development of adjoining sites so relieve pressure on the centre of the village, or the need to create further accesses onto Hawarden Road.

2. Consider suggestion for a change of house types at the north of the site. It is currently proposed for three detached dwellings, but the suggestion I have put is for two sets of semi-detached properties that could be two or three bed. The rationale for this would be to provide lower priced housing on open market sale that could help first time buyers on the housing ladder.
3. Request for an off-site contribution towards adult and youth provision on the youth club site that is subject to CAT by the community and underwritten by the Community Council. We are therefore seeking an agreement for this contribution to be controlled by the Community Council, as is the case for the S106 agreement on the Groves. With regards to maintenance of this green space, either a management agreement can be set up with residents paying an agreed fee, or a contribution be made to street-scene for future maintenance.

Councillor C Hinds

The village is growing to the extreme and our roads need looking into for the future.

With each individual planning application this is not taken into account.

This application's access and egress is too near a junction coming from the by-pass. It would be safer with a mini roundabout from Ffammau View. It would also take the traffic from many estates off Penymynydd Road and Penymynydd Road itself.

There is Crossways, then Spar (which is causing many problems) and then a site which 300 houses come off onto this road. This then links with Chester Road (another 190 houses being built) which is another main road into the village which is at its junction with Hawarden Road. Drivers use it to cut through the village

There is a restaurant with a car park then proposed is the Co-op, which is needed for the village, a childrens play ground a youth club and scout headquarters then all this

leads out of the village with Corwen Road on the right to the by-pass and train station across the by-pass. Continuing up Hawarden Road is the Vounog (which has all roads and many houses) and that leads to the junction with the A550

A lot of thought needs to be put into this by Highways, not just say it is ok. It has to be safe for all the people that live here.

The whole picture needs to be taken into consideration

Also just a pair of semi bungalows are needed mainly for residents who are disabled whether old or young.

Penyffordd Community Council

The proposed access is in a very dangerous location and members wish to support the request of our other Councillors for the entrance to be opposite Fammau View with the creation of a mini roundabout.

Members are grateful for the affordable provision on the site, but would ask for slight amendments to the proposals to include some smaller houses to give local residents the chance to get on the housing ladder. All open market houses are detached and relatively expensive properties, and the village has been flooded with these sort of styles in all previous applications. Members feel that it would be in everybody's interest, including the developers, to have some smaller, maybe two bedroom semi-detached properties on the development for open market sale.

Members support the recommendation for POS to be an off site contribution to go towards the Communities recreation/amenities fund.

Members would like the cooperation of the applicant in considering a landscaping scheme on the outside of the site to be designed in consultation with local people.

Members are concerned about the external appearance of some of the dwellings and would like a condition to be applied that any external finishes are decided in consultation with Officers

Highways Development Control - The principle of development has been established by earlier consents. No

objection to this application. Conditions regarding access, visibility splay, parking and turning and surface water management are required.

Community and Business Protection- I have no objections in principle to this application as long as the noise mitigation scheme is fully implemented as per the noise assessment.

Housing Strategy - The provision meets the policy requirement for 30% provision of affordable housing on site for development. In order to meet the demand on the affordable housing register I would support the following tenure mix.

	Shared equity	Affordable rent	Total
2 beds	2no.	2no.	4 no.
3 bed	4no.	2no.	6 no.

Ecology- No objection as development to be undertaken in accordance with the Ecology Appraisal Recommendations and the Landscape Plan.

Welsh Water/Dwr Cymru- If planning consent granted then the proposed conditions and advisory notes should be imposed.

Aura leisure

The provision is to include an equipped play area with a range of age specific play items for a Doorstep play area which conform to the latest BS/EN 1176 AND BS/EN 1177 standards for play equipment and safer surfacing. Note that individual play items have to be supplied with individual certificated proof of compliance to BS/EN 1176 and details need to be supplied prior to an approval by the Authority .The play area requires link pathways for inclusive access, seating areas and information/ advisory signs stipulating who manages the site; all of which would need to be in accordance to a specification approved by the Authority.

The boundaries for all of the play space needs to be approved; in particular roadside boundaries and gates including maintenance access gates with dropped kerbs for maintenance vehicle access, fencing next to private

boundaries needs to be approved and confirmation of the legal ownership/responsibility.

The open space/play area needs to be ready for public use when 50% of the development is sold or occupied .

The open space/play space needs to be free from overhead powerlines, substations and open water.

The open space/play space needs to have good drainage suitable for play and recreation .

All literature and promotional material for the proposed development should display the play area layout for the benefit of buyers

Education and Youth-

SCHOOLS AFFECTED: PRIMARY

School: Penyffordd C.P. School

Current NOR (@ September 2016) 253 (excluding Nursery)

Capacity (@ September 2016) 259 (excluding Nursery)

No. Surplus Places: 6

Percentage of Surplus Places: 2.32%

SCHOOLS AFFECTED SECONDARY

School: Castell Alun High School

Current NOR (@ September 2016) is 1354

Capacity (@ September 2016) is 1240

No. Surplus Places is -114

Percentage of Surplus Places is: -9.19%

Primary School Pupils

School capacity 259 x 5% = 12.95 (13)

259 – 13 = 246 Trigger point for contributions is 246 pupils

(No. of units) 32 x 0.24 (primary formula multiplier) = 7.68 (8
No. of pupils generated) x £12,257 per pupil (Building Cost multiplier) = £98,056

Actual pupils 253 + 8 (from the multiplier) = 261 meets trigger

261-246=15 x £12,257 = £159,341 (cannot ask for more contributions that development generates)

Contribution requirement would be £98,056

Secondary School Pupils

School capacity of 1240 x 5% = 62 (rounded up or down) 62
Capacity 1240 - 62 = 1178 Trigger point for contributions is 1178 pupils.

(No. of Units 32 x 0.174 (secondary formula multiplier) = 5.56 (6 No. of pupils) generated 6 x £18,469 per pupil (Building Cost multiplier) = £110,814

Actual pupils 1360+6=1366 meets trigger of 1178

1360 -1178 = 182 x £18,469 = £3,361,358 (cannot ask for more contributions that development generates)

Contribution requirement would be £110,814

Primary – Penyffordd Primary School

- Although the development would ordinarily generate a contribution, a new school is being constructed with sufficient pupil places therefore it is **not** our intention to seek a Section 106 contribution.

Secondary – Castell Alun High School

- It is our intention to seek a Section 106 contribution.
- Contribution will be spent on remodelling of specialist areas.

Clwyd Powys Archaeological Trust- No archaeological implications for the proposed development

Coal Authority- It will be necessary to include The Coal Authority's Standing Advice within the Decision Notice

Natural Resources Wales- No objection

Airbus- No objection

4.00 PUBLICITY

4.01 Press Notice, Site, Notice, Neighbour Notification

1 Letters of objection received

- Impact upon residential amenity
- Impact upon character and appearance of the area
- Impact upon highways safety

- Impact upon community facilities
- National and Local Planning Policy

5.00 SITE HISTORY

- 5.01 056694- Erection of 32. Dwellings. Refused 14.09.17:
 Withdrawal of reasons for refusal and agreement to not
 defend the appeal. 06.12.2017
 Appeal Allowed 14.02.18

6.00 PLANNING POLICIES

- 6.01 Flintshire Unitary Development Plan
 STR1 - New Development
 STR4 - Housing
 STR8 - Built Environment
 STR10 - Resources
 GEN1 - General Requirements for New Development
 GEN3 - Development Outside Settlement Boundaries
 D1 - Design Quality, Location and Layout
 D2 - Design
 D3 - Landscaping
 TWH1 - Development Affecting Trees and Woodlands
 WB1 - Species Protection
 AC13 - Access and Traffic Impact
 AC18 - Parking Provision and New Development
 HSG4 – New Dwellings Outside Settlement Boundaries
 HSG8 - Density of Development
 HSG9 - Housing Mix and Type
 HSG10 - Affordable Housing within Settlement Boundaries
 SR5 - Outdoor Play Space and New Residential
 Development
 EWP3 - Renewable Energy in New Development
 EWP14 – Derelict and Contaminated Land
 EWP16 – Water Resources
 RE1 - Protection of Agricultural Land

Local/Supplementary Planning Guidance Notes

- LPGN 2 - Space around dwellings
 LPGN 4 - Trees and Development
 LPGN 9 - Affordable Housing
 LPGN 11 - Parking Standards
 LPGN 13 - Open Space Requirements
 SPG 23 - Developer Contributions to Education
 National Planning Policy
 Planning Policy Wales Edition 10 December 2018
 Technical Advice Note 1 : Joint Housing Availability

Studies
Technical Advice Noise 11: Noise
Technical Advice Note 12 : Design

7.00 PLANNING APPRAISAL

7.01 Introduction

This is a full application for the erection of 32 No. dwellings, creation of a new vehicular access and associated infrastructure on land at Hawarden Road, Penyffordd.

The Site & Surroundings

7.02

The site comprises some 1.30ha of land outside the settlement of Penyffordd. The site is currently a single field, lastly in use for the purpose of grazing. The land falls from its high point in the north west towards the south and is typical of the surrounding landform.

The site is bounded by a combination of post and wire fences with mature and well established hedgerows on all sides. The A550 lies beyond the western boundary, with Hawarden Road abutting to the north and east. These boundaries, in addition to the hedgerow, have a small bund associated with them. The southern boundary is hedgerow interspersed with mature trees, with a further small field parcel beyond.

7.03

The Proposed Development

Planning permission was granted, on appeal, on the 14th February 2018 for the erection of 32 no. dwellings, the creation of a new point of vehicular access from the site onto Hawarden Road and the creation of footpath and cycle links from the site. The proposals included the provision of some 0.16 hectares of Public Open Space.

The site was granted planning permission before the base date of the April 2018 Housing Land Monitoring Study and therefore features as part of the housing land supply for the Local Development Plan in the form of a planning commitment. The plans housing requirements will be met through supply comprising completions, commitments, allowances for small sites and windfalls and strategic and local allocations. If the site were to be removed from the supply in the form of a commitment, then it would have to be replaced elsewhere, most likely through a further new housing allocation.

7.04 The current proposal differs from the extant permission in the houstypes proposed and with minor amendments to the layout and highways arrangement, as the proposal is now being put forward by a different developer. The development proposes 32 no. dwellings, including 10 no. affordable dwellings and is in principle the same development as that previously approved. The developers have carried out the requisite public consultation and have engaged with the local members and town council to discuss the scheme prior to its submission.

The Main Issues

7.05 Members should be aware that this site is subject to an extant permission for a development of a form and scale consistent with the current proposal. Therefore in circumstances such as this usually the main issues should only examine any changes made to the original planning permission, which would relate to impact on character and appearance and living conditions. However, due to the extensive scale of concerns raised by local members it is considered useful to fully provide the context of the planning history of the site, including the Inspectors decision.

Planning History

The decision to refuse planning permission 056994 was made by Members at the Planning and Development Control Committee held on 6th September 2017.

The reasons for refusal were:

1. The site lies outside the UDP settlement boundary and granting permission would be contrary to policies STR1, GEN3, HSG4, and HSG5 of the Adopted Flintshire Unitary Development Plan.

2. Permission would result in the loss of grade 3a agricultural land contrary to policies GEN1 (k) and RE1 of the Adopted Flintshire Unitary Development Plan.

3. It was considered that the proposal represented significant harm, undermining local and national policies designed to safeguard open countryside and communities with rural aspects. As such the proposals would be contrary to Policies GEN3 and

L1.

4. The Committee report acknowledged (in 7.41) the impact of this proposal on the approach to the settlement. As such the proposals would be contrary to Policies GEN1 and L1 of the Adopted Flintshire Unitary Development Plan.

5. Policies referenced in the UDP were considered consistent with Planning Policy Wales and that accordingly it was considered that this proposal would erode the rural character and appearance of the site and the locality with the resulting harm to the character and appearance of this part of the settlement. As such the proposals would be contrary to Policies GEN1 and L1 of the Adopted Flintshire Unitary Development Plan.

Following an appeal by the applicants a Public Inquiry was convened which sat over 2 days on 16th & 17th January 2018.

The Inspector noted the basis for the refusal of the application by the Local planning Authority. He also noted matters referenced by interested parties and concluded that the main issues for consideration in this case were:

- 7.06
1. What impact there would be upon character and appearance of the area;
 2. What impacts there would be upon social cohesion;
 3. What need and benefits there was for housing, taking account of the lack of a 5 year housing land supply; and
 4. Whether the proposal amounted to sustainable development.

The appeal was allowed, and planning permission was granted for the erection of 32No. dwellings, including new vehicular access, public open space, car parking and landscaping.

Character and appearance (Main issues for consideration)

The Inspector noted the wording of policies within the Flintshire Unitary Development Plan aimed at protecting areas of open countryside from non-essential and unjustified

development. He noted that none of the exceptions identified within policies STR1, GEN3 and HSG4 applied in this case. He noted however that the weight to be attributed to the policies, in the light of the Council's position in respect of the lack of a 5 year supply of land for housing, was reduced and therefore it was the effect of the proposals upon the site and its surroundings that needed to be considered.

The Inspector considered the views expressed by residents in terms of the buffering effect of the site between existing built form and the A550 bypass. He weighed this against the categorisation of the site in LANDMAP terms and the findings of the Landscape and Visual Impact Assessment produced by the appellant, together with his own assessment of the site in visual terms.

The Inspector concluded the proposals would result in little harm to the landscape of the character and appearance of the area and whilst the proposals were nonetheless in contravention of the identified policies, he concluded there would be little harm to the aims of those policies.

7.07 Similarly to the development considered by the Inspector the housetypes proposed in this application are a mix of semi-detached and, predominantly, detached, dwellings. These dwellings have facing brickwork and roof tiles and are considered to be appropriate for the location. They do not represent a departure from the approved housetypes in terms of style and material.

The proposal does not increase or decrease the numbers of dwellings and overall the proposed density is acceptable. Similarly to the previous approval in terms of space around dwellings, interface distances between proposed and existing dwellings and proposed garden spaces are acceptable.

The impact of the current proposal, despite the altered design of the proposed dwellings, is no different to that of the extant permission. When appraising the impact of the application on the character and appearance of the locality I reach the same conclusions as the Inspector on the previous scheme.

Social Cohesion (principal already agreed by virtue of planning permission 056694/3182034)

At the Public Inquiry representatives of local residents

argued that the proposed development would be detrimental to social and community cohesion on account of the rapid growth of the village as a result of the amount of housing development in the village over the past few years, considerably more than recommended and allowed for in the adopted Unitary Development Plan. They were also concerned about the large number of recent planning applications for even more housing developments and submitted that such rapid expansion is damaging social and community cohesion, as evidenced by increased antisocial behaviour and reduced participation in community activities.

7.08

These genuine concerns were cited by the Council as one of the reasons for refusal of a much larger housing development proposal elsewhere in the settlement. The Inspector considered that the proposal on the appeal site is much smaller and would have negligible effect on such cohesion on its own. However, the cumulative effects of several developments over a short period of time have the potential to affect community cohesion.

The Inspectors conclusion on the current issue is that the cumulative effect of the appeal proposal, taken together with other development carried out or granted planning permission in recent years, would be harmful to social and community cohesion. In conclusion, however, this issue was considered to be substantially outweighed by the need for and the benefits of the development.

Provision of 5 year land supply for housing (principal already agreed by virtue planning permission 056694/3182034 and reviewed in light of changes to the disapplication of paragraph 6.2 of TAN1)

The Inspector attached considerable weight, as required by TAN 1 at the time, in their determination of the appeal on the provision of land for the supply of housing. The Inspector concluded the proposal for housing in this location formed sustainable development and the proposal met all other policy tests.

There has been a material change in circumstances which has occurred since the determination of the appeal both of which attract weight as a material planning consideration in the overall planning balance.

7.09 Firstly, paragraph 6.2 of TAN 1 has been disappplied. At the time of the determination of the original planning application and appeal TAN 1 required "considerable weight" to be given to the lack of housing land supply provided that the

proposal was otherwise policy compliant and sustainable. The Appeal Inspector considered the proposal met this test.

The disapplication of paragraph 6.2 since 18th July 2018 has significantly altered this test. A lack of a five year land supply still remains a material planning consideration however the Local Planning Authority now considers what weight should be attached to this matter in the overall planning balance rather than the assumption set out in paragraph 6.2 that considerable weight is always attached to this matter.

- 7.10 The Council must consider that the site is in a sustainable location and forms sustainable development. It meets all other Policy requirements and it is already identified as a housing commitment in the Local Development Plan. It also has the benefit of an extant permission for a almost identical development. It is therefore considered that the lack of a 5 year supply of land for housing and it's commitment in the Local Development Plan in regard to this application should attract considerable weight in favour of approving the development in the overall planning balance.

Sustainability (principal already agreed by virtue of planning permission 056694/3182034)

The Inspector noted that, in the absence of a 5 year housing land supply, the appeal fell to be determined in the context of the provision in favour of sustainable development. He concluded that the facilities and services within Penyffordd were such that it can be considered a sustainable settlement suitable for accommodating a significant amount of development. He noted that interested parties concerns in respect of community infrastructure and traffic were not supported by the responses of the Council in respect of these matters. The Inspector had already concluded that landscape and visual impact was very limited. He noted that there would be a loss of a limited area Best and Most Versatile Agricultural Land (BMV). However, he noted the potential of the site to fulfil its potential as BMV was limited by size and location within an isolated field. Accordingly he attributed very little weight to this issue.

- 7.11 The Inspector concluded that the proposal resulted in much needed housing in a sustainable location upon a sustainable site.

Highways (principal already agreed by virtue of planning permission 056694/3182034)

It has been noted by the Highways Development Control that the principle of the development has been established by previous consents and they raise no objection to the proposal.

The current proposal broadly follows the arrangement and layouts approved in the previous consent. It is noted that where minor alterations to the approved scheme have been proposed these are considered to be an improvement to the approved details.

A number of conditions are proposed to ensure that the highway layout is acceptable and in accordance with the policies of Flintshire County Council Streetscene.

7.12

Local Members and the Community Council has raised the possibility of a revised access point to the site and the construction of a mini roundabout on the public highway. The suggestion of a mini-roundabout has been raised with the applicant, as requested by Local Member. The applicant is unwilling to deviate from the approved highways position. Given the acceptability of the access from a Highways point of view, and the extant permission on site it is not considered that this is a position that could be imposed upon them. Long term use and capacity of the highway network is a strategic matter for the Highways Authority to consider.

Planning Obligations

The infrastructure and monetary contributions that can be required from a planning application through a S.106 agreement have to be assessed under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and Welsh Office Circular 13/97 'Planning Obligations'.

It is unlawful for a planning obligation to be taken into account when determining a planning application for a development, or any part of a development, if the obligation does not meet all of the following regulation 122 tests;

- 7.13
1. be necessary to make the development acceptable in planning terms;
 2. be directly related to the development; and
 3. Be fairly and reasonably related in scale and kind to the development.

Education

Education

The Capital Projects and Planning manager has calculated the impact of the proposed development upon the local Primary and Secondary Schools. The capacity of Penyffordd primary school is 259, excluding the Nursery, with 6 surplus places, the capacity of Castell Alun High School is already exceeded. In accordance with Supplementary Planning Guidance Note 23- Developer Contributions to Education contributions it was concluded that both primary and secondary schools would hit the triggers identified in that guidance.

However, with regard to the primary school, a new school is to be constructed to replace the existing Primary school and it is considered there will be sufficient places within this school. As such no contributions are to be sought.

- 7.14 Regarding the Secondary school, the authority has previously secured 5 obligations for this school. Therefore, in order to be in accordance with Regulation 123 of the CIL Regulations, further obligations can only be considered where they relate to a separate infrastructure project to the existing obligations. The applicant queried the lawfulness of the obligation requested in the report to this committee on the 6 March 2019 and the matter was deferred in order to consider this further. On further consideration and having further consulted the education authority the project identified would not meet the tests in Regulation 122 of the CIL Regulations as set out above, and therefore an obligation cannot be required. This means the impact on the school will not be mitigated. However, given that there is an existing planning permission pursuant to which no contribution is required, this does not provide a basis for refusal of this application.

POS

The extant permission identified an area on the site to be set aside for public open space to be used for leisure and recreation uses. A condition was imposed by the Planning Inspector that required further details regarding the landscaping of this area, boundary fencing, play and ancillary equipment, as well as a scheme for the long term management and maintenance of the area, was to be

submitted for approval. The Planning Inspector considered this sufficient and did not require a legal agreement to cover this matter. I do not consider, therefore, that it would be reasonable to now request such a measure, or to request further commuted sums as the scheme does provide on-site public open space.

7.15

The grass in this area is to be a hard wearing grass mix. I propose that the further details regarding the specific equipment to be provided is conditioned with the management of the area to be secured through the legal agreement, as per the extant situation. I consider that with the imposition of these measures the proposal accords with the relevant policies regarding the provision of public open space.

Affordable housing

The proposal provides that of the 32 no. dwellings proposed there is 10 no. affordable dwellings. The mix will be 6 no. 3 bed and 4 no. 2 bed dwellings. The applicant has proposed that all 10 would be of a shared equity or such tenure as agreed with the Council. In terms of Evidence of need, the Local Housing Market Assessment (LHMA) for Flintshire identifies an annual shortfall of 246 affordable units. The LHMA overall identifies a need for primarily 1 bed (14%), 2 bed (31.6%) and 3 bed (28.5%), split relatively evenly between social rented (56.2%) and intermediate (43.8%) tenures.

The demand on the affordable housing register for shared equity and affordable rented properties in Penyffordd is:

	2 bed	3 bed
Shared equity	3	6
Affordable Rent	2	3

The Housing strategy officer supports a tenure mix of 6 no. shared equity, made up of 2 no. 2-bed and 4 no. 3-bed dwellings, and 4 no. affordable rent, made up of 2 no. of both the 2-bed and 3-bed dwellings.

I consider that the provision put forward within the proposal

meets the 30% policy requirement in accordance with Policy HSG10 of the Flintshire Unitary Development Plan and represents an acceptable level of affordable housing provision that meets the demonstrable need in the local area and is an asset to the local community. The provision identified by the applicant accords with the approved legal agreement. Discussions between the applicant and the Housing Strategy Officer can be undertaken in order to agree the precise details.

Response to detailed matters raised by Local Members

The Council is obliged to consider the application which is submitted to them. Amendments are sought in order to achieve compliance with planning policy and guidance. It is a material consideration attracting significant weight that the site has an extant planning permission. It has been requested that a condition is imposed to require the developer to include more two and three bedroom housing. This matter could not be addressed by condition and would require the developer to resubmit a scheme. Similarly the Council does not have a policy to require developers to include a pair of bungalows. The housing mix proposed is in accordance with approved planning policy and similar to the proposal approved by the Inspector. The developer is aware of the desire of local members to provide a different housing mix however, they have declined to amend the scheme. As the proposal accords with the adopted planning policies the housing mix proposed is considered acceptable.

- 7.16 The access proposed to the development site is what has been submitted by the developer. Regardless of any informal discussions held by the Inspector during their site visit he clearly did not regard highways to be an issue when he allowed the appeal. There are no highway objections to the proposed access. The applicant has submitted a robust traffic assessment which takes account of any cumulative planned changes to the network. It is therefore neither reasonable, proportionate or necessary to attempt to require the developer to alter the access and require a mini-roundabout. Despite this officers have communicated the desire of the local member to the developer. The developer has declined to amend the scheme. Amending the scheme to accommodate the suggested roundabout would necessitate the withdrawal of this planning application, submission of a new application and the likely inclusion of

third party land not within the applicants control. A plan has been circulated to Planning Committee members showing the suggested roundabout which does not form part of this application. It does not fall within the curtilage of the land identified as being part of this application and is cannot be lawfully considered in anyway in connection with this application.

Matters have been raised regarding the appearance and design of the housing. It is not clear in particular what improvements are sought. However the proposal appearance and design accords with the UDP policies D1 and D2 are the proposed houses are not dissimilar to the proposal allowed on appeal or nearby existing houses.

A request has been made that any open space contributions are paid into the newly formed Community Council recreation fund. As set out in the Council's guidance note any contributions would normally be paid to the Council and the Council is then party to the legal agreement and any clauses. In order for a contribution to be considered compliant with CIL regulations the Council must identify how and where the contribution should be spent and this would be specified in the legal agreement. It would not be lawful to pass the sum of money to the Community Council to spend as requested. In any regard the provision of open space is to be accommodated on the site, similarly to the scheme the Inspector allowed so there is no financial contribution for open space.

It has also been requested that the developer carries out landscaping on third party land surrounding the development site. As this is land outside the developers control and it is not a requirement of planning policies to necessitate this planting it is not a matter that the Council can reasonably require as part of the planning application. However, this may be a matter the Local Member could take up directly with the developer.

Other Matters

The Hepworth Acoustic noise assessment undertaken in August 2018 outlines noise mitigation measures to be undertaken to the development to protect future residents from adverse levels of noise. The report recommends achieving this by constructing acoustic barriers of various heights and also installing acoustic glazing of various

thicknesses for the various properties. Public protection have no objections in principle to the proposal as long as the identified noise mitigation scheme is fully implemented. A condition to this effect is included within the proposed schedule of conditions in paragraph 2.01.

A hydraulic modelling assessment has previously been submitted on the site which identified that detriment to the local sewer network would be caused as a result of the new development discharging to the local sewers. A number of options for sewer network reinforcement have been provided to Welsh Water, the implementation of which would enable the development to connect into the public sewer network without causing detriment to the local community or environment. As a result it is considered that subject to conditions and advisory notes suggested by Welsh Water being imposed then the development is acceptable.

Conclusion

I consider the proposal to be acceptable, and in accordance with the principles of sustainable development. I do not consider that there has been a material change in the planning situation since the Inspectors decision. Development of this site would assist in the provision of housing commitments within the Local Development Plan. For these reasons I recommend that the proposal be approved in accordance with the conditions listed in paragraph 2.01.

8.00 CONCLUSION

8.01 Other Considerations

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

The Council has had due regard to its public sector equality duty under the Equality Act 2010.

The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

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