

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **WEDNESDAY, 28<sup>TH</sup> OCTOBER 2020**

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

**SUBJECT:** **060220 - FULL APPLICATION - RESIDENTIAL DEVELOPMENT FOR THE ERECTION OF 92 DWELLINGS INCLUDING THE PROVISION OF AFFORDABLE UNITS, AREAS OF PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED WORKS AT NEW BRIGHTON ROAD, NEW BRIGHTON, MOLD**

**APPLICATION NUMBER:** **060220**

**APPLICANT:** **STEWART MILNE HOMES**

**SITE:** **LAND AT NEW BRIGHTON ROAD NEW BRIGHTON, MOLD**

**APPLICATION VALID DATE:** **12<sup>TH</sup> JULY 2019**

**LOCAL MEMBERS:** **COUNCILLOR M EASTWOOD**

**TOWN/COMMUNITY COUNCIL:** **ARGOED COMMUNITY COUNCIL**

**REASON FOR COMMITTEE:** **SIZE OF PROPOSAL**

**SITE VISIT:** **NO**

**1.00 SUMMARY**

1.01 This is a full application for the erection of 92 dwellings, including the provision of affordable dwellings, areas of public open space, landscaping and associated works at land south of New Brighton Road, New Brighton, Flintshire.

Members should be aware that an appeal has been lodged on the basis of non-determination with the Planning Inspectorate. As Members will recall, a 28 day 'dual jurisdiction' period

exists from the date of the appeal being lodged during which time the Local Planning Authority may determine the application. The 28 day period began on the 2<sup>nd</sup> October 2020 and will run until the 30<sup>th</sup> October 2020.

Accordingly, the Committee may now pursue one of the following courses of action. It may either;

1. grant planning permission; or
2. refuse to grant planning permission.

Should the Committee resolve to refuse to grant planning permission, then the reasons for such a refusal will form the basis of the Council's position in the subsequent consideration of the appeal.

## **2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS**

- 2.01
1. The Local Planning Authority consider that the proposal has the potential to cause disturbance to great crested newts and/or loss or damage to their resting places. In the absence of adequate surveys, mitigation and reasonable avoidance measures it is not possible to demonstrate that the proposal adequately takes account of the European Protected Species and as such is contrary to policies GEN1 and WB1 of the FUDP. Furthermore the proposal fails to safeguard protected and priority species and existing biodiversity assets from impacts which directly affect their conservation status as required by Planning Policy Wales 10.
  2. In the opinion of the Local Planning Authority the proposal provides an inadequate level of onsite play and recreational space for the numbers of dwellings proposed. As such the proposal is contrary to policy SR5 in the Flintshire Unitary Development Plan and the guidance found within the Local Planning Guidance Note 13: Open Space Requirements.

## **3.00 CONSULTATIONS**

### **3.01 Local Member**

Councillor M Eastwood

No written response at time of writing

Argoed Community Council

- i. Concerns about the sustainability of the development give the percentage by which the village has grown recently and the strain that this will put on local health and education provision.
- ii. The proposed exit for the development opens onto the busy New Brighton Road, where vehicles often travel at excessive speeds. Significant existing problems at traffic lights.
- iii. Premature to consider given position of land in UDP
- iv. Drainage issues on cae issa
- v. Safety concerns- no provision for safe route to schools.
- vi. Existing right of way must be protected
- vii. Four known Great Crested Newt habitats within 250m of the proposed development
- viii. Insufficient consideration by development of Active travel
- ix. Concerns for pedestrian safety A5119 crossing

Northop Community Council: (adjoining ward)

The Council's objections are as follows:-

- 1 Under: Planning policies and proposals, or Government planning advice. To grant permission would be to predetermine decisions which should be taken through the Local Development Plan. This predetermination would be to deny the community of the due process attached to LDP.
3. Under: Planning policies and proposals, or Government planning advice.  
The weight attached to the lack of a 5 year housing land supply has been reduced by the Welsh Office in line with Technical Advice Note 1.
4. Under: Impact on highway safety and Impact on the character and appearance of an area.  
Over development of the site with a proposed 92 dwellings having access and egress through a single entrance and 5 further dwellings another entrance, both onto a lane which is undergoing a safety assessment by FCC Highways Safety Department. Extra vehicles and no means of safe walking.
5. Under: Impact on residential amenity and Impact on community facilities.  
No account has been taken of personal and community safety in relation to Sychdyn where the closest amenities are situated (school, playgroup, shop, fishing)

Community and Business Protection

No adverse comments

## Highways Development Control

Recommends that the application be refused due to the inadequacies of New Brighton Road and the provision of a safe route to school. Sychdyn Primary School has been allocated as the school for children living on the development site; New Brighton Road between the site entrance and the school has failed a safe route assessment.

A recommendation of conditional approval could be provided if the provision of safe access along this route could be provided.

## Education

### **Affected Schools:**

#### Primary School: Sychdyn, Ysgol Sychdyn

Current NoR, excluding nursery, at January 2019	=	167
Capacity, excluding nursery, at January 2019	=	177
Number of Surplus Places	=	10
Percentage of Surplus Places	=	
5.65%		

#### Secondary School: Mynydd Isa, Argoed High School

Current NoR, excluding nursery, at January 2019	=	551
Capacity at January 2019	=	580
Number of Surplus Places	=	39
Percentage of Surplus Places	=	
6.72%		

### **Exceptions**

The exceptions to the provision of school places will be the following type of residential development from which planning authorities will note seek contributions:

Housing specifically designed for occupation by elderly persons (i.e. restricted by planning condition or agreement to occupation by those over aged 55 years or more).

1 bed dwellings or 1 bed apartments or flats.

### **Formula**

The figures are arrived at from a combination of formula application and practical experience, informed by sufficiency criteria.

The formula reads:

Number of housing units x 0.24 (primary school formula) = Child Yield (after calculating the 5% surplus where appropriate) x £12,257 cost multiplier per pupil = Developer Contribution (using the Cost Multiplier figures from 2008/09)

### **Primary School Calculations**

School Capacity 177 x 5% = 8.85, rounded to 9  
Trigger for Contributions is therefore 177 - 9 = 168

Number of Units, 92 x Primary Multiplier, 0.24 = Child Yield, 22.08 rounded to 22

Potential Numbers on Roll, 190 – Trigger for Contributions, 168 = Potential Number of Contributions Sought, 22

Actual Number of contributions Sought, 22 x Cost per Pupil Multiplier, £12,257.00 = Contribution Required, £269,654.00

### **Secondary School Pupils**

School Capacity 580 x 5% = 29.00, rounded to 29  
Trigger for Contributions is therefore 580 - 29 = 551

Number of Units, 92 x Secondary Multiplier, 0.174 = Child Yield, 16.008 rounded to 16

Current Numbers on Roll, 541 + Child Yield, 16 = Potential Numbers on Roll, 557

The Potential Numbers on Roll **do** exceed the Trigger for Contributions.

Potential Numbers on Roll, 558 – Trigger for Contributions, 551 = Potential Number of Contributions Sought, 7

Actual Number of contributions Sought, 7 x Cost per Pupil Multiplier, £18,469.00 = Contribution Required, £129,283.00

**NOTE:** The Primary and Secondary formula multipliers are used by other Welsh local Authorities, and provide a reliable and demonstrated weighted for education contribution calculations.

### **Conclusion**

**Primary School: Sychdyn, Ysgol Sychdyn**

- It is our intention to seek a Section 106 contribution for £269,654.00 – to be spent on accommodation.

**Secondary School: Mynydd Isa, Argoed High School**

- It is our intention to seek a Section 106 contribution for £129,283.00
- The contribution will be spent on a specific project for the development of the educational facilities on the school site

Housing

The comments made by Housing Strategy are made solely on the basis of housing needs data available at the time of the application.

The application proposes 29 homes for the affordable housing contribution, equating to 30% which meets current requirements.

Whilst it is acknowledged that part of the site is located within the settlement boundary, the majority lies outside of it and therefore the application may not be considered as acceptable in planning policy terms.

**Affordable Housing Partner:** It is suggested that early discussions are held with housing strategy and NEW Homes/ partner housing associations to progress the affordable housing delivery.

**Preferred Mix of units:**

The applicant proposes 11 x 2 bed homes and 18 x 3 bed homes.

However, based on the levels of need, it would be preferable to have a higher number of 2 bed properties for social rent, and 3 bed properties for intermediate rent/ purchase. Having a variety of tenures would also promote a mixed tenure community.

Based on the levels of need we suggest the following mix:

Dwelling type	Social Rented	Intermediate Rent	LCHO	Total
1 bed flat				
2 bed flat				
2 bed house	12	2		14
2 bed bungalow				

<b>3 bed house</b>	3	4	7	14
<b>4 bed house</b>	1			1
<b>Total</b>	16	6	7	29

### Aura

Our observations are as follows the LAP and the recreation space in the proposed layout is too small for the number of dwellings on this development, there should be 56m<sup>2</sup> per dwelling of play and recreation space, and there is also a need to provide a more suitable buffer zone for a LEAP play facility to the nearest dwellings .

The LEAP play area should provide range of age specific play items 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 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.

### Natural Resources Wales

Significant concerns, advise that planning permission should only be granted if the scheme is revised to include measures to ensure that that the proposed development would not be likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

### CADW

A heritage statement prepared by Neo Environmental Ltd assesses the impact of the proposed development on the setting of scheduled monument Wat's Dyke: Section N & E of New Brighton (FL085) following the methodology outlined in the Welsh Government's best-practice guidance Setting of Historic Assets in Wales (2017). It concludes that the proposed development will have a low/slight adverse impact on the setting of scheduled monument Wat's Dyke: Section N & E of New Brighton FL085 but that this impact will not be significant. We concur with the results of this assessment. We therefore have no objections.

### Ramblers

The impact on a public right of way is a material consideration at planning application stage, and a separate Path diversion order is required before work starts. At present we are likely to maintain an Objection to any path diversion proposal - so we would encourage the developer to seriously consider designing a layout that does not require a path diversion. (This would avoid delays/Public Inquiry later).

1. The road and housing layout is amended to leave path line in place, (as a northern boundary of built development) with only (gravel) resurfacing as necessary along whole of path;  
or 2. a "straight line path diversion" is proposed to emerge on tarmac road slightly further north - this would lead more naturally to continuation northwards on Wats Dike Way (The point of emergence onto road would need to be checked for safety and layout, street furniture etc). Width, surfacing, furniture etc should be specified, and path laid out at early stage of development so a continuous path route is maintained.

There are no proposals to link the cycle way/path to any satisfactory method of crossing main road eg pelican type lights near Argoed View - which could have linked to a path route (away from main roads) via the cul de sac opposite. The whole layout needs re-design to include cycle/walk ways along "desire lines" to safe main road crossings. A safe walking route is needed on Sychdyn road verge.

#### Dwr Cymru/Welsh Water

It is unlikely that sufficient capacity exists to accommodate the proposal without causing detriment to the existing services.

A Hydraulic Modelling Assessment has been undertaken 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, the implementation of one of these options would enable the development to connect into the public sewer network without causing any detriment to the local community or environment. DCWW recommend conditions to ensure the development would not cause a detriment.

#### CPAT

While there are currently no recorded archaeological sites on the Historic Environment Record the first edition OS mapping does indicate the presence of a former farm building known as Mynydd Bychan at the west end of the development area. The building is clearly older than the 1870's mapping.

The building earthworks and associated enclosures and

outbuilding lie within the area marked blue on the attached plan. According to the layout plan these remains would be destroyed by the development.

Archaeological excavation is required as a condition of consent. We would therefore recommend a condition for archaeological excavation covering the area marked in accordance with Welsh Government guidance set out in Tan 24 (May 2017) and Planning Policy Wales (10th edn. November 2019).

#### Coal Authority

Site does not fall within the defined Development High risk Area, as such Coal Authority standard advice to developers applies.

#### Airbus

No aerodrome safeguarding objection

#### Ecology

Overall there will be a loss in habitats in particular the semi improved marshy and neutral grasslands. However, there is an opportunity to create wetland and associated grassland habitats through SUDS and while the proposed area is smaller than the existing wetland, enhancement of this habitat would help to mitigate for the loss of existing wetland.

The actual value of the SUDS for biodiversity in the long term and whether an enhanced wetland habitat can develop will depend on water levels and long term management which is currently unknown.

In line with NRW, I therefore have concerns with the delivery of GCN mitigation plus biodiversity mitigation and enhancement within this scheme.

## **4.00 PUBLICITY**

### **4.01 Press Notice, Site, Notice, Neighbour Notification**

184 no. letters of objection

- Overdevelopment of community
- Lack of local services
- Drainage issues
- Inadequacy of SUD proposed
- Loss of trees
- Great Crested Newts on site
- Road safety issues
- Impact upon junction
- No safe route to local school

- Ground stability
- Impact upon Wats Dyke SAM
- Impact upon neighbouring amenity

## **5.00 SITE HISTORY**

5.01 No relevant history

## **6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan

STR1 - New Development

STR4 – Housing

STR7 – Natural Environment

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

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

HSG11 - Affordable Housing in Rural Areas

SR5 - Outdoor Play Space and New Residential Development

Local/Supplementary Planning Guidance Notes

Developers Guidance Note – speculative development

SPGN 2 - Space around dwellings

SPGN 9 - Affordable Housing

SPGN 11 - Parking Standards

SPGN 13 - Open Space Requirements

SPGN23: Developer Contributions to Education

Planning Policy Wales Edition 10 December 2018

## **7.00 PLANNING APPRAISAL**

7.01 **Proposal**

This is a full application for 92 dwellings at land south of New Brighton road, New Brighton. The site is located on the edge of the settlement of New Brighton, partly within the settlement boundary in the adopted UDP, located outside the adjacent green barrier, being white land

between the settlement boundary and the designated green barrier further to the west.

7.02 **Principle**

The site is well defined by built development to the west, south and east and by New Brighton Road to the north. It represents a logical and relatively small 'urban extension' in the form of a rounding off of the existing settlement form. Development would not conflict with the purpose of the Green Barrier between New Brighton and Sychdyn.

7.03 As the majority of the site lies outside the defined settlement boundary in the UDP the proposed housing development is technically a departure from the Plans policies. Notwithstanding the sites allocation in the LDP, as this is not yet adopted. It is therefore necessary to consider whether the development represents sustainable development as well as any other material considerations.

7.04 With regard to whether it represents sustainable development, New Brighton is a category B settlement in the adopted UDP (and is a tier 3 sustainable settlement in the Deposit LDP) and therefore represents a sustainable location of development having regard to the character and role of the settlement, facilities and services and proximity to other settlements. The UDP Inspector clearly considered New Brighton to be sustainable as she recommended the housing allocation at the western edge of the settlement.

7.05 The Council has now published the Deposit LDP. The site has been the subject of several consultations – as part of the applicants Pre-Application Consultation, as part of this planning application and now as part of the LDP and interested parties have had ample opportunity to submit their comments on the site.

7.06 Comments have been received in connection with this application that suggests that the application is premature, as the LDP has not been adopted yet. There is no advice in PPW10 on prematurity but the Development Plans Manual 3 by Welsh Government offers the following advice '*Where an LDP is in preparation, questions of prematurity may arise. Refusing planning permission on grounds of prematurity will not usually be justified except in cases where a development proposal goes to the heart of a plan and is individually or cumulatively so significant, that to grant planning permission would be to predetermine decisions about the scale, location or phasing of new development which ought to be properly to be taken in the LDP context*'. The document goes on to say '*Whether planning permission should be refused on grounds of prematurity requires careful judgement and the LPA will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the LDP process*'. The proposal is for 92 dwellings and is one of 11 housing allocations in the Plan amounting to 1874 units,

and therefore represents less than 5% of the new allocations by number of units. As such I do not consider that this goes 'to the heart of the Plan' in terms of harm or prejudicing the outcome of the Plan, and therefore the proposal cannot be considered to be premature.

7.07 Given the presumption in favour of sustainable development in Planning Policy Wales 10, the allocation of the site for Housing within the LDP and notwithstanding other, technical, issues, the principle of the residential development of this site is acceptable.

7.08 **Main Issues**

For the reasons discussed above, I consider the principle of development in this location to be acceptable. I therefore consider that the main issues to be considered are resulting from the consideration of the specific detail of this application i.e. those of ecology, and the impact of the development upon protected species in accordance with TAN5, issues regarding safe highway access to the site and in particular the question regarding safe routes to schools, and the adequacy of public open space provision within the site.

7.09 **Ecology**

With regards to statutory wildlife sites in the vicinity of the application site, Maes y Grug SSSI, part of Buckley and Deeside SAC, is over 1km to the north east of the site and is not considered to be affected, directly or indirectly. Similarly no (non statutory) Wildlife Sites are affected since the nearest, Cobbler's and Stonybeach Woods, is over 1km. There have, however, been recorded sightings of protected species including Great Crested Newts and species of bats. As such the ecological implications of the proposal are considered to carry significant weight.

7.10 Objections have been raised in relation to the scheme from Natural Resources Wales (NRW). NRW is concerned as to the potential impacts of the development on protected species, and in particular on the great crested newt (GCN) (*Triturus cristatus*), which are afforded strict legal protection under Directive 92/43/EEC 'the Habitats Directive' and the Conservation of Habitats and Species Regulations 2017 (as amended) hereafter referred to as the 'the Habitats Regulations'. It should be noted that NRW raised no objections in principal to the development of this site in their consultation response to the LDP allocation, and their comments should be read purely in connection with this specific development proposal, rather than as a commentary on the principal of developing the site.

- 7.11 They consider that the proposal has the potential to cause disturbance to GCN and/or loss or damage to their resting places. In addition to the legal protection afforded to GCN, their presence is a material planning consideration under the provisions of Technical Advice Note 5: Nature Conservation and Planning (TAN5). The provisions of TAN5 advise that surveys and assessments are submitted to enable the local planning authority to undertake an informed assessment on the predicted impacts of a proposed development scheme on a European Protected Species (EPS).
- 7.12 NRW consider the home range of the great crested newt from breeding or natal ponds to be 500m though this may be extended to over 1500m if, for example, more favourable habitat is present at greater distances from ponds. The applicant has undertaken limited surveys (eDNA and Habitat Suitability Index assessments) for the purposes of informing the planning process, which failed to confirm the presence of GCN. NRW understand that only one pond was surveyed using the eDNA technique on 23 June 2020. The result from this survey was negative. NRW note that access was not available to access one pond.
- 7.13 NRW does not consider these surveys to be satisfactory for the purposes of evidencing the absence for the species. They therefore advise that the species can be considered likely to be present owing to factors including, extant records of GCNs (4 records of great crested newts within 250m of the development site), the density of ponds within the wider environs of the application site; and timing and limited range of survey techniques undertaken to complete survey. NRW note that no surveys were carried out between April and Mid May. It is during this period that individuals are far more likely to be encountered.
- 7.14 NRW is therefore of the view that GCN is considered likely to be present at the application site. Whilst the application site itself may not be used for breeding, it could functionally be used by the species for foraging, dispersal or sheltering purposes. NRW have opined that the scheme must be revised to include measures to ensure that the proposed development would not be likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.
- 7.15 The applicants do not agree with the NRW consultation response and in fact have made a case that NRW have incorrectly advised the Council with regard to this development. They contend that there is precedent to suggest that the Council need only have regard to the Habitat Regulations and can grant planning consent regardless of other concerns which fall outside of the direct jurisdiction of the Planning system, and they note that NRW only raise the 'possibility' or 'potential' of the proposed development impacting upon GCNs. However, In consultation with the County Ecologist, and in light of

NRW maintaining their objection, I consider the objections raised to be valid and of material concern to the acceptability, from a technical point of view, of the specifics of this development proposal, notwithstanding the rebuttal received from the applicant. In TAN5: Nature Conservation, Para 6.3.6 it states that:

- 7.16 *“It is clearly essential that planning permission is not granted without the planning authority having satisfied itself that the proposed development either would not impact adversely on any European protected species on the site or that, in its opinion, all three tests for the eventual grant of a regulation 44 licence are likely to be satisfied. To do otherwise would be to risk breaching the requirements of the Habitats Directive and regulation 3(4). It would also present the very real danger that the developer of the site would be unable to make practical use of the planning permission which had been granted, because no regulation 44 licence would be forthcoming.”*
- 7.17 Without adequate evidence to support the applicants position that GCNs are not present at the site the precautionary principle must be adopted, and without the requested revisions I consider that, in the absence of sufficient evidence to the contrary, the proposal would cause have a significant adverse effect on an important species and their habitat. As such the proposal would be contrary to policies GEN1 and WB1 of the Flintshire Unitary Development Plan, as well as the advice within TAN5: Nature Conservation and Planning as well as Para 6.4.3 of Planning Policy Wales 10.
- 7.18 There is an area of wetland on site, this was not highlighted by the Preliminary Ecological assessment, which did not note this area. Concern has been raised by the County Ecologist regarding the loss of this area. No information has been given as to how the SUDs area, which replaces this area of wetland, will be managed or provide mitigation for the loss of this habitat.
- 7.19 It is unclear, because no application has been submitted to the SAB regarding the proposed sustainable drainage system what the details of the proposed drainage system will be and if it is compatible with this wetland habitat, whether it will drain the site sufficiently and if the level of drainage encouraged will in turn adversely affect the wetland habitat.
- 7.20 This is another area of concern with regard to the protection of the ecology of the site and the mitigation for any loss of habitat that may occur as a result of the development.
- 7.21 Overall there will be a loss in habitats in particular the semi improved marshy and neutral grasslands. However, there is an opportunity to create wetland and associated grassland habitats through SUDS and

while the proposed area is smaller than the existing wetland, enhancement of this habitat would help to mitigate for the loss of existing wetland. The actual value of the SUDS for biodiversity in the long term and whether an enhanced wetland habitat can develop will depend on water levels and long term management which is currently unknown.

#### 7.22 **Public Open Space**

In accordance with policy SR5 of the Flintshire Unitary Development Plan. This policy seeks to ensure that future development is suitably catered for in the provision of outdoor playing space. The minimum amount of outdoor playing space required by the policy relates to the number and size of the dwellings proposed and is based on the standard of 2.4ha of outdoor playing space for every 1,000 residents. It is split into two types of land: children's playing space at 0.8 ha per 1,000 population, and sports grounds for use by all at 1.6 ha per 1,000 population. In accordance with the advice within the Draft Supplementary Guidance Note 13: Outdoor Playing Spaces and New Development, it would be expected that a development of the size of the proposal would provide onsite provision.

- 7.23 The proposal provides 0.21 of a hectare of onsite public open space provision in the form of a children's play area to the west and a landscaped area along the southern boundary. Aura Leisure, in their consultation response, opined that the LAP and the recreation space in the proposed layout is too small for the number of dwellings on this development, and that there should be 56m<sup>2</sup> per dwelling of play and recreation space, and there is also a need to provide a more suitable buffer zone for a LEAP play facility to the nearest dwellings. As such there is a shortfall of approximately 3000 m<sup>2</sup> of public open space provided by the application.
- 7.24 The LEAP (Local Equipped Area for Play) play area should provide a range of age specific play items which conform to the latest BS/EN 1176 AND BS/EN 1177 standards for play equipment and safer surfacing. These individual play items have to be supplied with individual certificated proof of compliance to BS/EN 1176 and to be supplied prior to an approval by the Authority.
- 7.25 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. If permission was granted for the development then it would be necessary to secure full details of the LEAP, including its ongoing management and maintenance, through a legal agreement.

## 7.26 **Highways**

The proposed internal highways layout of the scheme has been subject to consultation with Highways Development Control and there is no concerns raised with the estate layout as proposed, or the parking provision provided by the development, which accords with relevant maximum standards across the site.

7.27 Where the development meets the highways network, however, a significant amount of concern has been raised locally from third parties given the close proximity of the crossroad junction, as well as existing traffic on the road networks. The New Brighton road to Sychdyn, which the access to the development opens onto, has previously been considered hazardous by a Streetscene assessment of potential Safe Routes to School. This is of particular concern when it has been assessed that Sychdyn Primary school is the nearest primary school to the development.

7.28 Education have assessed that Sychdyn school is the closest, most affected school, and it has been requested that a Transport Assessment be carried out to look at the impacts upon the road network between the site and this school. The applicant has maintained their position that Mynydd Isa school is the relevant school and more appropriately linked to the site than Sychdyn and have not amended their Transport Assessment accordingly, nor produced a further assessment looking at the Sychdyn school and the implications of travel to this school as a result of the development.

7.29 It should be noted that the assessment of distance from the site entrance to the relevant schools is measured, in the case of Mynydd Isa, to the Infant school campus, which is a further distance than Sychdyn. In addition it should be recognised that parental choice should also be taken into consideration and parents may wish to send their children to Sychdyn school in any case. In the absence of any sort of assessment of the risks, it has not been possible to demonstrate that the current proposal has taken full account of potential road safety issues arising as a result of this proposal, particularly as the route to Sychdyn has previously been assessed as hazardous. It is acknowledged by Highways Development control that it may be possible to negotiate a fairly simple scheme or measures that overcomes these concerns but at present no such details have been agreed with the developer. As this matter could be resolved without requiring a fundamental amendment of the proposed development this matter is not been progressed as a reason for refusal.

## 7.30 **Character and Appearance**

There is a mixture of house types in the immediate vicinity of the site, of different periods and styles. The development proposed largely 2 storey detached and semi detached dwellings faced in brick with grey tile roofs. Brick is the predominant finish in the vicinity and I consider this to be acceptable for this location. Roof heights are consistent throughout the development, although there is some slight variety, which helps to break up the visual impact of the Streetscene.

- 7.31 The development provides a mix of house types and sizes within the scheme, with mews type, 3, 4 and 5 bed dwellings mixed within the proposal. The layout ensures that adequate interface distances and amenity space, according with the Councils SPGN2: Space Around Dwellings, are provided between the proposed dwellings.
- 7.32 The site is relatively flat and has been laid out to minimise any direct impacts upon existing dwelling located on the site periphery. The trees and hedge located on the western site boundary, alongside Argoed avenue, is to be retained, and dwellings in this area are either facing away from the Argoed avenue dwellings, retaining an adequate interface to ensure that there would be no concerns over a loss of privacy, or gable on to the road. The existing screening protects the existing dwellings from any detrimental impact arising from the development.
- 7.33 The existing development at Cae Issa either backs onto the existing SUDs area, with only the gable of one dwelling close to the existing houses, and I do not consider that the proposed development would adversely impact upon these dwellings.
- 7.34 The area of development site that adjoins the rear boundaries of dwellings on the A5119 Mold road has a footpath and area of informal Public Open Space as a buffer between this area and proposed dwellings. Again I have no concerns regarding the location of the new development and existing residential amenity.
- 7.35 The proposal is for 92 dwellings upon a site with a developable area of 2.56 hectare. This equates to a density of 38 dwellings per hectare. This is considered to be appropriate to the location.

7.36 **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;

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.

7.37 Whilst the recommendation for this proposal is currently one of Refusal, it should be noted that should the development be granted planning permission then it would be necessary to enter into a Section 106 Legal agreement to secure planning contributions with regard to Education provision, Public Open Space and Affordable housing, as described below.

### 7.38 **Education**

In consideration of the proposed development, and with regard to the advice within SPGN 23: Developer Contributions to Education the following obligations would be sought.

#### **Primary School: Sychdyn, Ysgol Sychdyn**

- The required Section 106 contribution would be £269,654.00
- The contribution would be spent on Accommodation Improvements.

#### **Secondary School: Mynydd Isa, Argoed High School**

- The required Section 106 contribution would be £129,283.00
- The contribution will be spent on a specific project for the development of the educational facilities on the school site

7.39 Please note that whilst the original calculations, provided in the responses section above, were derived from the originally submitted number of dwellings (97) the contribution amounts are adjusted due to existing pupil numbers and the requested contribution number is unchanged even when adjusted to 92.

7.40 It is considered that the education contributions would meet the regulation 122 tests. Ysgol Sychdyn does not appear to have received more than 5 contributions and therefore the limitations of regulation 123 does not apply. Argoed High School requires the contribution in relation to a specific project, and is therefore also compliant with the regulations.

### 7.41 **Affordable dwellings**

The provision of affordable housing is a material planning consideration which attracts significant weight in the overall planning

balance. The proposal provides 30% affordable housing units across the development, in the form of 28 affordable dwellings, of which 10 are 2-bedroom properties and 18 are 3-bedroom dwellings. This mix accords with the identified local housing need as shown in the Local Housing Market Assessment for Flintshire, and on this basis the proposal is supported by Flintshire County Council Housing Options. Should planning permission be granted for the development a Section 106 agreement would be required to ensure that these units are retained as affordable in their lifetime, and that their specific terms of tenure meet the requirements of the local need.

7.42 Whilst this affordable housing provision is a significant positive in support of the development, I do not consider that it overcomes the objections previously discussed, in the planning balance.

7.43 **Other Matters**

The site lies within 3 KM of a number of designated heritage assets, including scheduled monuments and registered parks and gardens. CADW have confirmed that intervening topography, buildings and vegetation ensure that the proposed development will not impact any of these assets. A Heritage assessment was commissioned by the developer to consider the impact of the development upon Wats Dyke, which is the closest Scheduled Ancient Monument to the site. On the basis of this submitted information CADW have confirmed that it is not considered that the development would impact upon the SAM itself or its setting, and as such they have no objection to the proposal.

7.44 Clwyd Powys Archaeological Trust have noted that whilst there are no recorded archaeological sites on the development site, first edition OS mapping does indicate the presence of a former farm building known as 'Mynydd Bychan' at the western end of the site. As the likely location of any remains are overlaid by proposed development CPAT enquired whether this area could be excluded from the development. Should this not be possible they have requested that a condition is imposed to require a scheme of archaeological investigation and excavation to be carried out prior to development, as a condition of any permission granted. I do not consider that it would be reasonable to require the land to be excluded from being developed, but I consider that should planning permission be granted, it would be reasonable and necessary to impose the archaeological condition.

7.45 Some concerns have been raised over the possible loss of ancient and important hedgerows, which currently exist on the site perimeters, given the proximity of some of the proposed elements of the development to the hedges. It should be noted that no hedgerow removal is proposed by the development. Were planning approval to be granted for the scheme then it would be necessary to condition protection measures for the hedgerows during the construction phase of the development.

## 8.00 **CONCLUSION**

The site is an allocated housing site in the Deposit LDP and I consider this to be a material factor in favour of the development. Similarly the nature of the site as a logical rounding off of the urban form of New Brighton, as well as the sustainable nature of the development and its location, that would also provide the full compliment of affordable housing in accordance with the relevant policy requirement, suggest that the development is acceptable in principle.

Balanced against this are the issues regarding the impact of the proposal on protected species and their habitats, the inadequate public open space, as well as the unanswered queries regarding the impact of the proposal on the wider highway network, particularly in regard to safe routes to schools.

Taking all the issues together, and weighing them against each other in the planning balance, my recommendation to the Planning committee is that the application should be refused for the reasons identified in paragraph 2.01.

## 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

**Contact Officer: James Beattie**  
**Telephone: 01352 703262**  
**Email: [james.beattie@flintshire.gov.uk](mailto:james.beattie@flintshire.gov.uk)**