

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **WEDNESDAY, 18TH JULY 2018**

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

SUBJECT: **FULL APPLICATION - ERECTION OF 435 RESIDENTIAL DWELLINGS AND A 450 M² RETAIL UNIT AT SPON GREEN FARM, SPON GREEN, BUCKLEY.**

APPLICATION NUMBER: **058237**

APPLICANT: **SKYE HOMES FLINTSHIRE LTD**

SITE: **LAND AT SPON GREEN, BUCKLEY, FLINTSHIRE.**

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

LOCAL MEMBERS: **COUNCILLOR A. WOOLLEY**
COUNCILLOR R. JONES

TOWN/COMMUNITY COUNCIL: **BUCKLEY TOWN COUNCIL**

REASON FOR COMMITTEE: **THE SITE AREA EXCEEDS THAT FOR WHICH THE CHIEF OFFICER (PLANNING, ENVIRONMENT & ECONOMY) HAS DELEGATED POWERS FOR DETERMINATION**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 This is a full planning application seeking permission for the development of this 18 hectare site located to the south of the Spon Green area of Buckley. The proposal provide for a mixed use development comprising 435 dwellings, a 450m² retail unit and associated infrastructure.

- 1.02 As the site is outside of the settlement boundary of Buckley the application has been advertised as a departure from the Development Plan.
- 1.03 The application has been submitting following the mandatory Pre-Application Consultation Process having been undertaken. The application is accompanied by a report detailing this process.

2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS

- 2.01
1. Planning Policy Wales (9th Edition – Nov 2016) identifies that weight can be attached to policies in emerging Local Development Plans. The Flintshire LDP is at Deposit stage. It is considered that the proposals amount to a development which, by virtue of its scale and location, would prejudice the LDP by predetermining decisions on the scale and location of development. Accordingly, the proposals are considered to be premature, contrary to the Paragraphs 2.14.1, 2.14.2 and 2.14.3 of Planning Policy Wales (9th Edition – Nov 2016)
 2. The proposal amounts to unjustified residential development within an area of open countryside and in an unsustainable location. The proposals would result in a development which does not relate well in terms of size, scale or form to the existing pattern of development in the area and, it is considered would result in a fragmented form of development which does not integrate well with the existing built form. As such the proposals represent an illogical extension to the settlement which would be contrary the provisions of Paragraphs 2.1.3, 4.6.4, 4.7.8 and 9.3.1 of Planning Policy Wales (9th Edition – Nov 2016) and Policies STR1, STR7, GEN1, GEN3, D1, D2 and HSG4 of the Flintshire adopted Unitary Development Plan.
 3. The Local Planning Authority considers that insufficient evidence has been provided to identify the very exceptional circumstances necessary to justify the development of this site within an area of open countryside and Green Barrier and therefore, considers that the proposals would result in a form of development which would unacceptably harm the openness of the Green Barrier in this location. Accordingly the proposals are contrary to the provisions of Paragraphs 4.8.14 and 4.8.15 of Planning Policy Wales (9th Edition – Nov 2016) and Policies STR1, STR7, GEN1, GEN3 and GEN4 of the Flintshire adopted Unitary Development Plan.
 4. The Local Planning Authority considers that the applicant has failed to adequately demonstrate that the site is suitable for development without risk to potential future occupants, the development itself, or the surrounding from land instability, or

safety issues arising from the historical mining activity in the locality. Accordingly the proposal is contrary to the provisions of the guidance set out at Paragraphs 13.9.1 and 13.9.2 of Planning Policy Wales (9th Edition – Nov 2016) and the requirements of Policies STR1, GEN1 and EWP15 of the Flintshire adopted Unitary Development Plan.

5. The Local Planning Authority considers that the applicant has failed to provide sufficient information to adequately demonstrate that land contamination and the potential risks to or which would be brought about by the development, have been duly considered. No information has been provided to show the nature and extent of land contamination present, the potential risks associated with land contamination or how they could be appropriately removed or reduced to an acceptable level. Accordingly the proposal is contrary to the provisions of the guidance set out at Paragraphs 13.7.1 and 13.7.2 of Planning Policy Wales (9th Edition – Nov 2016) and would not comply with the requirements of Policies STR1, GEN1, and EWP14 of the adopted Flintshire Unitary Development Plan.
6. The Local Planning Authority considers that the proposed development would overload the Waste Water Treatment Works and insufficient drainage details have been submitted to demonstrate that the site can be adequately drained of both foul and surface water flows and as such it is unable to undertake an appropriate assessment of the risks of flooding to the site and surrounding area. Accordingly the proposal is contrary to the provisions of the guidance set out in Technical Advice Note (TAN) 15 'Development & Flood Risk' (July 2004) and would not comply with the requirements of Policies STR1, GEN1 and EWP17 of the adopted Flintshire Unitary Development Plan.
7. Whilst the site lies within Zone A as defined by the Development Advice Maps (DAM) referred to under TAN15: Development and Flood Risk (July 2004), the site is crossed by 2 watercourses and the Local Planning Authority considers that the submitted Flood Consequence Assessment has failed to adequately demonstrate that the risks and consequences of flooding can be acceptably managed in accordance with the criteria identified in TAN15. Accordingly, and applying the precautionary principle, the Local Planning Authority consider that the proposals are contrary to the provisions of Technical Advice Note 15 : Development and Flood Risk (July 2004) and would not comply with the requirements of Policies STR1, GEN1 and EWP17 of the adopted Flintshire Unitary Development Plan.
8. The Local Planning Authority considers that the proposed development does not demonstrate that the proposals would not be likely to be detrimental to the maintenance of the favourable

conservations status of European Protected Species. Accordingly, the proposals would fail to comply with the requirements of the Conservation of Habitats and Species Regulations 2017 and fails to demonstrate that the requirements of Article 16 would be satisfied. Consequently the application is contrary to the guidance set out at Paragraph 6.3.7 of TAN 5 – Nature Conservation and Planning (2009) and would be contrary to the provisions of Policies STR7, GEN1, Wb1, WB2, WB3, WB6 and WB6 of the adopted Flintshire Unitary Development Plan.

9. The Local Planning Authority considers that insufficient information has been provided to demonstrate that the proposals would not have a detrimental impact upon archaeological features of interest within the site, In the absence of such detail, the Local Planning Authority is unable to undertake an appropriate assessment of the potential risks to the archaeological resource or identify how any potential impact may be managed or removed. Accordingly, and applying the precautionary principle, the Local Planning Authority consider that the proposals are contrary to the provisions of paragraphs 6.5.5 and 6.5.6 of Planning Policy Wales (9th Edition – Nov 2016); TAN24 – The Historic Environment (May 2017) and would be contrary to the provisions of Policies STR8, GEN1, HE7 and HE8 of the adopted Flintshire Unitary Development Plan.
10. The Local Planning Authority considers that insufficient information is provided in relation to the provision of space or facilities to allow for play and recreation for children within the confines of the site. Accordingly, the Council are of the opinion that the submitted details are insufficient to allow reasoned consideration of the proposals against the requirements of LPGN 13 - Open Space Requirements and Policy SR5 of the adopted Flintshire Unitary Development Plan.

3.00 CONSULTATIONS

3.01 Local Members

Councillor A. Woolley

Requests, given the scale of the proposal, that determination is made at planning committee and requests a site visit is undertaken as he feels it important that Members see the site and the green barrier in this location in its context.

Councillor R. Jones

Requests, given the scale of the proposal, that determination is made at planning committee and a site visit is undertaken.

Adjoining Ward Member

Councillor C. Hinds

Objects to the proposals. Feels that the development will have adverse impacts upon her ward (Penyffordd/Penymynydd/Dobshill). Considers infrastructure and facilities are insufficient to accommodate such a proposal and cites especially the impact such proposals will have upon local school capacity.

Buckley Town Council

Considers the applications should be refused upon the following grounds:

- The site is located outside of the settlement boundary of Buckley;
- The site lies within a green barrier where development of this form should be resisted. Considers that the protection of the green barrier is necessary and justified;
- The proposals are inappropriate development within the green barrier and therefore derive no support from TAN1 as the proposal conflicts with the Development Plan;
- The proposals are in conflict with the aims of the Well-Being of Future Generations Act (Wales) 2015 in that the proposals is unsustainable environmentally;
- There is no need for further housing;
- There is insufficient educational and medical infrastructure within the area to accommodate the proposed levels of growth;
- The proposals do not accord with the Buckley Master Plan which identifies future retail growth to occur within the town centre;
- The proposals would result in the loss of agricultural land;
- The area does not have adequate drainage and sewerage infrastructure and capacity to accommodate a further 435 dwellings;
- The submissions are factually inaccurate; and
- Suggested traffic and highway impacts are unrealistic. Considers the surroundings roads subject of excessive levels of on street parking and restricted in terms of width. Questions whether a Traffic Impact Assessment is required.

Highways DC

Has considered the submitted Transport Assessment and advises that subject to the imposition of appropriate planning conditions, there is no objection from a highway safety perspective.

Public Rights of Way

Notes that Public Footpaths 39, 40 and 41 cross and abut the application sites. Observes that the scheme has been designed so as to accommodate these routes and therefore it appears Public Path Diversion Orders will not be required. Should permission be granted, it is requested a note be attached advising the applicant to make contact prior to any works on or adjacent to the paths.

Pollution Control

Given the variety and extent of potentially contaminative land uses historically and the recent past, the complexity and the sensitivities of the development proposed, there's reasonable ground to suspect that the land is affected by land contamination. Objects as it is considered that insufficient information has been provided to show that land contamination and the potential risks to or which would be brought about by the development, have been duly considered.

Education - Capital Projects and Planning Unit (CPPU)

Advises that the affected schools would be Mountain Lane C.P School and Elfed High School. Advises that there is insufficient capacity at primary school level but advises adequate capacity exists at secondary school level.

Public Open Spaces Manager

Notes that the proposals provide for play and recreation facilities. Notes however that there is a need for further detailed specifications to be provided in respect of these provisions. Advises that the scheme would require amendment in order to ensure that sufficient separation distances around the proposed facilities is provided.

Also advises that arrangements for the maintenance of these facilities in perpetuity will be required.

Dwr Cymru/Welsh Water

Objects to the proposals. Advises that the development would overload the Waste Water Treatment Works. No reinforcement are planned by Dwr Cymru within their Investment Programme.

Notes that the applicant is in discussions with regard to a feasibility study to be undertaken and accordingly, until this study is complete and any reinforcements identified, DCWW consider the application premature and object accordingly.

Natural Resources Wales

Advises that further information is required, in the absence of which an objection is maintained.

Advises that the submitted Flood Consequence Assessment does not adequately address the risks of flooding and requires revision. Advises that the submitted ecological report does not adequately demonstrate that the proposals would not adversely affect the Deeside and Buckley Newt Sites SAC. Also considers that the submissions do not make adequate proposals to mitigate and compensate for the impact upon Great Crested Newts and therefore fail to ensure that the favourable conservations status of the species is maintained

Clwyd Powys Archaeological Trust

Advises that the submissions do not provide adequate details in respect of the archaeological resource in the area or the applicant's intended treatment of it. Accordingly, considers that the LPA is not in a position to make a balanced and informed decision.

Advises that the site should be the subject of a suitable archaeological assessment, to be undertaken in advance of the determination of the application.

The Ramblers Cymru

Objects to the proposals; Considers the PAC process has not been properly carried out and notes that Ramblers Cymru were not consulted.

Considers the proposal are an unsatisfactory extension of urban form into the green barrier and countryside which will spoil the countryside and the enjoyment of the footpaths running through the area. Considers the proposals do not have adequate regard to Active Travel.

Welsh Government Land Use Planning Unit

No response at time of writing.

The Coal Authority

Notes the presence of features associated with historical mining at the site. Considers that insufficient information has been provided to demonstrate that the site is, or can be made safe, stable and suitable for development and therefore objects to the proposals.

SP Energy Networks

No adverse comments

4.00 PUBLICITY

4.01 The application has been publicised by way of the publication of a press notice, display of a site notice and neighbour notification letters. At the time of writing this report, 164No. letters have been received in response raising objections on the following grounds;

- The proposals are not compliant with planning policy;
- The proposals do not represent sustainable development;
- The site is located outside of the settlement, in open countryside and within the green barrier – no exceptional circumstances are identified;
- The proposals will give rise to increased traffic;
- The nature of surrounding roads is such that increases in traffic will result in an adverse impact upon highway safety;
- The proposed retail development will adversely impact upon

the existing town centre;

- Existing drainage infrastructure is inadequate to accommodate the proposal;
- The proposals will give rise to an increased risk of surface water flooding;
- No need for the dwellings has been proven;
- The proposals are not reflective of the character of the town and would be detrimental to character and appearance of the wider landscape;
- The proposals would adversely affecting existing residential amenity as a consequence of increased traffic, on street parking along Spon Green and overlooking;
- There will be an adverse impact upon existing schools which are at or near capacity and therefore there is doubt as to the ability of nearby schools to accommodate additional pupils;
- The existing community infrastructure is inadequate to accommodate the proposal;
- The proposals will adversely impact upon the ecological richness of the area;
- Will result in adverse impacts upon amenity as a result of increased noise and disturbance;
- The ground conditions are such that the remedial measures to address these will potentially affect hydrogeology and hydrogeological features;
- The site is contaminated as a result of historical mining activities; and
- The setting of nearby archaeological features will be adversely affected.

In addition, 3No. letters of support have been received offering support upon the following grounds:

- There will be no loss of privacy or light to existing residents;
- There are still significant areas of green barrier surrounding the development so environmental impact will be minimal;
- The proposals would have a positive impact on the character and appearance of the area;
- Much of the existing housing stock in Buckley is old and of poor quality, the houses in the plan offer good attractive design whilst being in keeping with the local area;
- The development will have little or no impact on highway safety as the site is accessed by two roads of very low traffic and there is ample parking spaces on the site;
- The development could help with the development of the town centre and attracting brand name shops that existing residents desperately want by increasing footfall in the town centre; and
- Local and government planning strategies are to build more houses and this is a good sustainable development to do that.

5.00 SITE HISTORY

5.01 No previous relevant planning application history. The site history in respect of representations via the UDP and LDP making processes are discussed within Section 7 of this report.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

Policy STR1	-	New Development
Policy STR4	-	Housing
Policy STR7	-	Natural Environment
Policy STR8	-	Built Environment
Policy STR10	-	Resources
Policy GEN1	-	General Requirements for New Development
Policy GEN3	-	Development Outside Settlement Boundaries
Policy GEN4(17)	-	Green Barriers
Policy D1	-	Design Quality, Location and Layout
Policy D2	-	Design
Policy D3	-	Landscaping
Policy TWH1	-	Development Affecting Trees and Woodlands
Policy TWH2	-	Protection of Hedgerows
Policy WB1	-	Species Protection
Policy WB2	-	Sites of International Importance
Policy WB3	-	Statutory Sites of National Importance
Policy WB4	-	Local Wildlife Sites of Wildlife and Geological Importance
Policy WB5	-	Undesignated Wildlife Habitats
Policy WB6	-	Enhancement of Nature Conservation Interests
Policy AC2	-	Pedestrian Provision and Public Rights of Way
Policy AC3	-	Cycling Provision
Policy AC13	-	Access and Traffic Impact
Policy AC18	-	Parking Provision & New Development
Policy HE7	-	Other Sites of Lesser Archaeological Significance
Policy HE8	-	Recording of Historic Features
Policy S5	-	Small Scale Shopping Outside Settlements
Policy S6	-	Large Shopping Developments.
Policy L1	-	Landscape Character
Policy HSG4	-	New Dwellings Outside Settlement Boundaries
Policy HSG8	-	Density of Development
Policy HSG9	-	Housing Mix and Type

Policy HSG10	-	Affordable Housing within Settlement Boundaries
Policy HSG11	-	Affordable Housing in Rural Areas
Policy SR5	-	Outdoor Play Space and New Residential Development
Policy EWP3	-	Renewable Energy in New Development
Policy EWP14	-	Derelict and Contaminated Land
Policy EWP15	-	Development of Unstable Land
Policy EWP16	-	Water Resources
Policy EWP17	-	Flood Risk
Policy RE1	-	Protection of Agricultural Land
Policy IMP1	-	Planning Conditions and Planning Obligations

Local/Supplementary Planning Guidance Notes

SPG 2 - Space around dwellings
 SPG 4 - Trees and Development
 SPG 8 - Nature Conservation and Development
 SPG 9 - Affordable Housing
 SPG 11 - Parking Standards
 SPG 23 - Developer Contributions to Education
 SPG 29 - Management of Surface Water for New Development
 LPGN 13 - Open Space Requirements

National Planning Policy

Planning Policy Wales (9th Edition – Nov 2016)
 Technical Advice Note 1 : Joint Housing Availability Studies
 Technical Advice Note 12 : Design
 Technical Advice Note 15 : Development and Flood Risk
 Technical Advice Note 18 : Transport
 Technical Advice Note 24 : The Historic Environment

7.00 PLANNING APPRAISAL

The Site and Surroundings

- 7.01 The site lies to the south of the settlement boundary of Buckley as defined in the Development Plan. The site is extensive and lies to the west of the sporadic ribbon development of houses upon Bannel Lane and extends from the rear of dwellings on Spon Green in a southerly direction towards the A5118. The southern, eastern and western boundaries of the site abut open countryside which is in turn, washed over by a Green Barrier designation.
- 7.02 The site slopes gently in a southerly direction towards the A5118 and consists of large open areas of agricultural land comprising multiple parcels of land. The site boundaries are a mixture of existing hedgerows, trees and post and wire fencing and post and panel fencing to the adjacent private gardens. 4 public footpaths cross or abut the site.

The Proposals

7.03 The proposal is for a mixed use which would amount to 435 new dwellings, a 450m² retail unit and associated infrastructure. In terms of the residential component of the scheme, the submissions indicate the provision of:

- 139No. 2 bed dwellings;
- 245No. 3 bed dwellings; and
- 51No. 4 bed dwellings.

7.04 The supporting supplementary statement to the application identifies that 30% affordable housing will be provided in accordance with the applicable policies, with tenure to be agreed. However, Members should note that the application forms indicate all of the above dwellings to be market housing. No provision is indicated for either social rental, intermediate or key worker housing.

7.05 The proposals provide for vehicular access to the proposed retail unit via a newly created access from Spon Green, to the north of the site, and access to the proposed dwellings to be derived via a newly created access from Bannel Lane to the east of the site.

7.06 Some 4.29 hectares of Public Open Space is proposed in the form of a new 'Spon Green' amenity area; landscaping areas; the provision of artificial sports pitches and changing facilities; and a wheeled play facility.

The Main Issues

7.07 The main issues for consideration in relation to this application are;

- The Principle of Development, having particular regard to Prematurity, Green Barrier policy and Housing land supply;
- Highways and Traffic Impact;
- Land Contamination and Ground Stability;
- Drainage and Flood Risk;
- Ecological Impacts;
- Archaeological Impacts;
- Public Open Space; and
- Impact upon Educational and Community Infrastructure.

The Principle of Development

7.08 The site lies outside but adjacent to the settlement boundary of Buckley and in the Green Barrier as shown in the adopted UDP.

7.09 At paragraph 2.1.3, PPW reinforces the statutory provisions that underpin a plan-led planning system. It explains that the Welsh Government is committed to promoting sustainable development, to ensure that social, economic and environmental issues are balanced and integrated, at the same time. The policy guidance also repeatedly

states that previously developed (or brownfield) land should, wherever possible, be used in preference to green field sites.

- 7.10 Paragraph 4.4.3 sets out that planning decisions should seek to contribute to the goals of the Well-being of Future Generations Act. In respect of the goal of creating *A Resilient Wales*, PPW makes clear that, amongst other matters, *“the conservation and enhancement of statutorily designated areas...and landscapes;...needs to be promoted”*.
- 7.11 Paragraph 4.6.4 indicates that *“The countryside is a dynamic and multi-purpose resource. In line with sustainability principles, it must be conserved and, where possible, enhanced for the sake of its ecological, geological, physiographic, historical, archaeological and agricultural value and for its landscape and natural resources, balancing the need to conserve these attributes against the economic, social and recreational needs of local communities and visitors”*.
- 7.12 Paragraph 4.7.8 notes that in respect of development in the open countryside, *“All new development should respect the character of the surrounding area and should be of an appropriate scale”*.
- 7.13 In terms of the policies in the adopted UDP, policy GEN3 sets out those instances where housing development may take place outside of settlement boundaries. The range of housing development includes new rural enterprise dwellings, replacement dwellings, residential conversions, infill development and rural exceptions schemes which are on the edge of settlements where the development is wholly for affordable housing. Policy GEN3 is then supplemented by detailed policies in the Housing Chapter on each type.
- 7.14 Policy GEN4 advises that development within the green barriers will only be permitted where it comprises one or more of a series of identified categories of development provided that it would not:
- contribute to the coalescence of settlements; and
 - unacceptably harm the open character and appearance of the green barrier.
- 7.15 Given that the proposal centres upon the erection of 435 dwellings and does not fall within the scope of above policy framework, the proposal is contrary to these policies in the adopted UDP and is a departure from the development plan and has therefore been advertised as such.
- 7.16 The main policy matters in this case are:
- whether the proposals amount to development which is

premature in relation to the emerging Flintshire Local Development Plan;

- the effects of the proposed development on the green barrier and the surrounding area;
- the lack of a 5 year supply of housing land in the County; and
- the weight to be attributed to these in balancing harm and benefits.

Prematurity

7.17

The refusal of 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. Planning applications should continue to be considered in the light of policies within the UDP and in accordance with the guidance set out in Planning Policies Wales and other associated national policy and guidance. The factors to consider in determining whether prematurity is an issue are:

- *Scale*

In order for a proposal for residential development, which is a departure from the Development Plan, to be considered premature in relation to the emerging LDP, it must be of such a scale, either in isolation or cumulatively with other development proposals as would go to the heart of the forthcoming plan. That is, it must provide such a quantum of development that would prejudice the LDP by predetermining decisions about the scale, location or phasing of new development which ought to be properly addressed via policies within the LDP. A proposal for development of this scale which has an impact upon such a significant area would fall within this category.

- *LDP Progress*

Whilst account can also be taken of policies in emerging LDP's, the weight to be attached to such policies depends upon the stage of preparation or review. The LDP is at the Deposit Consultation Stage as defined by Regulations 17 – 19 within the LDP Regulations. The LDP will reach Deposit Stage in November of 2018. Whilst limited weight can be attributed to the LDP at this stage, a proposal which predetermines the scale and location of development at the same time as the Local Planning Authority is considering the range of candidate sites proposed must have a significant impact upon the decisions to be made in terms of the allocation of suitable sites across the county. Accordingly, I consider the refusal of such a proposal upon the grounds of prematurity can therefore be justified.

- 7.18 The applicant seeks to justify the proposals by combined reference to a lack of available sites and the Council's lack of a 5 year housing supply. This justification is predicated upon an assessment of progress upon UDP allocation sites; an assessment of the ability of the Category A settlements within the county to accommodate a development of the scale proposed; and an assessment of the various candidate sites in and around Buckley.
- 7.19 The assessment of the position in relation to allocated sites is inaccurate and out of date. A number of the sites which the appellant indicates there to be no planning permission in relation to are in fact either under consideration (i.e land east of Gronant Hill), benefit from planning permission (i.e Summerhill Farm, Caerwys), or are in fact currently under development (i.e compound site, Broughton). Furthermore it omits to identify those allocated sites which have been developed since the grant of planning permission.
- 7.20 Furthermore, the applicant fails wholeheartedly to identify the impact of those 'speculative developments' which have emerged through the planning system within the county in recent months and the impact that these have in providing for housing across the county.
- 7.21 The applicant undertakes a crude and rather superficial assessment of each Category A settlement within the county upon the basis of flood risk, access to services, constraints and site availability in terms of the scale of that proposed via this application. The conclusions are, for the most part, questionable in respect of the settlements assessed. The Strategy of the UDP in relation to both Category A and B settlements was to be generally permissive of appropriate development and the rationale behind why development of the scale proposed has to occur upon a single site in Buckley is unclear. The assessment also ignores the strategic allocations made both within the UDP for housing at Croes Atti and Northern Gateway, and sites set out within the LDP Preferred Strategy (Nov 2017) for strategic allocations at Northern Gateway and Warren Hall.
- 7.22 The proposal, having regard to LDP projected housing growth figures of 7645 dwellings across the Country over the lifetime of the plan (2015 – 2030), invites the Local Planning Authority to predetermine the location of some 5.69% of total housing growth for the county over this plan period upon this one site.
- 7.23 However, this crude calculation fails to have regard to the numbers of new dwellings required once account is taken of completions, commitments and allowances relating to small and windfall sites. The LDP Preferred Strategy (Nov 2017) makes plain that the new allocation numbers required after these matters are properly factored into the calculation is actually only 1452 dwellings. When the proposals are viewed in this context, the applicant is actually inviting

the Local Planning Authority to predetermine the location of 30% of total residual requirement for new sites across the county over this plan period upon this one site.

7.24 Members will also be aware that the Local Planning Authority is also considering an outline planning application for the erection of up to 100 dwellings on land at Megs Lane, Buckley (057056). This site is located approximately some 230 metres to the west of this application site and lies wholly within the same green barrier.

7.25 Having regard to the advice within PPW in relation to prematurity, matters of scale may form the basis for an application to be deemed premature whether in isolation or cumulatively. Notwithstanding that the application to which this report relates is deemed to be premature in its own right, it is entirely proper that it is considered cumulatively with the application at Megs Lane given the close proximity of the sites to one another, in the same locational context.

7.26 Regard should therefore be had to this application in relation to any assessment in relation to the new housing allocations required via the LDP. Assuming development at the maximum of 100 dwellings, the application proposals in combination are inviting the Local Planning Authority to predetermine the location of 37% of residual requirement for new sites across the county over this plan period within this green barrier location.

7.27 The applicant has also undertaken a similarly superficial assessment of the candidate sites in and around Buckley. The comments in respect of some of the constraints cited are simply incorrect (i.e they do not site within areas of high flood risk). The accuracy and validity of the conclusions must therefore be in doubt. It is agreed that there is a lack of sites within settlement boundaries and there is a need for sites to come forward outside of these boundaries. The Local planning Authority recognises that the robustness of settlement boundaries is subject to challenge and this is reflected in recent appeal decisions upon speculative proposals. However, this does not therefore result in a presumption that such need will render green barrier sites as acceptable locations for development.

7.28 It is interesting to note that in the case of the candidate site assessment undertaken by the applicant, 5 of the 8 sites considered, are discounted due to the location of the site within a Green Barrier. The assessment rightly identifies that development in those locations would either result in coalescence or harm to the openness of the green barrier. However, via this proposal, the applicant invites the Local Planning Authority to attribute a lesser weight to this issue in this case. This is clearly a nonsense argument.

In summary in relation to the question of prematurity, I consider that the granting of planning permission for a proposal of this scale and in

7.29 this location, in itself and taken cumulatively with other proposed development nearby and within the same green barrier, predetermines issues in respect of scale and location of development in advance if the emergence of the LDP. These issues, especially in relation to the quantum and location of housing development, together with the departure from local and national planning guidance in respect of green barriers, would result in a predetermination in relation to the same which are matters most appropriately addressed via the LDP process.

Green Barrier Policy

7.30 The site lies adjoining, but just outside, the settlement boundary of Buckley and in an area designated in the adopted Flintshire Unitary Development Plan as a “green barrier”. UDP Policy GEN4 says that development will only be permitted within green barriers where it meets certain specified criteria and provided it would not contribute to the coalescence of settlements and unacceptably harm the open character and appearance of the green barrier. The proposed scheme would not meet any of the specified criteria, and so it would fall outside development plan policy.

7.31 Planning Policy Wales (PPW) also provides useful policy guidance on development in green barriers. It refers to the establishment of Green Belts and to local designation such as green wedges; (‘green barriers’ are the corresponding designation in Flintshire). PPW advises at Paragraph 4.8.14 that *“when considering applications for planning permission in Green Belts or green wedges, a presumption against inappropriate development will apply”* and also advises that *“Local Planning Authorities will attach considerable weight to any harmful impact which a development would have on a Green Belt or green wedge”*.

7.32 It is clear that the proposed development falls outside the list of purposes for which development is considered to be appropriate. Thus the proposal must amount to inappropriate development in the green barrier.

7.33 PPW further advises (Para. 4.8.15) that *“inappropriate development should not be granted planning permission except in **very exceptional circumstances** [my emphasis] where other considerations clearly outweigh the harm which such development would do to the Green Belt or green wedge”*. This is a stringent and demanding test, and the planning balance is different to that applicable for land outside the green barrier.

Green Barrier Harm

The site lies within the Buckley-Little Mountain-Dobshill-Drury-

7.34 Hawarden-Ewloe green barrier which was designated for the purpose of safeguarding the open countryside around these settlements and preventing the settlements from merging into one another. The development would comprise the construction of some 435 dwellings, a small retail unit and associated works on a site that would protrude significantly out into the rural gap between Buckley and Padeswood. As such it would be harmful to the rural character and appearance of the area; to the openness of the green barrier; and it would seriously erode the gap between the 2 settlements, contrary to UDP Policies GEN3 (in respect of development in the open countryside) and GEN4 (in respect of development in the green barrier).

7.35 The site was considered as a potential development site at the UDP preparation stage but the UDP Inspector rejected it as it was considered that;

'The objection site has a poor relationship with the settlement. It would be a significant encroachment onto an area of green barrier in a prominent area of countryside to the south of the settlement. It would be the first extension beyond the well defined existing line of built development, result in the coalescence of Buckley and Padeswood/the cement works and effectively sever the strategic green barrier'.

7.36 That situation has not changed and therefore, the harm arising due to its development for housing would warrant considerable weight (in accordance with PPW advice).

Housing Land Supply

7.37 It is accepted that PPW sets out in paragraph 4.2.2 that a general reference to *'The Planning System provides for a presumption in favour of sustainable development...'* More detail is offered in para 4.2.4 of PPW whereby in circumstances where the relevant development plan policies are considered outdated or superseded, *'there is a presumption in favour of proposals in accordance with the key principles and key policy objectives of sustainable development'.*

7.38 Essentially, the purpose of the presumption in favour of sustainable development is to ensure that social, economic and environmental issues are balanced and integrated in taking decisions on individual planning applications.

7.39 It is also accepted that an objective of the planning system is to increase the supply of housing land where there is a deficit. Specific advice is set out in para 6.2 of TAN1 which states, *'... the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies'.*

7.40 As stated, it is Welsh Government policy that, in the absence of a 5 year supply of housing land, the need to increase the housing supply should be given considerable weight provided the development would otherwise comply with development plan and national planning policies.

7.41 Having regard to the purpose of the green barrier at this location, the site and surroundings; the poor relationship to existing settlement of Buckley and the fact that the proposals amount to inappropriate development in a green barrier, it is considered that the proposal will harm the openness of the green barrier and therefore undermine its purpose. Therefore, the contribution that the proposed dwellings will make to housing land supply must therefore be judged in terms of whether or not this represents the 'very exceptional circumstances' specified in PPW for inappropriate development to be justified in a green barrier.

Very Exceptional Circumstances

The applicant has indicated that they consider the very exceptional circumstances to allow the development proposed are threefold:

- 7.42
- The lack of available sites;
 - The lack of a 5 year housing land supply; and
 - The economic benefits arising from the proposal.

7.43 I have already identified about that the applicant's argument in relation to the lack availability of sites as a support for this proposal would be premature.

7.44 In terms of balancing the harm to the green barrier against the benefits of improving housing land supply, and thereby assessing the extent to which this amounts to the necessary 'very exceptional circumstances', the comments of the Inspector appointed to consider the Bryn-y-Baal Road, Mynydd Isa (APP/A6835/A/17/3175048) site are directly relevant. He concluded;

'...the development would be harmful to the openness of the green barrier, to the character and appearance of the area and would significantly erode the gap between Buckley and Padeswood These harmful effects warrant considerable weight. I have had regard to the fact that there is a lack of a 5 year supply of housing land and that the need to increase the supply of housing land warrants considerable weight. However, this presumption applies provided the development would otherwise comply with development plan and national policies. If the site was not located in a green barrier, these arguments would be finely balanced.'

However, the Inspector in that case rightly went on to identify that;

'...the proposal is inappropriate development in the green barrier and

7.45 *PPW advises that such development should not be granted planning permission, except in very exceptional circumstances where other considerations clearly outweigh the harm the development would do to the green barrier. This is a stringent and demanding test, and the planning balance is different to that applicable for land outside of the green barrier. That demanding balance would not be achieved in this case, and I therefore conclude that the development would be contrary to development plan and national policy.'*

It is clear therefore that if the 'harm' occasioned by a proposal of 4 dwellings was considered of insufficient weight to support a departure from robust national and local planning policy guidance in respect of green barriers, the 'harm' arising from a proposal of 435 dwellings and a small retail unit must lend greater weight to this presumption against this proposal.

7.46

The applicant contends that the provision of 435 dwellings will make a significant contribution to the Council's housing land supply figure. In this context, it is useful to consider what guidance is contained within TAN1 upon this point. TAN1 makes plain that in order for any site to contribute to 5 year housing land supply, it must be capable of being completed within 5 years. Any units upon such a site, not able to be completed within this timescale, would not contribute to the land supply figure.

7.47

The proposal for 435 dwellings would be a considerable undertaking for any high volume house builder who typically achieve completion rates of 30 – 50 dwellings per annum. Even at the higher rate of build, this site would therefore take 8.7 years to complete. Whilst this would be a scale and rate of development acceptable for an allocation within a development plan, it is wholly unacceptable as site advanced upon a speculative basis to address current housing land shortfalls. In order to develop this site within 5 years, a rate of build of 87 dwellings per annum would be required. It should be noted in this context that the applicant is not a volume house builder, having experience primarily in the development of retail and cinema parks. The applicant provides no detail in respect of how they would achieve the required deliverability rate.

7.48

The applicant also contends that the economic benefits arising from the proposals in the form of construction jobs, contribution arising to economic output, income in the form of additional council tax and expenditure within the local area from future occupants of the proposed dwellings would, in combination with the other factors cited, amount to the required very exceptional circumstances required to support a departure from green barrier policy.

7.49

I am not persuaded in respect of these issues. All of the 'economic benefits' which accrue from development are expected as a result of any development in any location within the county. There is nothing

- 7.50 exceptional about any of them. They do not lend any exceptional weight to sway my view.

- Accordingly the proposals are unacceptable as a fundamental matter of policy principle. They represent development which is premature in relation to the emerging Flintshire Local Development Plan;
- 7.51 amounts to 'inappropriate development' within a green barrier; fails to demonstrate any 'very exceptional circumstances' to warrant a departure from the presumption against development in such locations and is therefore not sustainable development.

As such the proposals fail to comply with the policies and guidance set out at both a national and local level in respect of these matters.

- 7.52 Given the above fundamental policy objections to this proposal, objection raised in response to consultation in respect of technical matters are not normally raised with an applicant. To seek an applicant to incur further expense in addressing matters which would have no impact upon the conclusions in relation to the fundamental principle of such development would be unreasonable. Accordingly the applicant has not be invited to address some of the technical matters set out below for that reason.
- 7.53

Highways and Traffic Impact

- 7.54 The proposals indicate that the site is to be access vis 2 new proposed access points. The retail unit is proposed to be accessed via a new access between 'Ty James' and 'Highfield' on Spon Green. This facilitates access to the retail unit and the proposed car park, which in turn provides 59No. parking spaces, including 4No. disabled spaces. It is proposed that a bollard controlled access will exist between the car park and the northern portion of the adjacent residential area of the site. This access is only proposed for use in emergency situations. The second point of access is proposed in the south eastern area of the site, facilitating the propose estate road layout to the proposed 435No. dwellings. Submitted plans indicate that parking provisions are proposed in accordance with SPGN 2.
- 7.55 The application is accompanied by a Transport Assessment (January 2018) [TA]. The TA concludes that the application site is an appropriate location for the proposed development and that the development will have no significant impact on the operation of the highway.
- 7.56 Concerns have previously been expressed regarding the traffic generation figures that have been assumed and the use of average generation figures. The TA recognises the local dependency on the use of single occupancy car journeys for commuting, however the full

implications of this have not been recognised in the choice of TRICs survey sites. 85th percentile figures have now been provided and the use of these figures goes some way to address the perceived shortfall in the generation rates.

- 7.57 The TA addresses the need for a Travel Plan and Transport Implementation Strategy and targets have been discussed for reducing the reliance on car usage and increasing the use of public transport but not for increasing Active Travel. However, I am advised the imposition of a condition requiring the submission and approval of travel plans for both the commercial and residential uses along with a Transport Implementation Strategy would ensure that this issue is addressed.
- 7.58 Recognition is made within the TA of the existing on-street parking on Spon Green. Additional “resident’s” parking is offered in the vicinity of the proposed retail development but there is no discussion as to how this will be managed or how residents will be encouraged to use this off-road facility. Further detailed information related to the nature of the parking provision and control of its use would therefore be required. This detail could be secured via an appropriately worded condition.
- 7.59 The proposed link between the retail and residential elements of the site is suggested to be provided with retractable bollards in order for it to be used as an emergency access. It is noted that this route is through a car park that will presumably remain in private ownership; there is no indicated public right of access through this land and the highway authority will have no control over appropriate levels of maintenance. Accordingly, further details and information related to emergency access provision would be required. This again could be matter addressed via conditions.
- 7.60 It is suggested that the public transport provision in the vicinity of the site is appropriate and cites the bus stops located on Bannel Lane, Megs Lane and Brook Street. Although these stops may be within the 400m recommended maximum walking distance of the northern site entrance, there is an additional 400+ metres for those residents living in the centre of the proposed development. The three stops listed are served on an infrequent basis and provide an inadequate service for commuting purposes; use of the bus stops on Chester Road is required for access to more frequent services. There is a general inadequacy in the provision of facilities at any of the bus stops in the area with little or no shelter provision and no raised boarding kerbs. However, in the event that planning permission is granted, a pre-commencement condition requiring the submission and approval of proposals to improve the public transport facilities will be required.
- 7.60 As previously discussed, the assumed traffic generation rates appear low, these rates resulting from the selection of sites available on the

TRICs database. The inclusion of Welsh sites has been discounted purely on the grounds of development size, this criteria being given preference over other criteria such as population size in the vicinity of the proposed development. Details submitted record a 76.4% reliance on the use of single occupancy car journeys for commuting purposes within the Bistre East Ward. In comparison, the national figure is 58%. This local reliance on the use of private cars is likely to result in additional traffic generation during the peak periods. Although the use of 85th percentile generation figures goes some way to address this concern, by definition, 15% of developments will generate traffic in excess of this figure, even if local practice was not to be considered.

7.61 Whilst traffic generation rates are unlikely to have a significant impact on the junction capacity assessments, the impact will be more significant on the following junctions which are shown to operate above the design threshold of 85%:

- Little Mountain Road/Bannel Lane;
- A5118/A550/A5104 Roundabout; and
- Dirty Mile/A550/Chester Road

7.62 However, I am again advised that should planning permission be granted, this matter can be addressed via a pre-commencement condition requiring the submission and approval of schemes to deliver capacity improvements at the affected junctions.

7.63 Whilst existing public footpaths crossing the site have been recognised within the site layout, upgrade to include cycle use should be considered where routes cross land within the control of the applicant. Consideration should be given to the potential increased use as a result of development of those routes outside of the application site and improvements to the surface and possible provision of street lighting could be required. The layout of roads within the residential element appears to be appropriate but full details in respect of the above issues could be addressed via conditions in the usual manner.

Land Contamination and Ground Stability

7.64 The application site falls within the defined Development High Risk Area, therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to this proposal. The Coal Authority records indicate that recorded coal mine workings are evident at shallow depths within the north west of the site and it is likely that that historic unrecorded mine workings at shallow depths intersects within the extreme north west and north eastern parts of the site. Furthermore, six recorded mine entries are present both on and off site but in close proximity to the site. The treatment of these entries is unrecorded.

- 7.65 A Coal Mining Risk Assessment (November 2017) has been undertaken which indicates the historic evidence of coal mining activity upon the site. The report makes recommendations that further site investigations are required to determine the precise nature and depth of the shallow workings, together with investigations to establish the locations of the mine shafts.
- 7.66 The Coal Authority would be happy for the investigations where they relate to shallow workings to be addressed via planning condition,. However, recorded mine entries and the risk associated with them can impact upon the design and layout of a scheme. Given that this submission is full application, it would be expected that the the exact location of the mine entries would have been established in order that the scheme design could be properly developed such that adequate separations between these mine entries and any dwellings or other buildings could be provided. Whilst Drawing No, 16097-110-B (proposed master plan) does show the currently plotted position of the mine entries, duet to the inaccuracies of this plotting and in the absence of precise details of the location of the same, there is a likelihood that the mine entries could be closer to proposed dwellings, and gardens or beneath proposed access roads.
- 7.67 The Coal Authority has advised that an updated report is therefore required to identify the mine entries and the depth of bedrock surrounding the same in order that appropriate exclusion zones around the entries can be identified. The building over, or in close proximity to mine entries should be avoided and therefore, in the absence of this details, the Coal Authority objects to the proposals.
- 7.68 It is the contaminative potential of the historical legacy of this mining activity which would have been expected to be addressed within a land contamination study to accompany this application. I am advised by my Pollution Control colleagues that, given the variety and extent of potentially contaminative land uses historically and the recent past, together with the complexity and the sensitivities of the development proposed, there's reasonable ground to suspect that the land is affected by land contamination and at the very least we would expect a phase 1 land contamination assessment would be required to accompany the application for planning permission.
- 7.69 Accordingly, it is considered that insufficient information has been provided to show that land contamination and the potential risks to or which would be brought about by the development, have been duly considered. No information has been provided to show the nature and extent of land contamination present, the potential risks associated with land contamination or how they could be appropriately removed or reduced to an acceptable level.

Accordingly the proposals would not comply with the requirements of Policies STR1(e), GEN1(i), EWP14 and EWP15 of the Flintshire

7.70 Unitary Development Plan.

Drainage and Flood Risk

7.71 The proposals have been the subject of consultation with Natural Resources Wales (NRW) in terms of flood risk; Dwr Cymru/Welsh Water (DCWW) in respect of foul drainage; and FCC Flood Risk Management (FRM) in relation to surface water drainage. Furthermore, the Local Highway Authority have commented insofar as surface water drainage proposals relate to the proposed drainage of the highway.

Flood Risk

7.72 The site lies within Zone A as defined in TAN15 – Development and Flood Risk (2004) and shown upon the Development Advice Map (DAM). However, the site is crossed by 2 watercourses, with a third flowing in close proximity the easternmost boundary of the site. The flood risk associated with these watercourses is unknown. The Flood Map for Surface Water Flooding (FMFSW) indicates that there are 2 corridors within the site which could be at risk from surface water flooding.

7.73 NRW have assessed the Flood Consequence Assessment (FCA) submitted in support of the application and notes that the potential for surface water flooding from the watercourses flowing through the site. However, it suggests that data upon the FMFSW is representative of the potential risks and notes that the development is proposed to be laid out in such a fashion as to create 2 'blue corridors', within which no development is proposed. However, given the scale of the proposed development, a more detailed assessment of risk would be required to inform the FCA. Whilst NRW notes the suggested measures in relation to the avoidance of blockage events, and are generally supportive of the same, I am advised that further detailed analysis is required.

7.74 Accordingly, the FCA fails to demonstrate that the consequences of flooding can be acceptably managed over the lifetime of the development, as required by TAN 15.

Foul Drainage

7.75 DCWW have objected to the proposals and have advised that the proposed development would overload the Waste Water Treatment Works and no reinforcements to the works are planned within DCWW Capital Investment programme. DCWW advise of ongoing discussions between themselves and the applicant and refer to a feasibility study in relation to the waste water treatment works. However, this study is ongoing and until it is completed and any potential for reinforcement identified, DCWW advise that they consider the application premature in drainage terms and therefore object to the proposal.

Surface Water Drainage

I am advised by FRM colleagues that the application does not contain sufficient detail in respect of the proposals for surface water arising from the development of this land.

7.76

FCC Supplementary Planning Guidance Note 29 – Management of Surface Water for New Development was adopted on 17th January 2017. This SPG sets out the minimum requirements in terms of submitted information to demonstrate that a proposed approach to the drainage of surface water is feasible and therefore, the detailed design of the same could be reasonably addressed via condition. The requisite degree of information has not been provided and therefore the Council is unable to assess the adequacy of the proposals in a positive fashion.

7.77

The application makes no reference to the management of surface water, including the collection, storage/disposal of highway drainage. As the area is potentially unsuitable for disposal on-site through soakaways, further detailed information would be required. Accordingly an objection is maintained on the basis of this inadequate information.

7.78

Accordingly, in the absence of sufficient information to address these matters, the proposals would be contrary to the provisions of Policies STR1, STR7 GEN1, EWP16 and EWP167.

Ecological Impacts

The sites consist of intensively managed agricultural habitats and therefore the key features are pockets of rough grassland, hedgerows and trees. These provide potential habitats and foraging for birds, bats and badgers. In addition, the presence of Great Crested Newts (GCN) is recorded within ponds located at the adjacent Spon Green Nature Reserve/Mitigation site.

7.79

The site lies within 500m of the designated Deeside and Buckley Newt Sites Special Area of Conservation (SAC); within 1km of the Buckley Claypits and Commons Site of Special Scientific Interest (SSSI) and as mentioned above, abuts the Spon Green Great Crested Newt compensation site.

7.80

European Protected Species (EPS) and their breeding sites and resting places are protected under Regulation 41 of the Conservation of Habitats and Species Regulations 2017, and under Article 12 of the EC Directive 92/43/EEC in the United Kingdom. Plans or projects that could affect EPS must satisfy the appropriate Article 16 derogation and two mandatory tests. Disturbance to an EPS whilst occupying a place of shelter and/or obstruction of access to a place of shelter are also prohibited under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000).

7.81

Regulation 9 of the Conservation of Habitats and Species

7.82 Regulations 2017 requires public bodies, in exercise of their functions, to ensure compliance with and to have regard to the provisions of the 1992 'Habitats' Directive (92/43/EEC) and the 2009 'Birds Directive' (2009/147/EC). Consequently the Local Planning Authority decision making must be undertaken in accordance and with the compliance of these Directives.

7.83 Furthermore, a Local Authority must be satisfied that a proposal satisfies the appropriate Article16 derogation and two mandatory tests as part of the planning decision process. The need is to consider this derogation is specifically identified at paragraph 6.3.7 of TAN 5 – Nature Conservation and Planning (2009) and Regulation 53 of the Conservation of Habitats and Species Regulations 2017.

7.84 The application is accompanied by reports setting out survey data in respect of bats and reptiles. These reports have been the subject of consultation with NRW and the County Ecologist. These reports are in the main, acceptable, albeit limited in their scope of investigation. Whilst there is reference to the habitats present, there is no examination of the roost potential of hedgerows for bats or the foraging potential of the same. In addition, no reference is made to the potential presence of other species (birds, badgers).

7.85 However, the information provided in respect of GCN is not considered to be acceptable and does not demonstrate that the proposals would not be likely to be detrimental to the maintenance of the favourable conservations status of the species. The report is considered to be lacking in its consideration of GCN avoidance and mitigation measures, which would be expected to be provided in connection with a development of this scale. In addition, there is an absence of details in relation to proposed compensatory proposals and the long term surveillance of the same. It would also be expected that that surface water proposals for the site would be amphibian friendly.

7.86 In the absence of such information, the proposals would be contrary to the provisions of Policies STR7, GEN1, Wb1, WB2, WB3, WB6 and WB6. Accordingly, both NRW and the County Ecologist raise objection to the proposals and recommend that permission should be refused.

Archaeological Impacts

7.87 Consultation with Clwyd Powys Archaeological Trust and regard to the information retained within the Regional Historic Environment Record (HER) identifies that the site lies within an area considered to be of high archaeological sensitivity. I am advised that the site contains a number of sites recorded within the HER but also advises of a number of other features of interest not recorded.

It is considered that the proposals would disturb those remains

7.88 surviving within the site. It is impossible to assess the extent to which such features would be damaged, and therefore arrive at an informed conclusion in respect of the resource itself and the intended treatment of the same.

7.89 PPW, TAN24 – The Historic Environment (May 2017) and the identified policies within the FUDP all identify that where a potential impact to archaeological remains is identified, a suitable archaeological assessment would be required to support such development proposals.

7.90 I am advised in response to consultation that, given the sensitivity of the archaeological resource in this location, together with the potential for extensive unrecorded features of archaeological sensitivity to be impacted upon, a detailed scheme of investigation would be required. Given that archaeology is a material consideration I am advised that such proposals should not be positively determined until such an assessment has been undertaken.

In the absence of such an assessment, the proposals would be contrary to the provisions of Policies STR8, GEN1, HE7 and HE8.

Public Open Space

7.91 The proposals provide an indication of on-site public open space intended for recreation and play. This provision amounts to 4.29 hectares of Public Open Space, a new 'Spon Green' amenity area, landscaping areas and the provision of artificial sports pitches and changing facilities.

7.92
7.93 Consultations with the Public Open Spaces Manager has revealed that there is a need for further more detailed specifications in connection with the proposed artificial football pitches, children's play area and the other community facilities. The provision of such facilities will necessitate a buffer zone around the same, particularly in relation to the football pitches and wheeled play facility, in accordance with guidance set out in LPG13. It is also noted that the rationale to support the provision of artificial pitches against a reduction in the provision of Public Open Space would be required to be provided.

Furthermore, the proposals would be expected to provide details of the proposed maintenance arrangements for these facilities to ensure that their provisions is sustainable in perpetuity.

7.94 Given the queries which remain in relation this this aspect of the proposed scheme, the proposal would not accord with the provisions of LPG13, Policies STR11, GEN1 and SR5.

Impact upon Educational Infrastructure

It has been suggested in third party responses to consultation that the

7.95 settlement does not have sufficient capacity within the existing infrastructure to accommodate the proposed development of a further 435 dwellings. Specifically cited is the lack of capacity at local schools.

7.96 Members will be aware that applications of this type are the subject of consultation with the Capital Projects and Planning Unit within the Local Education Authority. This consultation has established, having regard to SPG23 : Developer Contributions to Education, that the development would give rise to the need for a contribution requirement at primary school level.

7.97 Capacity would not be available at the nearest primary school (Mountain Lane C.P. School). The current capacity of the school stands at 409. There are presently 406 pupils attending the school. Accordingly the school has only a 0.73% surplus of spaces, which equates to 3 spaces for additional pupils. The proposals would give rise to an additional 104 pupils, thereby eroding the remaining capacity. Accordingly, upon the application of the guidance, a sum of £1,274,720 would be sought for the expansion of this school to provide the additional capacity required.

7.98 Capacity is available at the nearest high school (Elfed). The current capacity of the school stands at 1037. There are presently 745 pupils attending the school. The school has 292 surplus places. The proposals would give rise to an additional 76 pupils. Accordingly, there is sufficient capacity at this school to accommodate the additional pupils which would arise from this development and therefore no contribution would be sought for educational purposes as a consequence of this development.

7.99 Members are aware that where it is recommended that planning permission be granted, I would normally set out the consideration of this issue in relation to the CIL Regulations and its impact upon any suggested S.106 agreement. However, in view of the strong recommendation that permission be refused in this case I have refrained from so doing at this stage.

7.100

Other Matters

In addition to the above cited matters, a number of other issues apply to this site. These are the loss of agricultural land and the retail impact of the proposals. I take each in turn.

7.101 *Loss of Agricultural Land*

The application was accompanied by an Agricultural Land Classification Survey (undertaken by Soil Environment Services Ltd – March 2017) of a larger assemblage of land, of which this application site is a part. This report indicates that the survey area comprised some 39ha of Grade 3b land. Subgrade 3b land is not

7.102 classed as Best and Most Versatile (BMV) agricultural land and is therefore not protected by planning policy.

Consultation has been undertaken with Welsh Government's Land Use Planning Unit but at the time of writing this report, no response to that consultation has been received.

7.103 Although both PPW and UDP policy RE1 require considerable weight to be given to protecting BMV land, the soil wetness of the site is such that it comprises 100% Grade 3b land therefore is not BMV. Accordingly I am of the view that the loss of such land would not serve as an impediment to development.

7.104 *Retail Impact*

The proposals include the provision of a 450m² convenience retail store to serve the proposed dwellings and surrounding area. UDP policies are permissive of such proposals below 500m² in out of town centre locations. Accordingly, it is not a policy requirement in such instances that a Retail Impact Assessment be undertaken. However, the applicant has provided the same (Dec 2017). Concern has been

7.105 raised that the provisions of such a retail facility in an out of town centre location will adversely impact upon the vitality of Buckley Town Centre and would fail to accord with the provisions of the Buckley Masterplan in this regard.

7.106 I have had regard to the provisions of UDP Policy S6 which relate to the siting of shopping development of the scale proposed. The applicant has undertaken a sequential analysis of sites within the town centre and concludes that those available sites are either too large, too small or situated at such a distance from the site that the distances which residents would n be required to walk to access these facilities is unsuitable and therefore unsustainable. Whilst I note the stipulations of the policy, I am comfortable with the principle of a retail premises of this size in the context of meeting need arising from a development of this scale.

8.00 **CONCLUSION**

8.01 Notwithstanding that I consider this proposal to be premature, in coming to my conclusion in this matter I find myself reiterating the conclusions of another tasked with weighing the harm to a green barrier with the benefits arising from the development proposal. I conclude that the development would be harmful to the openness of the green barrier, to the character and appearance of the area and would significantly erode the gap between Buckley and Padeswood. These harmful effects warrant considerable weight. I have had regard to the fact that there is a lack of a 5 year supply of housing land and that the need to increase the supply of housing land warrants considerable weight. However, this presumption applies provided the development would otherwise comply with development plan and

national policies.

- 8.02 However, the proposal is inappropriate development in the green barrier and PPW advises that such development should not be granted planning permission, except in very exceptional circumstances where other considerations clearly outweigh the harm the development would do to the green barrier. This is a stringent and demanding test, and the planning balance is different to that applicable for land outside of the green barrier. That demanding balance would not be achieved in this case, and I therefore conclude that the development would be contrary to development plan and national policy.
- 8.03 I have noted the varied technical objections to the scheme on the basis of inadequate information and conclude that in the absence of this detail, it is appropriate to form reasons for refusal relating to these inadequacies as the proposals are contrary to the applicable development plan and national policies.

Other Considerations

- 8.04 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.
- 8.05 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.
- 8.06 The Council has had due regard to its public sector equality duty under the Equality Act 2010.
- 8.07 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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