

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **WEDNESDAY 13<sup>TH</sup> JANUARY 2021**

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

**SUBJECT:** **061919 - FULL APPLICATION - ERECTION OF 18NO. DETACHED DWELLINGS INCLUDING MEANS OF ACCESS & LANDSCAPING OF THE SITE AT BOD HYFRYD NURSING HOME, NORTHOP ROAD, FLINT**

**APPLICATION NUMBER:** **061919**

**APPLICANT:** **EDWARDS HOMES**

**SITE:** **LAND ADJACENT BOD HYFRYD NURSING HOME NORTHOP ROAD FLINT**

**APPLICATION VALID DATE:** **9/10/20**

**LOCAL MEMBERS:** **COUNCILLOR MRS V PERFECT COUNCILLOR P CUNNINGHAM**

**TOWN/COMMUNITY COUNCIL:** **FLINT TOWN COUNCIL**

**REASON FOR COMMITTEE:** **SCALE OF DEVELOPMENT RELATIVE TO DELEGATION SCHEME**

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

**1.0 SUMMARY**

- 1.1 This full application proposes the erection of 18 No dwellings on land adjacent to Bod Hyfryd Nursing Home, Northop Road, Flint
- 1.2 The site the subject of this application is located adjacent to but outside of the settlement boundary of Flint, as defined in the Flintshire Unitary Development Plan ( FUDP ). It does however form

part of a larger allocated housing site ( HN4.1), within the emerging Local Development Plan ( LDP )

**2.0 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS**

1) The proposed development does not represent positive place making or embrace the objectives of good design as the development fails to respond to the existing site and its surrounding context in terms of how and what appropriate density development can be successfully integrated as part of a much larger housing allocation in the emerging Local Development Plan. The incremental development of this relatively small proportion cannot be considered as sustainable development. The applicant simply seeks to introduce development on this site alone, without making serious efforts to bring the whole site forward in a co-ordinated and sustainable manner .The proposal is therefore contrary to the guidance in Section 3 of Planning Policy Wales (PPW) Edition 10 in relation to place making and good design.

2) The form, and layout of the proposed development is unacceptable and would be detrimental to character of the site and surrounding area. The proposal fails to respect the potential for the site to be developed in conjunction with that which forms part of its wider allocation under LDP Policy HN1.4 including matters relating to the formation of a single means of highways access, ecological mitigation, provision of affordable housing and a site wide drainage strategy and as such does not represent a sustainable form of development in its own right.. The proposal is therefore contrary to Planning Policy Wales (PPW) – Edition 10, Technical Advice Note 12 – Design, Technical Advice Note 18 – Transport and Policies STR1, STR7, GEN1, D1, D2, AC18, HSG3 and HSG8 of the Flintshire Unitary Development Plan and Supplementary Planning Guidance Note 2 Space Around Dwellings.

3) The proposal has the potential to cause disturbance to the habitat of Great Crested Newt and badgers. 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 to contrary to policies GEN 1 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 TAN5 and Planning Policy Wales 10.

### **3.0 CONSULTATIONS**

#### 3.1 Local Members

##### Councillor Mrs V Perfect

Awaiting response at time of preparing report.

##### Councillor Mr P Cunningham

No objection subject to compliance with appropriate policies and development considerations..

##### Flint Town Council

The Town Council wishes to express several reservations as follows:-

- Proposal is contrary to the existing UDP policy framework as the site is located outside the defined settlement boundary of Flint
- Although forming part of a wider allocation within the Emerging LDP that until this has been through examination, only limited weight should be attached to the LDP in determination of the application.
- Lack of a 5 year housing land supply is no longer relevant with the disapplication of paragraph 6.2 of Technical Advice Note 1
- Application only relates to part of the wider housing land allocation in the LDP, and development should be planned holistically to address open space, ecological and affordable housing requirements.

##### Highway Development Control

No highway objection subject to the completion of a Section 106 to secure improved bus stop facilities and the imposition of conditions in respect of access, visibility

##### Community and Business Protection

No objection in principle but there are potential noise concerns associated with vehicular movements from the A5119 and garage services opposite the site. Recommend the imposition of a condition to address the need for acoustic measures to be provided.

##### Welsh Water/Dwr Cymru

No objection subject to the imposition of conditions in respect of foul, surface and land drainage.

### Natural Resources Wales

Request the submission of an ecological survey to assess the impact of development on Great Crested Newts with appropriate mitigation where required.

### Clwyd- Powys Archaeological Trust

Consider the plot of land adjacent to Bod Hyfryd Nursing Home to have less archaeological potential in comparison to the wider site to the west.

### Education

Advises that the schools affected by the proposal are as follows:-

#### Flint St Mary's Catholic Primary School

Capacity (at January 2020) 317 (excluding nursery)

Current NOR (at January 2020) 227 (excluding nursery).

Number of Surplus Places = 90.

Percentage of Surplus Places 28.39 %.

Does not meet the trigger to require a developer contribution.

#### Flint High School ( Secondary )

Capacity (at January 2020) 797

Current NOR (at January 2020) 839.

Number of Surplus Places = - 42.

Percentage of Surplus Places – 5.27%

#### Secondary School Calculation

School Capacity  $797 \times 5\% = 837$

Trigger for Contributions 757

Number of units  $18 \times \text{Secondary Multiplier } 0.174 = \text{Child Yield } 3.13$   
(3)

Child Yield 3 x Cost Multiplier £18,469.00 = Developer Contribution  
£55,407

### Council Ecologist

In the absence of ecological surveys, it is not possible to demonstrate that protected species and their habitats will be safeguarded as part of the proposed development. In the absence of this information, with appropriate mitigation /compensation, it is recommended that the application be refused.

### Housing Strategy Manager

Attached below are the housing need figures for Flint.

## Housing Need Flint 2020

	<u>SARTH</u>	<u>Intermediate Rent</u>	<u>Intermediate Purchase</u>
1 bed flat	317		
2 bed flat	18	4	
2 bed house	122	15	5
3 bed house	31	19	7
4 bed house	39	2	
5+ bed house	11		
1 bed bungalow	65		
2 bed bungalow	16		

The specialist housing register also demonstrates that there is a need for housing for people who need an adapted level access property or larger than average home ( 6 applicants require properties ranging from 1-6 bedrooms.)

The planning application is for 18 No dwellings and located on part of a wider development area allocated in the emerging LDP. The application for 18 No units will not trigger the affordable housing requirement as listed within UDP Policy HSG10. However, as this is part of a larger allocated site, SPG9 advises that it is not acceptable to subdivide or phase the total development of a site to avoid the provision of affordable housing.

### AURA

Due to the scale and form of development proposed, recommend the payment of a commuted sum of £1100 per dwelling. The monies would be used to enhance toddler play facilities at the children's play area at Pen Goch.

## **4.00 PUBLICITY**

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

72 letters of objection received, the main points of which can be summarised as follows:-

- Proposal is contrary to existing planning policy
- Inadequacy of access
- Detrimental impact on open character
- Site should be retained as a greenspace at entrance to the town
- Detrimental impact on living conditions of occupiers of existing properties and Nursing Home adjacent to the site
- Adequacy of drainage

## **5.00 SITE HISTORY**

- 5.01 057565 – Erection of 20 No detached dwellings including means of access and landscaping. Withdrawn 5/1/21

### Adjacent Site

058314 – Outline – Proposed residential development for up to 145 dwellings including highway access. Currently undetermined

## **6.00 PLANNING POLICIES**

- 6.01 Flintshire Unitary Development Plan  
Policy STR1 – New Development.  
Policy STR4 – Housing.  
Policy STR7 – Natural Environment.  
Policy GEN1 – General Requirements for Development.  
Policy GEN2 – Development Inside Settlement Boundaries.  
Policy GEN3 – Development in the Open Countryside.  
Policy GEN4 – Green Barriers.  
Policy D1 – Design Quality, Location & Layout. Policy D2 – Design.  
Policy D3 – Landscaping.  
Policy TWH1 – Development Affecting Trees & Woodlands.  
Policy TWH2 – Protection of Hedgerows.  
Policy WB1 – Species Protection.  
Policy WB2 – Sites of International Importance.  
Policy WB4 – Local Sites of Wildlife & Geological Importance.  
Policy AC13 – Access & Traffic Impact.  
Policy AC18 – Policy Provision & New Development. Policy HSG1 – New Housing Development Proposals.  
Policy HSG3 – Housing on Unallocated Site Within Settlement Boundaries.  
Policy HSG8 – Density of Development.  
Policy HSG9 – Housing Mix & Type.  
Policy HSG10 – Affordable Housing within Settlement Boundaries  
Policy RE1 – Protection of Agricultural Land.  
Policy SR1 – Sports Recreation or Cultural Facilities.  
Policy SR5 – Outdoor Playing Spaces & New Residential Development.  
Policy EWP15 – Development of Unstable Land.  
Policy IMP1 – Planning Conditions & Planning Obligations.

### Additional Guidance

Planning Policy Wales (PPW) Edition 10 (December 2018).

Technical Advice Note 2 – Planning & Affordable Housing.  
Technical Advice Note 5 – Nature Conservation & Planning.  
Technical Advice Note 6 – Planning for Sustainable Rural Communities.

Technical Advice Note 12 – Design. Technical Advice Note 18 – Transport.  
Technical Advice Note 24 – The Historic Environment.  
Local Planning Guidance Note 13 – Open Space Requirements  
Supplementary Planning Guidance Note 2 – Space Around Dwellings.  
Supplementary Planning Guidance Note 3 – Landscaping.  
Supplementary Planning Guidance Note 8 – Nature Conservation & Development.  
Supplementary Planning Guidance Note 9 – Affordable Housing.  
Supplementary Planning Guidance Note 11 – Parking Standards.  
Supplementary Planning Guidance Note 13 – Outdoor Playing Space & (under Review).  
Supplementary Planning Guidance Note 23 – Developer Contributions to Education.

## **7.00 PLANNING APPRAISAL**

### **7.01 Introduction**

This full application proposes the erection of 18 No 2 storey dwellings on approximately 0.9 hectares of land, located outside but adjacent to the southern boundary of the settlement of Flint, as defined in the Flintshire Unitary Development Plan.

7.02 The site is located to the west of the A5119 (Northop Road ) and the petrol service station at the entrance to the town from the A55, and to the south of Bod Hyfryd Nursing Home. Whilst the topography is relatively flat along the frontage with the A5119, it does slope from east to west within the site.

### **7.03 Background**

For Members information there is currently an undetermined application on the land adjacent which has been submitted by Anwyl Homes, under 058314 It is acknowledged that the land the subject of 058314 is however in separate ownership to that forming this application, and is an outline application that covers the remainder and much larger portion of the whole site allocated in the emerging LDP..

### **7.04 Proposed Development**

The plans submitted as part of this application propose the erection of a total of 18 No 2 storey dwellings forming a frontage development of 11No units onto Northop Road, and the remaining 7 No units within the site accessed, from a new vehicular access off Northop Road. It is proposed that the dwellings are constructed having render /facing brick external walls and concrete tile roofs.

7.05 Main Planning Considerations

It is considered that the main planning considerations to be taken into account in relation to this application area:-

- a) The principle of development
- b) Place making and design
- c) Housing land supply
- d) Character and appearance
- e) Impact on ecological habitats and sufficiency of mitigation measures.
- f) Adequacy of sustainability of proposed means of highways access.
- g) Provision of affordable housing
- h) Impact on Living Conditions
- i) Open space provision.
- j) Provision of Education Contributions.

7.06 Principle of Development

As previously referenced, the site is currently located outside the settlement boundary of Flint in the Unitary Development Plan. It together with the larger parcel of land to the west form a single allocation HN1.4 'Northop Road, Flint' in the Deposit Draft Local Development Plan ( LDP). The allocation is for a total of 170 dwellings and is accompanied by the following summary design guidance within this policy:

'Single access off Northop Rd / pedestrian linkages to Halkyn Road / retention of strong hedgerow boundaries / ecological mitigation measures'.

7.07 The LDP has not yet been adopted as it has not yet been through Examination stage but it has been submitted for Examination and accepted by the Planning Inspectorate and this will begin shortly at the start of 2021. In agreeing to the Plans submission for Examination, the Council have not made any specific changes to the Deposit LDP and this site remains part of the plan that the Council considers is sound and capable of being found so at Examination and adopted. 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.

7.08

Having regard to the above, it is a significant factor that the application site is not an allocation in its own right, it is only a small proportion of the LDP allocation HN1.4, and needs to be considered together and in conjunction with the larger portion of the allocation under HN1.4, the subject of the currently undetermined outline application 058314. Otherwise to take a piecemeal and incremental approach to bringing an LDP site forward cannot be considered to represent good placemaking

following the principles of good design set out in PPW, and nor does it represent a sustainable or holistic approach to demonstrate the deliverability of an LDP site. Given the low level of public objection to the LDP site allocation, an opportunity exists to consider this site positively, but only in the context of it coming forward as a single collaborative entity, and also fulfilling the presumption in favour of sustainable development. At this time and based on the approach taken by the applicant with this application, it does neither.

7.09 Despite the repeated attempts by officers to encourage a collaborative and sustainable approach to be taken by respective owners and developers over this LDP allocation, to bring the site forward on an agreed and co-ordinated basis, the developer does not wish to adopt this approach. The developer has instead requested that the application site is now brought forward for consideration in advance of and in isolation to that on the wider site. As part of this approach it would seem this application has been submitted with the intention of either driving determination within the minimum time period, or alternatively appealing the application on the grounds of non – determination. The approval of this application would result in the isolation of part of a larger allocated site. This would therefore mean the allocated site as a whole would fail to deliver a collaborative approach to demonstrating deliverability or an LDP site or of good place making.

7.10 Place Making and Design  
PPW states in paragraph 3.3 that good design is fundamental to creating sustainable places where people want to live, work and socialize. It also states that design must include how space is used, how buildings and the public realm support this use, as well as its construction, operation, management and its relationship with the surrounding area. In paragraph 3.4 PPW urges that for all those involved in the development process (which includes the applicant), the aim for all should be to meet the objectives of good design, applied to all development at all scales.

7.11 Returning to the principles of good design set out in PPW it is considered that the proposed development has failed to respect the principles of place making and good design in terms :-

- Character – there is no clear rationale or strong vision as required in paragraph 3.9 of PPW that explains the design decisions made, based on site and context analysis, to explain why the development of just a small portion of a much larger LDP allocation can sustainably come forward in isolation and advance of the rest of the site. The layout, form, scale and visual appearance of a proposed development and its relationship to its surroundings are important planning considerations. Divorcing the

development from this land from the larger allocation does not seem to be either rational or sustainable.

- Movement – Paragraph 3.12 of PPW states that good design is about the creation of car based developments. It contributes to minimising the need to travel and reliance on the car, whilst maximising opportunities for people to make sustainable and healthy travel choices for their daily journeys. This application takes an opposite view to this by proposing an unnecessary duplicitous approach to achieving highways access into the whole allocation, as well as then because of its limited scale, limiting the options available to design development that provides genuine travel choices.

- Appraising context – Paragraph 3.14 of PPW explains that site and context analysis should be used to determine the appropriateness of a development proposal in responding to its surroundings. It goes on to state that this process will ensure that a development is well integrated into the fabric of the existing built development. The Local Planning Authority considers that the applicant has failed in this assessment and in presenting a design that responds appropriately to the existing environment and context, having also failed to explain the need to develop only a small part of the much larger site allocated in the LDP when there are so many factors that require an integrated approach to development, that include matters such as ecological mitigation a site wide drainage strategy, single sustainable highways access and the provision of affordable housing. This application is virtually silent on all of these matters.

- 7.12 Planning Policy Wales states that good design is fundamental to creating sustainable places and is not simply about the architecture of a building or development, but the relationship between all elements of the natural and built environment and between people and places. It is important therefore that this proposal, makes a positive and sensitive response to the character, context, accessibility, and environmental sustainability of the site and its surroundings. These are some of the main objectives of good design referred to in PPW, yet the proposal because of it being advanced independently to the wider allocation in the LDP is in conflict with these objectives from the outset, as it fails to create a positive and legible relationship between the site and its surroundings.
- 7.13 The design and access statement fails to make detailed reference to relevant context and guidance found in Planning Policy Wales - Edition 10 and Technical Advice Note 12 Design. There are other omissions from the supporting statements that have a direct relationship to the principle of place making and good design
- 7.14 The application specifically asks the Local Planning Authority to approve dwellings on a small part of the site allocated under

HN1.4 which would result in a density of development of approximately dwellings per hectare 20 (dph)..

- 7.15 The issue of density however needs to be read in conjunction with the site layout submitted, having regard to the nature of the existing development in proximity to the site in which it is located. As a result the layout extenuates development along the site frontage, extenuating ribbon development at the entrance to the town and fails to address ecological concerns and affordable housing provision. It is my view that the proposal does not represent good design or place making in response to site context, and is instead simply an exercise in attempting to bring forward part of the allocated site in isolation to that to the west which is not a sustainable approach to development.
- 7.16 It is my view that the layout fails to respect the existing character both adjacent to existing development and the site's edge of settlement location resulting in a predominantly linear form of frontage development which would be detrimental to the well-being of future residents and the surrounding community.
- 7.17 Housing Land Supply  
The requirement in Planning Policy Wales 10 ( PPW 10) and Technical Advice Note 1 for Local Planning Authority's ( LPA's) to monitor their housing land supply and maintain a 5 year supply of genuinely available housing land was removed on 26th March 2020 and replaced by a requirement for LPA's to monitor housing delivery. Revisions to PPW10 and the Development Plan Manual 3 require that LPA's monitor the delivery of their housing development plan housing requirement based on a housing trajectory contained in the development plan.
- 7.18 The LPA included in a Background Paper accompanying the Deposit Local Development Plan ( LDP ), a housing trajectory to illustrate how the Plans housing requirement would be delivered over the 15 year Plan period. Whilst the revised national guidance does not provide a specific method for an LPA to monitor supply where the LDP is not yet adopted, the LPA is continuing to prepare the LDP in line with the new guidance. Given that there is now no other means of monitoring supply, the LPA considers that it is entitled to give weight to the principle of using the Deposit LDP trajectory to demonstrate the progress of the Plan in delivering housing and whether there is a shortfall of delivery against the trajectory.
- 7.19 The updated trajectory clearly demonstrates that the LDP housing can and is being delivered as planned throughout the plan period. In the light of the revised guidance in the final Development Plan Manual 3, the Deposit LDP housing trajectory has been revised

and the completions achieved in the early years of the Plan period demonstrate that there is no shortfall of housing land in Flintshire.

7.20 Given that this and the larger site that this application forms part of is an allocation in the LDP, and the fact that the Council has submitted the LDP for examination (including this allocation) on the basis that the plan is sound and capable of adoption, this should have provided this applicant with a positive context and opportunity to advance the site against the presumption in favour of sustainable development. Instead, and despite the broader principle of development being acceptable because of the sites LDP allocation the applicant has taken an incremental and piecemeal approach to subdividing the LDP allocation to try to bring forward 18 dwellings, and in doing so has ignored all the wider principles of delivering the site sustainably, by failing to engage with the larger site owner to establish obvious site wide requirements for efficient layout and positive placemaking, ecological mitigation, highways access, drainage and affordable housing. These specific deficiencies with this proposal are expanded upon in turn below.

7.21 Character and appearance

It is fairly common for an allocated housing site to be developed by more than one developer, but this is undertaken on the basis of a co-ordinated scheme for the whole site in order to achieve a high quality layout and design. By promoting development of this site in isolation to that forming its wider allocation in the LDP, the site layout does not achieve adequate safeguards for the protection of ecological interests, provision of affordable housing and open space. The proposed density of development of 20dph is lower than the 30dph that it is sought to achieve on allocated housing sites. As referenced however there are specific constraints to its development most notably from an ecological perspective. Whilst the design of the 2 storey detached properties would be acceptable in the context of existing development at this location, there is no integration with that forming part of application 058314, and the layout as proposed seeks to concentrate the siting of units along the site frontage which would lead to an extenuation of ribbon development along Northop Road, which it is considered would on its own, be detrimental to the character of the site at a key focal point at the entrance to Flint.

7.22 Impact on Ecological Habitats

Consultation on the application has been undertaken with both Natural Resources Wales (NRW) and the Council's Ecologist, in order to address the potential direct/indirect impact, on protected species and their habitats at this location.

- 7.23 Of particular concern in this respect is a) the presence of a badger sett in close proximity to the western boundary of the application site, adjacent to that forming part of the wider LDP allocation, the subject of application 058314 and b) the presence of Great Crested Newts within the overall allocated site.
- 7.24 Both the Council's Ecologist and NRW consider that In the absence of an ecological survey(s), it is unclear in respect of :- i) the means of avoidance /mitigation associated with the impact of development on the badger sett, including its translocation to facilitate an acceptable form of development. Whilst this is shown on the submitted plans within the south –west corner of the application site it is considered from an ecological perspective that this would need to be secured within the wider LDP allocation. This is reliant on agreement with other land owners as part of application 058314, to bring forward development in a co-ordinated manner and ii) the means of protection mitigation associated with the presence of Great Crested Newts. Neither of these issues have been addressed as part of the application.
- 7.25 I therefore consider that the proposal would have potential to have a significant adverse effect on 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 TAN 5 Nature Conservation and Planning and paragraph 6.4.2 of PPW10.
- 7.26 Adequacy of Access  
Consultation on the application has been undertaken with Highway Development Control who have assessed the proposal having regard to a submitted Transport Technical Note and changes to the position of the proposed access and a reduction in the speed limit at this location subsequent to 057565 ( now withdrawn ) It has been concluded that the proposed access is acceptable to serve that the subject of this application and the wider LDP allocation, there being no objection from a highway perspective subject to the imposition of conditions. In addition, it is proposed that a separate new access is proposed off Northop Road, to independently serve the application submitted by Anwyl Homes under 058314. Whilst this is duly noted, it is considered from a development management perspective, that this would not represent positive place making. The allocation as a whole should in my view be accessed through a single access point, which would help to provide for a well balanced /sympathetic development at this location promoting a co-ordinated and well integrated development on the site.
- 7.27 Provision of Affordable Housing  
For Members information the scheme as submitted does not include any affordable housing provision. The context for the

potential development of the site, is that it is part of an allocation within the Emerging Deposit LDP, where there is a requirement for it to deliver an element of affordable housing. The application site is an integral part of the larger allocation and should not be considered exempt from a requirement to proportionately deliver affordable housing. The explanation to Policy HN3 of the Deposit LDP clearly references in paragraph 11.7

“ Any attempts to deliberately sub-divide or phase sites to avoid the need to deliver affordable housing will not be acceptable”

7.28 The promotion of this site in advance /isolation to the remainder of the LDP allocation, does not negate the requirement for affordable housing provision to be secured or an expectation that this will be addressed by the applicant /developer as part of 058314.

7.29 The lack of provision of affordable housing within this proposal further diminishes the sustainable credentials of this development.

7.30 Impact on Living Conditions

The submitted site layout plan forming part of this application proposes that plots 1-6 of the proposed development have their rear elevations facing the northern site boundary, relative to that at Bod Hyfryd Nursing Home. The closest dwelling would be sited approximately 24m from the existing building, the depth of the associated rear curtilage area of the proposed dwelling being approximately 11m.

7.31 It is considered that the relative distances as referenced would be acceptable to safeguard the living conditions of residents within both the existing nursing home and occupiers of the proposed development having regard to Supplementary Planning Guidance Note 2 – Space Around Dwellings

7.32 Open Space Provision

The site layout submitted as part of this application, does not propose a designated area of public open space within the development. It is considered from a leisure perspective that in line with Local Planning Guidance Note 13, as the proposal involves the development of less than 25 units, and given the recognised constraints /limited site area, that a commuted sum payment would be more appropriate in this instance. Whilst this is noted, it is considered that this approach for the payment of a commuted sum, is reflective of the fact that the scheme should not be considered in isolation to its wider LDP allocation, which provides the context for open space to be provided as an integral part of its overall development

- 7.33 Provision of Education Contributions  
Given that there is adequate school capacity at Flint St. Mary's Catholic Primary School, if the application were recommended for approval it would not be intended to seek a contribution in this respect. There is however a requirement for A Secondary School Contribution for Flint High School for £55,407
- 7.34 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'.
- 7.35 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.
- 7.36 While the Authority does not yet have a charging schedule in place, the CIL Regulations put limitations on the use of planning obligations. These limitations restrict the number of obligations for the funding or provision of an infrastructure project / type of infrastructure. From April 2015, if there have been 5 or more S106 Obligations relating to an infrastructure project / type of infrastructure since 2010, then no further obligations for that infrastructure project /type of infrastructure can be considered in determining an application.
- 7.37 I am advised that since the advent of the CIL Regulations that no more than 5 contributions have been made to Flint High School, and I am satisfied that a scheme to increase capacity at Flint High School would meet the regulation 122 tests. impact.
- 7.38 Surface Water Drainage  
This re-submitted application is now subject to the requirements of Schedule 3 of the Flood and Water Management Act in relation to surface water drainage and its management as part of SuDS (Sustainable Urban Drainage System). No details have been submitted in this respect as part of a wider strategy for development of the site and therefore the impact of this aspect of the development cannot be adequately assessed.

## **8.00 CONCLUSION**

- 8.01 The context for the potential development of this site is that it forms part of a larger allocation in the Deposit LDP under Policy HN4.1. Despite the overall allocation considered to be a logical and sustainable urban extension in a main settlement and service centre, the specific development proposal fails falls short in a number of respects. This includes satisfying the principle of good design and placemaking whose piecemeal and un- coordinated approach to affordable housing provision, ecological mitigation, and drainage falls far short of satisfying the presumption in favour of sustainable development required to consider approving this application..

### 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:**

**Telephone:**

**Email:**