

PLANNING STATEMENT

APPLICANT:

Stewart Milne Homes (North West England) Limited

SITE:

Land South of New Brighton Road, New Brighton, Mold, Flintshire, CH7 6RB

DATE:

28 May 2021

Report Drafted By	Report Checked By	Report Approved By
NM	MH	MH
27.05.21	28.05.21	28.05.21

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CONTENTS

	PAGE NUMBER
1. INTRODUCTION	2
2. THE SITE & SURROUNDING AREA	5
3. PLANNING HISTORY.....	8
4. STATUTORY AND OTHER DESIGNATIONS.....	9
5. THE PROPOSED SCHEME	13
6. PRE-APPLICATION CONSULTATION	17
7. THE DEVELOPMENT PLAN	18
8. OTHER MATERIAL CONSIDERATIONS.....	34
9. SUMMARY OF BENEFITS AND CONCLUSIONS.....	46

Appendix

- Appendix 1 Appeal Decision Letter relating to the site.
- Appendix 2 Extract from Council's Hearing Statement.
- Appendix 3 POS Area Plan.

1. INTRODUCTION

BRIEF

- 1.1 Hourigan Connolly is instructed by Stewart Milne Homes (North West England) Limited (hereafter referred to as “the Applicant”) to prepare a Planning Statement as part of a full planning application to Flintshire County Council (hereafter referred to as “the Council”) relating to land south of New Brighton Road, New Brighton, Mold, CH7 6RB (hereafter referred to as “the site”). The description of development given in the planning application form is:

“Residential development comprising 84 dwellings including the provision of affordable units, areas of public open space, landscaping and associated works.”

BACKGROUND

- 1.2 The site was subject to a previous planning application under Local Planning Authority (LPA) Reference 060220 which was refused by Decision Notice dated 30 October 2020 for 2 reasons:

1. The Local Planning Authority consider that the proposal has the potential to cause disturbance to great crested newts and/or loss or damage to their resting places. In the absence of adequate surveys, mitigation and reasonable avoidance measures it is not possible to demonstrate that the proposal adequately takes account of the European Protected Species and as such is contrary to policies GEN1 and WB1 of the Flintshire Unitary Development Plan. Furthermore the proposal fails to safeguard protected and priority species and existing biodiversity assets from impacts which directly affect their conservation status as required by Planning Policy Wales 10.

2. In the opinion of the Local Planning Authority the proposal provides an inadequate level of onsite play and recreational space for the numbers of dwellings proposed. As such the proposal is contrary to policy SR5 in the Flintshire Unitary Development Plan and the guidance found within the Local Planning Guidance Note 13: Open Space Requirements.

- 1.3 An appeal was made to the Planning Inspectorate Wales (PINSW) under reference APP/A6835/A/20/3260460. Whilst the appeal was dismissed the Inspector’s findings were helpful in:

- Confirming that the principle of development is acceptable in this location having regard to the existing Settlement Boundary and Green Barrier designations in the UDP (the latter not being offended as the site is not within the Green Barrier).

- Establishing that the ecological survey effort deployed by the Appellant was reasonable and adequate (Paragraph 12), extensive compensatory measures for Great Crested Newts (GCN) is not justified (Paragraph 14), the derogation tests of the Habitats Regulations are not engaged as disturbance of GCN is unlikely (Paragraph 17) and the proposed development would not conflict with the Development Plan, national policy or with the requirements of the Habitats Regulations (Paragraph 18).
- That approval of a scheme would not raise issues of prematurity (Paragraphs 42 – 44).
- That surface water can be dealt with via the separate statutory SuDs approval process (Paragraphs 33 - 36).

1.4 Notwithstanding the above, the Inspector dismissed the appeal as he considered there was insufficient open space being provided with the proposals. The appeal DL can be found in **Appendix 1**.

1.5 This statement addresses the issues raised in the appeal DL.

SCOPE

1.6 The application is accompanied by a range of supporting documents (see Annex 1 of the Covering Letter) which address key technical and site-specific planning matters to demonstrate why planning permission should be granted. This document should be read in conjunction with these supporting documents.

PURPOSE

1.7 The purpose of this Planning Statement is as follows:

- To describe the site and surrounding area.
- To examine any relevant previous planning decisions that have been made in relation to the site.
- To identify any statutory or local planning-related designations affecting the site.
- To provide details of the scheme that is now being brought forward and how these are different from the appeal scheme.
- To describe the pre-application engagement that has taken place.
- To outline the other documents submitted in support of the proposals.
- To consider the proposed development having regard to the provisions of the Local Development Plan.

- To consider any other material considerations.
- To outline the benefits of the scheme.
- To demonstrate that the planning balance lies clearly in favour of the proposals.

2. THE SITE & SURROUNDING AREA

SITE LOCATION

- 2.1 The site is located on the north west edge of New Brighton, a village in the County of Flintshire. New Brighton is approximately 2km to the north east of the town of Mold. Other nearby villages include Sychdyn which is circa 1km to the north west and Mynydd Isa which is circa 1.3km to the south east.
- 2.2 An aerial image of the site is shown in Figure 2.1 below.

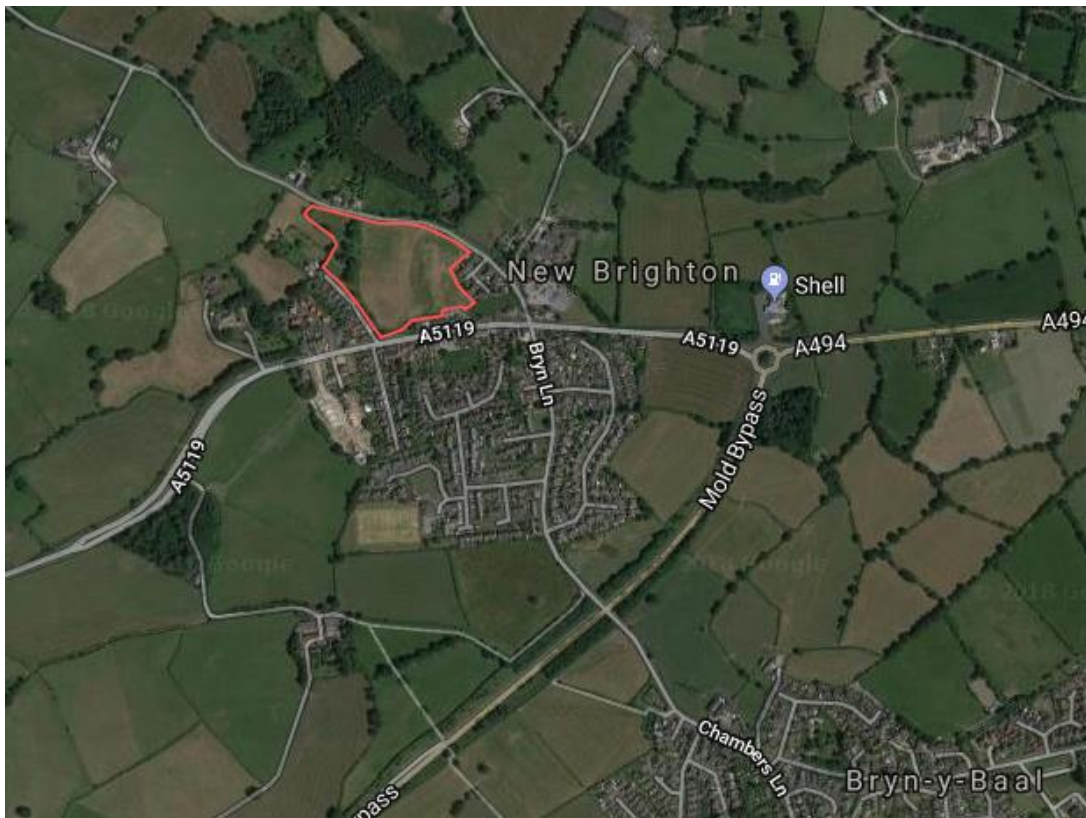


Figure. 2.1– Site Location (approximate site boundary denoted in red).

SITE DESCRIPTION

- 2.3 The site area measures approximately 3.6 hectares of undeveloped Grade 3b agricultural land and is irregular in shape being bound by New Brighton Road to the north, existing housing to the east at Cae Isa, the A5119 to the south and Argoed View partially bounding the site to the west, with agricultural fields beyond this.
- 2.4 Adjoining the site there are a number of residential properties to the west, south and east at Argoed View, A5119 and Cae Isa respectively. There are also some commercial uses present along the southern boundary on the A5119 which include a stone masons and car sales shop.

Additionally, the Beaufort Park Hotel which includes a bar, restaurant and conference facilities is located on the eastern side of New Brighton Road.

2.5 There are existing hedgerows along the boundaries and there are a number of mature trees within the site to the west. The site has a gentle slope from west to east.

2.6 There is an existing farm gate access on to New Brighton Road. A Public Right of Way also runs through the western part of the site from Argoed View to New Brighton Road.

SURROUNDING USES

2.7 As mentioned above, the site is surrounded to a large extent by existing development to the east south and west. Even to the north, there are sporadic residential properties located within the countryside.

2.8 To the south of the site is the main built up area of New Brighton which also contains a church, playing pitches and a community centre. Further east is a petrol filling station which includes a convenience store.

ACCESSIBILITY CONSIDERATIONS

2.9 The following amenities are located nearby:

Amenity	Name	Distance from site (km)
Hotel / Restaurant / Bar / Conference Facilities	Beaufort Park Hotel	0.2
Place of Worship	St James Church	0.2
Petrol Filling Station and Convenience Store	Shell	0.6
Community Centre	New Brighton Community Centre	0.8
Primary School	Ysgol Mynydd Isa (Junior Site)	1.2
Primary School	Ysgol Sychdyn	1.4
Secondary School	Argoed High School	1.6
Primary School	Ysgol Mynydd Isa (Infant Site)	1.8

Figure 2.2 – Local amenities.

2.10 There are bus stops on the A5119 immediately adjacent and to the south of the site which are served by the numbers 4 and 5. The number 4 bus provides a service between Mold and Chester via Buckley and Broughton, 6 days a week. The number 5 bus provides a bi-hourly service between Mold and Ellesmere Port via Queensferry, 7 days a week. The other centres listed above have a wide range of further amenities.

2.11 The Transport Assessment submitted with the full planning application summarises the accessibility credentials of the site as follows:

- *“The site is within an acceptable walk and cycle distance of a range of local amenities and facilities.*
- *There is a reasonable level of public transport including an effective service by bus which also provides access to rail services within a short journey distance.*
- *Areas of significant employment in Mold, Ewloe and Buckley are accessible within a short bus or cycle journey from the site.*
- *Based on the above factors, the proposed development would provide good opportunities for sustainable travel.”*

SUMMARY

2.12 This site comprises an unremarkable looking undeveloped parcel of agricultural land (Grade 3b) that has a close physical relationship with the existing settlement of New Brighton rather than the wider countryside. Indeed, as noted within Chapter 7 the site is partially within and partially outside the existing Settlement Boundary of New Brighton as designated in the FCC Unitary Development Plan and the proposals would create a logical extension to the settlement. Given its location close to shops, services and public transport to meet day-to-day needs it is considered to be in an accessible and sustainable location for new housing to help meet the future housing needs of the County. It is for these reasons the Council has allocated the site for housing in its emerging LDP as discussed in Chapter 8.

3. PLANNING HISTORY

3.1 According to the Council's online resource two planning applications have been submitted at the site previously:

Application Reference	Site Address	Description	Status
060220	Land to the south of New Brighton Road	Residential development for the erection of 92 dwellings including the provision of affordable units, areas of public open space, landscaping and associated works.	Refused by Decision Notice dated 30 October 2020. Appeal dismissed 2 February 2021.
041608	Land off New Brighton Road	Outline - Residential development with new access.	No decision made, file closed 17 December 2008.

Figure 3.1 Planning History

3.2 The implications of the appeal have been discussed in Chapter 1 and will be discussed further in Chapters 5, 7 and 8.

4. STATUTORY AND OTHER DESIGNATIONS

HERITAGE DESIGNATIONS

- 4.1 The site does not include any listed buildings and it is not within a Conservation Area. There are no scheduled monuments within the site boundaries and the site is not within a designated World Heritage Site.
- 4.2 A Scheduled Monument (Wat's Dyke: Section N & E of New Brighton Reference: FL085) is located in the open countryside further to the north and east of the site. Notwithstanding that the Scheduled Monument is not likely to be visible from the development, a Heritage Statement accompanies the application which specifically assesses the impact on the Scheduled Monument, this document supports the planning application. This document concludes that any impacts are anticipated to be low due to the majority of potential views being very well-screened.

FLOOD RISK AND DRAINAGE

- 4.3 According to the Natural Resources Wales (NRW) Flood Map, the site is located within Flood Zone A – an area considered to be at little or no risk of fluvial or tidal flooding, with a less than 1 in 1000 (0.1%) annual probability of flooding in any given year and is at low risk of flooding from surface water.
- 4.4 A Flood Consequence Assessment (FCA) accompanies the application. The FCA confirms that the site is not at risk of river or sea flooding however the NRW advice maps indicate that there is a risk of surface water flooding on part of the site. The FCA advises that the inclusion of mitigation measures (such as raising finished floor levels above the surrounding ground levels and providing storage for surface water originating off site) and a drainage network incorporating sustainable drainage systems (SuDS) will mitigate risk both on and off site.
- 4.5 The FCA and Drainage Strategy explores the priority hierarchy for surface water run-off in accordance with the Welsh Government's 'Recommended non-statutory standards for sustainable drainage in Wales' (2017). Having explored each of the priority levels for sustainable drainage, the Strategy confirms that all surface water run-off will be collected into gravity piped networks and discharged into a SuDS pond and surface water public sewerage networks at restricted flow rates. Finished Floor Levels of the proposed dwellings will be raised as recommended in the FCA. The Applicant will be seeking approval from the SuDS Approval Body (SAB) before commencing development.
- 4.6 The FCA concludes that the site, following these mitigation measures for surface water flooding, is considered to be at low risk of flooding.

PUBLIC RIGHTS OF WAY

- 4.7 A Public Right of Way (PROW) (Number 121) runs through the western part of the site in a north/south direction from New Brighton Road to Argoed View. This revised application retains the route of the PROW and no diversion is required. Plots will overlook the PROW and provide natural surveillance. The location of the existing footpath is shown below.

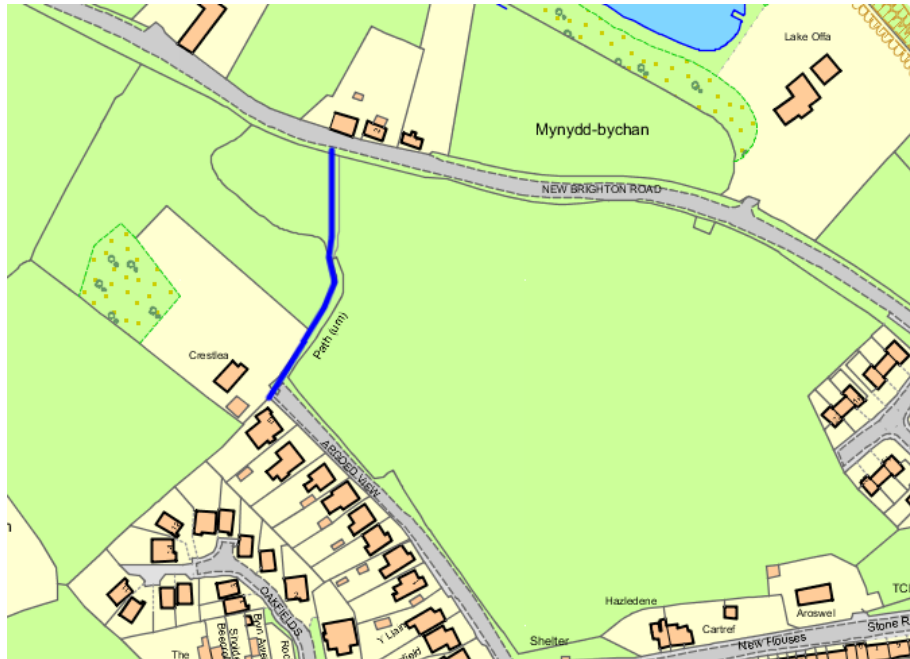


Figure 4.1 – Location of PROW.

ECOLOGY

- 4.8 The site is not subject to any ecological statutory or non-statutory designations. A Preliminary Ecological Appraisal accompanies the full planning application. This identifies the following designated protected sites within 2km of the site:
- Deeside and Buckley Newt sites UK0030132 Special Area of Conservation (SAC), located 1km (at closest) to the north east of the site.
 - Buckley Claypits and Commons 2592 Site of Special Scientific Interest (SSSI), located 1.5km (at closest) to the east of the site.
 - Maes y Grug 1423 (SSSI), located 1km (at closest) to the north east of the site.
- 4.9 However, as confirmed in the Preliminary Ecological Appraisal there will be no direct or indirect impacts on the above statutory designated sites as a result of the current development proposals. The above statutory protected sites were accordingly excluded from any further ecological appraisal.

- 4.10 The application is also supported by various other ecology reports including a Bat Transect & Automated Survey Report, a Hedgerow Regulations Assessment, a Precautionary Compensatory Scheme for Great Crested Newt, an eDNA Survey Report, a Reptile Report, and a Protected Species Report (Bats). None of these reports raise any issues with regards to ecology.
- 4.11 It is worth noting that whilst the previous application at the site was refused on ecology grounds the Inspector dealing with the appeal did not consider ecology to be an issue.

TREE PRESERVATION ORDERS

- 4.12 The site is not subject to any Tree Preservation Orders. A Tree Survey has been submitted in support of the proposals which shows there are fourteen individual trees (T1-T14) five groups of trees (G1-G5) and four hedges (H1-H4) within the site. The proposals include the retention of all Category A trees which will create attractive landscape features within the public open space area. A limited number of trees will be removed to accommodate the development. The proposals also include for extensive new tree planting to mitigate the loss of trees and to create an attractive environment.

LANDSCAPE

- 4.13 The site is not subject to any national landscape designations. The site is on the edge of New Brighton and has a close physical relationship with the settlement with built form to the west, south and east of the site. Existing hedgerows are to be retained on the boundaries and the planting plans show new planting and landscaping throughout the development to assist the scheme assimilate into the landscape.

AIR QUALITY

- 4.14 The site is not within or adjacent to an Air Quality Management Area. There are no material reasons in relation to air quality why the proposed scheme should not proceed, subject to appropriate planning conditions.

AGRICULTURAL LAND QUALITY

- 4.15 An Agricultural Land Classification (ALC) report submitted with the application demonstrates that the site is Grade 3b agricultural land and therefore not best and most versatile. Therefore, the site should be looked on favourably (in agricultural land quality terms) for development in the context of the wider area.

SUMMARY

- 4.16 In summary, the site is not constrained by any local, regional or national statutory or non-statutory designations that would preclude its development in the manner proposed. The technical surveys and assessments undertaken have ensured all relevant ecological, arboricultural and flood risk mitigation and enhancement measures have been included in the proposals; such mitigation and enhancement measures can be secured by standard planning conditions.

5. THE PROPOSED SCHEME

DESCRIPTION OF DEVELOPMENT

- 5.1 Detailed planning permission is sought for the following, as described in the planning application forms:

“Residential development for the erection of 84 dwellings including the provision of affordable units, areas of public open space, landscaping and associated works.”

HOW THE CURRENT APPLICATION ADDRESSES THE APPEAL DECISION

OPEN SPACE

- 5.2 The appeal was dismissed on open space grounds and to address this the revised scheme has reduced the overall number of homes proposed (92 to 84) and provides an overall quantum of 6,108 m² of open space. This provides significantly more open space than is required by policy. A much larger single area of open space is now provided to accommodate the equipped play area.
- 5.3 The appeal scheme included a Local Area of Play (LAP). The revised proposals provide for the provision of a Locally Equipped Area of Play (LEAP) (comprising a 400m² activity zone with at least a 20 metre stand off to all dwellings in line with Fields In Trust (Wales) best practice and comments made on the first application.
- 5.4 The added advantage of the revised proposals is that they would not require the diversion of the existing Public Right of Way traversing the north west section of the site and would not require the diversion of overhead electricity lines. The appeal scheme had required the diversion of both of these routes.

SAFE ROUTE TO SCHOOL

- 5.5 With regard to the safe route to Sychdyn Primary School, the Inspector’s points are noted. It is also important to note that in relation to the safe route to school matter, the Inspector agreed with the Council in that this was an issue that could easily be resolved. In concluding the appeal the Inspector states *inter alia* at Paragraph 48 (emphasis added):

“These are matters that it should be possible to resolve quite readily, but no mechanism for doing so has been put forward.”

5.6 To assist in moving matters forward the applicant is proposing a number of potential solutions to address the safe route to school issue as follows:

- Funding a physical intervention, by way of a footpath constructed by the Council, along New Brighton Road within the adopted highway verge.
- Funding a bus service to Sychdyn Primary School. In that respect we note that there is an existing school bus service providing a link from outside of Sychdyn Primary School to the High School in Mynydd Isa which could be altered to facilitate appropriate transportation of children to Sychdyn also.
- The applicant would undertake the highway works themselves via a Section 278 Agreement.
- Funding the creation of a footway on New Brighton Road to connect the two public rights of way.

5.7 We have proposed all these options to the Council as part of pre-application discussions and await feedback on the matter. A separate note has been provided by SCP on this matter which accompanies the application.

DEVELOPMENT CONCEPT

5.8 The proposal comprises the development of the whole site for residential purposes which includes 30% provision for affordable dwellings. A range of 2, 3, 4 and 5 bedroom housetypes have been chosen having regard to local need and demand, ensuring each area of the market is provided for including people on the affordable register, first time buyers, families and those downsizing. All of the housetypes are two storeys, the majority of which are semi-detached and detached, although there are a few short terraces throughout the scheme. The chosen housetypes have a traditional style which will allow the development to seamlessly blend into the character of the area.

LAYOUT

5.9 The site measures 3.38 hectares therefore the proposals have a gross density of 25 dwelling per hectare (36 dwellings per hectare net) which is appropriate for the edge of village location. The accompanying Design and Access Statement discusses the design rationale behind the layout, and how it has evolved to take into account the site's opportunities and constraints. Dwellings will front on to New Brighton Road creating a strong frontage along the northern boundary. A perimeter block structure has been adopted internally with houses facing on to internal streets, providing natural surveillance and active frontages. The Design and Access Statement discusses how the site can be interpreted as three character areas, each with different styles which will give the scheme its own identity.

- 5.10 A range of parking solutions is provided within the layout in the form of integral garages, side parking and frontage parking with landscaping helping break up any continuous rows of frontage parking.

AFFORDABLE HOUSING

- 5.11 The proposed scheme includes 25 affordable homes (12no. 2 bed house types and 13no. 3 bed house types) on-site, which represents 30% of the total number of dwellings proposed which complies with the adopted Policy HG10. The applicant recognises that the emerging LDP has a policy requirement of 40%. If the emerging LDP gets adopted during the course of the application then the scheme will provide the full 40% requirement. A separate layout showing 40% affordable housing accompanies the application.

ACCESS

- 5.12 A Transport Assessment accompanies the application. This outlines that the site will be accessed from a new priority junction on New Brighton Road which will have sufficient visibility splays either side of the proposed access point.
- 5.13 Having regard to the above, the Transport Assessment concludes that there are no highway or transport related reasons to withhold planning permission for the scheme.

SURFACE WATER

- 5.14 As discussed in the preceding Chapter, all surface water run-off from highways, roof and private drives will be collected into gravity piped networks and will discharge into a SuDs pond and the public sewerage networks at restricted flow rates agreed with Welsh Water.

TREES & PLANTING

- 5.15 The proposals provide opportunities for new tree planting and landscaping all of which will be managed by a management company. Category A trees within the western section of the site will be retained.

ECOLOGICAL ENHANCEMENT

- 5.16 The Preliminary Ecological Appraisal makes a number of recommendations, examples include; the installation of bat and bird boxes in retained trees and gables; creating gaps beneath garden fences to allow hedgehogs to move between gardens; and the use of Sustainable Urban Drainage Systems. All of these enhancements have informed the proposals and can be conditioned as part of the planning approval.

SUMMARY

- 5.17 In summary, the proposals have addressed the appeal DL and represent an opportunity to develop an unremarkable greenfield site for much needed new housing that will have significant benefits in relation to environmental, social and economic considerations. These benefits are discussed further in Chapter 9.

6. PRE-APPLICATION CONSULTATION

PRE-APPLICATION DISCUSSIONS

- 6.1 The previous application was discussed in detail with various Officers at the Council on a number of occasions via electronic communication, verbally over the phone, and during meetings at the Council offices.
- 6.2 A formal pre-application enquiry was submitted to the Council in relation to the revised proposals. Written feedback on the revised scheme has been positive and confirmed that the revised proposals have addressed the appeal DL.
- 6.3 The various discussions undertaken at pre-application stage have been invaluable and have informed and shaped the proposals as currently proposed.

PRE-APPLICATION CONSULTATION

- 6.4 A minimum 28 day Pre-Application Consultation (PAC) as required by the Planning (Wales) Act 2015 has been carried out. This involved posting site notices adjacent to the site, posting leaflets to surrounding residents, consulting with specialist and community consultees and hosting information on the Hourigan Connolly website.
- 6.5 The PAC process is discussed in detail in a PAC report that accompanies the planning application.

7. THE DEVELOPMENT PLAN

INTRODUCTION

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that:

“where in making any determination under the planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise”.

7.2 In this instance, the Development Plan comprises:

- Future Wales (adopted February 2021).
- The Flintshire Unitary Development Plan 2000 - 2015 (UDP) (adopted September 2011).

FUTURE WALES

7.3 Following its publication in February 2021, Future Wales forms part of each LPA's statutory development plan. Future Wales is the highest tier of development plan and is focused on solutions to issues and challenges at a national scale. Its strategic nature means it does not allocate development to all parts of Wales, nor does it include policies on all land uses.

7.4 Section 4 of Future Wales sets out the spatial strategy. Three main areas are identified and include Wrexham and Deeside. The site is located within the Wrexham and Deeside National Growth Area.

7.5 Policy 20 states that the Welsh Government supports Wrexham and Deeside as the primary focus for regional growth and investment and that Strategic and Local Development Plans across the region should recognise Wrexham and Deeside as the focus for strategic housing and economic growth; essential services and facilities; advanced manufacturing; transport and digital infrastructure; and consider how they can support and benefit from Wrexham and Deeside's regional role. It is material to note that the site is located within an area that is earmarked for growth of national importance.

7.6 Whilst Future Wales is a high-level Plan no conflicts have been identified with its policies or strategy.

FLINTSHIRE UNITARY DEVELOPMENT PLAN 2000 – 2015 (UDP)

7.7 The UDP was adopted in September 2011, over 11 years after its base date. Although it remains the adopted Development Plan, it expired in 2015 and hence it does not reflect the housing needs of the County post 2015. Indeed, it is now more than 5 years since the end date of the UDP (31 March 2015) and it has been out-of-date for more years than the period between adoption and the end date of the Plan

SITE SPECIFIC POLICY DESIGNATIONS

7.8 An extract from the UDP Proposals Map is shown below:

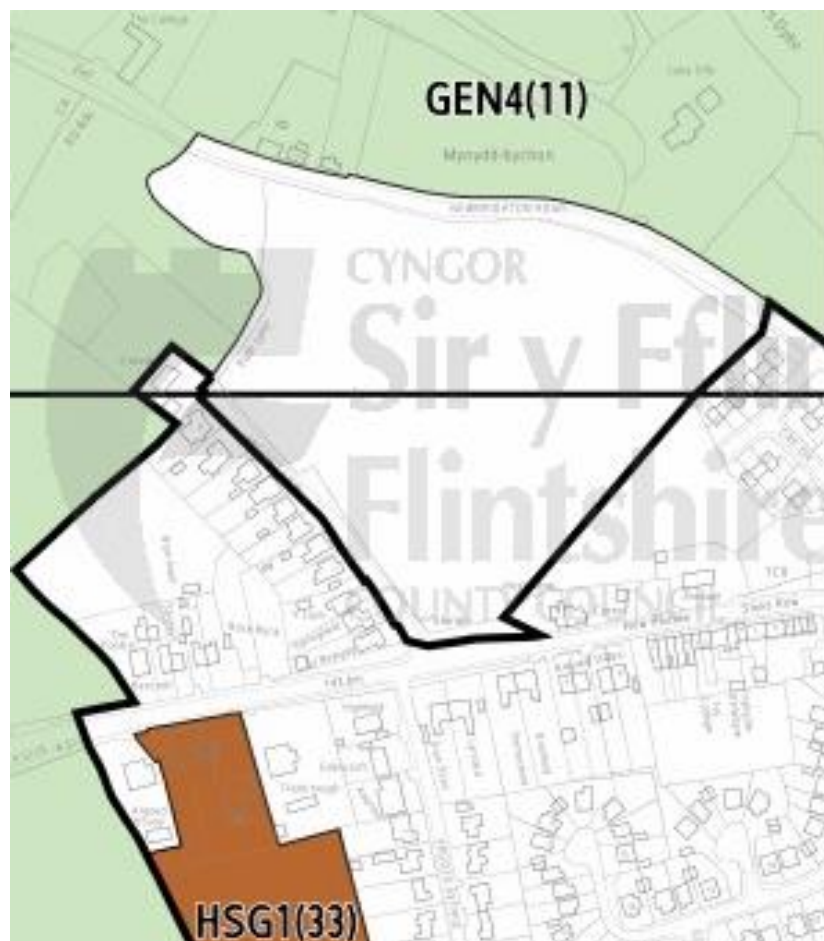


Figure 7.1 – Extract From UDP Proposals Map

7.9 Whilst part of the site is located within the Settlement Boundary (black line – where Policy GEN2 is applicable) the majority is located outside of it in what is in effect the open countryside. However, the land was not designated as Green Barrier in the UDP (unlike all of the other undeveloped land around New Brighton – where Policy GEN4 is applicable); it clearly has a close physical relationship with the settlement rather than the wider countryside and it does not perform the separation of settlements role that other Green Barrier land around New Brighton performs.

RELEVANT POLICIES TO THE APPEAL DECISION LETTER

- 7.10 In concluding the appeal, in Paragraph 46 the Inspector only raised conflict with two UDP Policies i.e., Policy SR5 in relation to inadequate open space being provided and Policy GEN3 in relation to most of the site being located outside the settlement boundary.¹ It is worthy to note that the inspector considered all other aspects of the proposals to be acceptable:

“In all other respects I consider the proposal would be in accord with development plan policy, and my overall conclusion involves balancing the benefits and conflicts.”

- 7.11 The subject application has sought to specifically address the issues raised in the appeal DL. Subject to addressing the above matters the Inspector did not take any issues with the appeal proposals. With this in mind, the applicant has kept the proposals as close to the appeal scheme as possible whilst specifically addressing the issues raised around open space and the safe route to school.

POLICY SR5 - OUTDOOR PLAYING SPACE AND NEW RESIDENTIAL DEVELOPMENT

- 7.12 For ease of reference Policy SR5 is reproduced in full below:

“New residential development will normally be expected to include outdoor playing space at a minimum rate of 2.4 hectares per 1000 population, this provision will include outdoor sport and recreation space together with equipped play space. In exceptional circumstances, where it is not possible to provide open space on the development site, then suitable off site provision or contributions to new or improved facilities, including equipment, will be sought.”

- 7.13 LPGN 13, Open Space Requirements, which is discussed in Chapter 8 provides supplementary planning guidance that is a material consideration and expresses the minimum standard for this size of development as 56.65 square metres per dwelling. As the proposals are for 84 dwellings there is an open space requirement of 4,758.8 m² (84 x 56.65).
- 7.14 The proposals provide an overall quantum of 6,108 m² of open space which clearly complies with Policy SR5.

¹ It is noted that the Inspector also raised conflict with SPGN 23 and this is assessed in Chapter 8.

POLICY GEN3 - DEVELOPMENT IN THE OPEN COUNTRYSIDE

- 7.15 This policy sets out criteria for exceptions to the general rule that development proposals outside Settlement Boundaries will not normally be permitted. The majority of the site is located outside of the defined Settlement Boundary of New Brighton as defined by the UDP and the proposed residential development does not fall within any of the exceptions mentioned. Therefore, there is a conflict with this policy.
- 7.16 However, the settlement boundary was drawn to accommodate the development needs for the UDP plan period which expired on 31 March 2015. The boundary should have been reviewed before the UDP expired. Therefore, this policy has very limited weight. It is noted that Settlement Boundaries will have to be redrawn to accommodate existing and future housing needs and the Council has acknowledged that greenfield sites will have to be allocated for housing. Indeed, the appeal site is proposed to be allocated for residential development in the emerging LDP in which Hourigan Connolly has submitted representations and assisted the Council in the Examination In Public hearing sessions.
- 7.17 The site is located immediately adjacent to the settlement of New Brighton, and whilst, in part, falling within the open countryside, it is in a sustainable location and its development would significantly contribute to the Council's supply of housing. The proposed development offers an opportunity to extend the settlement of New Brighton without resulting in detrimental visual impacts to the wider countryside and without using land currently designated as Green Barrier.
- 7.18 The Inspector whilst noting there was some conflict with Policy GEN 3 only gave this limited weight at Paragraph 41 of the DL (emphasis added):

*“My conclusions on this matter are that the proposal would be contrary to UDP Policy GEN3 on account of its location partly outside the settlement boundary, but **that this should carry only limited weight on account of its (otherwise) sustainable location on the edge of the settlement of New Brighton.**”*

- 7.19 In conclusion to Policy GEN3, it is noted that there is a conflict with this policy, however, material considerations outweigh this conflict and these are discussed further in Chapter 8.

UDP GENERAL POLICY CONSIDERATIONS

- 7.20 Whilst recognising that the policies within the UDP may now be regarded as outdated, the proposal has, nevertheless, been considered against relevant Development Plan policies as follows:

POLICY STR1 NEW DEVELOPMENT

7.21 Policy STR1 is a strategic policy that sets out a number of factors to be considered in relation to new development. The table below assesses each of the proposals against the requirements of Policy STR1:

Table 1 – Policy STR1 Assessment.

POLICY STR1 ASSESSMENT
<p>Generally located within existing settlement boundaries, allocations, development zones, principal employment areas and suitable brownfield sites and will only be permitted outside these areas where it is essential to have an open countryside location</p>
<p>Compliance with Policy</p> <p>Whilst part of the site is located within the defined settlement boundary of New Brighton it is acknowledged that the majority of the site is located outside of the defined settlement boundary as defined by the UDP and it is not currently allocated for housing. Therefore, there is a conflict with this part of the policy, however, there are other material considerations that outweigh this conflict which is discussed further in Chapter 8.</p>
<p>Required to incorporate high standards of design which are appropriate to the building, site and locality, maximise the efficient use of resources, minimise the use of non-renewable resources and minimise the generation of waste and pollution</p>
<p>Compliance with Policy</p> <p>The Design and Access Statement justifies the design rationale behind the proposals. It discusses how the site can be interpreted as three character areas, each with different styles which will give the scheme its own identity. The proposed mix of house types has taken account of design cues found in the surrounding area. All the proposed dwellings will be constructed to the current building regulations having a ‘fabric first’ approach to minimise heat loss and reduction in carbon footprint.</p> <p>A Site Waste Management Plan will be prepared which will state how the development will minimise the generation of waste and pollution. Currently, over 80% of construction waste from Stewart Milne sites are sorted at source and recycled and this matter can adequately be dealt with by way of a condition.</p>

<p>Required to create a safe, healthy and secure environment and protect standards of residential and other amenity.</p>
<p><i>Compliance with Policy</i></p> <p>The proposed layout takes into account the relationship of the site to existing development at Argoed View, A5119 and Cae Isa, where these dwellings are closest to the application site and ensures that the separation distances would be acceptable to avoid overlooking. The scheme proposals are designed to provide an inclusive, safe and well-managed environment. Design Out Crime requirements have informed the proposals with all public areas being overlooked and gardens enclosed by secure boundaries. The proposals, therefore, comply with this part of the policy.</p>
<p>Required to respect community identity and social cohesion including the adequacy and accessibility of community facilities and services.</p>
<p><i>Compliance with Policy</i></p> <p>New Brighton is identified as a Category B settlement in the UDP defined as a large village with a good nucleus of facilities, easily accessible by public transport which has some potential for growth. In the emerging LDP, the site is allocated for housing and New Brighton has been designated as a Sustainable Village, these being defined as: "Settlements which benefit from some services and facilities and are sustainably located", therefore both the adopted and emerging Local Plans recognise the sustainability credentials of the site and the settlement. Chapter 2 discusses that there are a range of amenities near to the site and further amenities are easily accessed by frequent public transport. The proposals will comprise sustainable development and will not have an adverse impact on social cohesion but will help to meet the Council's immediate need for additional housing. The proposals therefore comply with this part of the policy.</p>
<p>Required to respect physical and natural environmental considerations such as flooding and land stability.</p>
<p>The Flood Consequence Assessment and Ground Investigations reports conclude that there will be no adverse impacts on these matters therefore the proposals comply with this part of the policy.</p>
<p>Required to minimise or negate pollution to air, water and land; and</p>
<p><i>Compliance with Policy</i></p> <p>The proposals will have no impact on pollution. As mentioned above a Waste Management Plan will be prepared which will demonstrate how the development will minimise the generation of waste and pollution, again this can be the subject of a condition.</p>
<p>Assessed in terms of a precautionary approach whereby development proposals that would have a significant and uncertain environmental, social, economic or cultural impact, will be refused, in the absence of the best available information which proves that the impact can be negated or mitigated through proper risk control measures.</p>
<p><i>Compliance with Policy</i></p> <p>There will be benefits as a result of the development for example the provision of much needed market and affordable housing. There will be economic and social benefits through job creation and increased household spending in the area. The proposals will comprise sustainable development and have no more than localised impacts which can be sufficiently mitigated; therefore, the proposals comply with this part of the policy.</p>

POLICY STR 2 TRANSPORT AND COMMUNICATIONS

7.22 Policy STR2 is a policy relating to highways and sets a number of requirements which seek to ensure safe, efficient and integrated transport and communications system and improve accessibility throughout the County.

7.23 The table below assesses the proposals against each of the requirements of Policy STR2:

Table 2 – Policy STR2 Assessment.

POLICY STR2 ASSESSMENT	
(a) minimising the number and length of journeys especially by private car.	
Compliance with Policy	The Transport Assessment demonstrates that the site is accessible by a range of transport modes with a range of facilities available by foot and public transport. The proposals will also improve pedestrian links to the bus stop on the A5119 therefore new residents can easily use the bus to access further amenities available in Mold. Therefore, the proposals comply with this part of the policy.
(b) making the best use of existing roads and addressing congestion and safety issues through traffic management and calming measures.	
Compliance with Policy	The submitted Transport Assessment has assessed the highways around the site and considered what impact the development will have on their existing conditions. Overall, the residual cumulative impact of the development will not be 'severe'. In fact, the results show results show that the cross roads adjacent to the site will operate with spare capacity with the development in place. The proposals, therefore, comply with this part of the policy.
(c) enabling the efficient use of and improvements to public transport	
Compliance with Policy	Please see response to (a) above.

(d) enabling alternative means of travel including cycling and walking.
<p>Compliance with Policy</p> <p>The proposals will also improve pedestrian links to the bus stop on the A5119 therefore new residents can easily use the bus to access further amenities available in Mold. As mentioned above, there is a safe route to the nearest schools in Mynydd Isa via roads that are all subject to 30mph speed limits, have footways and have street lighting. Various suggestions have been put forward to improve the route to the school in Sychdyn. Improvements to local connectivity will also be made with and the provision of a new footway linking the site access to the existing footway provision at Cae Isa. The proposals also include a signalised pedestrian crossing at the A5119 / New Brighton Road / Bryn Lane, with dropped kerb and tactile paving to be provided along the New Brighton Road arm of the junction which will improve access to the site by foot and bicycle. The proposals therefore comply with this part of the policy.</p>
(e) facilitating the transfer of freight from road to rail or water.
This part of the policy is not relevant to the proposals.
(f) facilitating the provision and use of telecommunications.
This part of the policy is not relevant to the proposals.

POLICY STR4 HOUSING

7.25 This policy sets out that the UDP will seek to provide for the housing needs of the County up to 2015 through a housing figure of 7,400 new dwellings over the Plan period; distributing new housing across the County based on a settlement hierarchy; providing a range of type and size of housing sites including affordable and special needs housing where there is a demonstrable need, and making the most efficient and effective use of housing sites. This policy expired in 2015 and hence it should be afforded no weight. However, it is material to note that New Brighton is identified as a Category B settlement in the UDP and is defined as a large village with a good nucleus of facilities, easily accessible by public transport which has some potential for growth. The proposed development would contribute towards meeting post 2015 need by delivering 84 residential dwellings ranging in size and mix in a sustainable location.

7.26 As explained further in Chapter 8 only 5,388 dwellings were delivered in the county over the UDP period a shortfall of 2,012 dwellings or 27% of the requirement. In any view, this is a significant shortfall, and one which highlights the need for deliverable sites to be brought forward in the future. In that respect, the application site is one such site.

POLICY STR7 NATURAL ENVIRONMENT

7.27 This policy seeks to safeguard the natural environment of Flintshire by setting a number of requirements that developments should adhere to. The table below assesses the proposals against each of the requirements of Policy STR7.

Table 3 – Policy STR7 Assessment.

POLICY STR7 ASSESSMENT
<p>(a) protecting the open character and appearance of strategic green barriers around and between settlements.</p>
<p>Compliance with Policy</p> <p>Whilst part of the site is located within the Settlement Boundary of New Brighton the majority is located outside of it in what is in effect the open countryside. However, the land was not designated as Green Barrier in the UDP (unlike all of the other land around New Brighton). The site clearly has a close physical relationship with the settlement rather than the wider countryside and it does not perform the separation of settlements role that other Green Barrier land around New Brighton performs.</p> <p>Furthermore the site is allocated for housing in the emerging LDP (discussed later in Chapter 8).</p>
<p>(b) protecting and enhancing the character, appearance and features of the open countryside and the undeveloped coast.</p>
<p>Compliance with Policy</p> <p>Developing the site will result in the loss of a small parcel of countryside. However, given that the site mainly consists of semi-improved species-poor grassland, (the Preliminary Ecological Appraisal Report makes clear that even though “Losses of this habitat will occur, it is considered that areas of higher biodiversity value could be created to compensate for such losses.” The proposed development will therefore enhance the features of the open countryside through creating habitats of higher biodiversity value.</p> <p>Again, the site is allocated for housing in the emerging LDP.</p>
<p>(c) protecting and enhancing areas, features and corridors of nature conservation, biodiversity and landscape quality both in urban and rural areas, including urban greenspace.</p>
<p>Compliance with Policy</p> <p>The suite of ecology reports and submissions have fully assessed the development against ecology matters and envisage the retention of various trees which have bat roost potential, installation of bat and bird boxes, use of SUDs, and wildlife friendly landscape proposals etc.</p> <p>The above factors will protect and enhance the ecological features of the site and can be conditioned. The proposals therefore comply with this policy.</p>
<p>(d) protecting and enhancing the Clwydian Range Area of Outstanding Natural Beauty.</p>
<p>Compliance with Policy</p> <p>The proposals will have no impact on the Clwydian Range Area of Outstanding Natural Beauty due to its distance from the site.</p>

(e) protecting and enhancing the Dee Estuary.
Compliance with Policy The proposals will have no impact on the Dee Estuary due to its distance from the site.
(f) the protection and enhancement of the water environment.
Compliance with Policy Detailed survey work has been undertaken to understand fully the existing flow of ground water through and away from the proposed development site, and to inform the strategy for ensuring that suitable drainage is incorporated into the design proposal submitted with the planning application. The accompanying Flood Consequence Assessment confirms that the site is at very low risk of flooding from all sources and confirms that surface and foul water can be adequately dealt with. The Applicant also commissioned Welsh Water to undertake a hydraulic assessment to determine what impact the proposed development would have on their network. The report identifies various solutions to allow the Applicant to connect to their network. The proposals therefore comply with this policy.
(g) the protection of the quality of land, soil and air.
Compliance with Policy The Agricultural Land Classification report however demonstrates that the site is Grade 3b. Therefore, the site should be looked on favourably (in agricultural land quality terms) for development in the context of the wider area.

POLICY GEN1 – GENERAL REQUIREMENTS FOR NEW DEVELOPMENT

7.28 The policy sets out a list of requirements to satisfy proposals requiring planning permission.

Table 4 – Policy GEN1 Assessment.

POLICY GEN1 ASSESSMENT
(a) the development should harmonise with the site and surroundings in terms of the siting, scale, design, layout, use of space, materials, external appearance and landscaping.
Compliance with Policy The Design and Access Statement justifies the design rationale behind the proposals. It discusses how the site can be interpreted as three character areas, each with different styles which will give the scheme its own identity. The proposed mix of house types have taken account of design cues found in the surrounding area and the landscape proposals show a sufficient amount of new planting. The proposals, therefore, comply with this part of the policy.
(b) the development should take account of personal and community safety and security in the design and layout of development and public/private spaces.

<p>Compliance with Policy</p> <p>The scheme is designed to provide an inclusive, safe and well-managed environment. Design out crime requirements have informed the proposals with all public areas being overlooked and gardens enclosed by secure boundaries. The proposals therefore comply with this part of the policy.</p>
<p>(c) the development should not have a significant adverse impact on recognised wildlife species and habitats, woodlands, other landscape features, townscapes, built heritage, features of archaeological interest, nor the general natural and historic environment.</p>
<p>Compliance with Policy</p> <p>The suite of reports has fully assessed the development against ecology, landscape and tree matters and the proposals are considered acceptable. There are no known archaeological or historic features on or immediately adjacent to the site. The proposals therefore comply with this part of policy.</p>
<p>(d) the development should not have a significant adverse impact on the safety and amenity of nearby residents, other users of nearby land/property, or the community in general, through increased activity, disturbance, noise, dust, vibration, hazard, or the adverse effects of pollution.</p>
<p>Compliance with Policy</p> <p>There will be no significant adverse impact on the safety or amenity of nearby residents. The layout shows adequate separation between new and existing properties. Construction and Waste Management Plans will be developed to ensure that any associated impacts as part of the construction process are managed and mitigated. The proposals therefore comply with this part of policy.</p>
<p>(e) the development should provide, where appropriate, safe and convenient access for pedestrians, cyclists, persons with disabilities, and vehicles, together with adequate and suitably located parking spaces and servicing/manoeuvring space.</p>
<p>Compliance with Policy</p> <p>Access is provided for vehicles, pedestrians and cyclists ensuring access for all and new footways will be created. Parking for each dwelling will be provided in line with the Council's guidelines. Roads are demonstrably suitable for all vehicles to manoeuvre safely. The proposals therefore comply with this part of policy.</p>
<p>(f) the development should not have an unacceptable effect on the highway network as a result of problems arising from traffic generation, and should incorporate traffic calming measures where appropriate.</p>
<p>Compliance with Policy</p> <p>The submitted Transport Assessment has assessed the highways around the site and considered what impact the development will have on existing conditions. The results show that the cross roads adjacent to the site will operate with spare capacity with the development in place. The proposals therefore comply with this part of the policy.</p>

<p>(g) the development should have, where appropriate, convenient access to public transport, and wherever possible is well related to pedestrian and cycle routes.</p>
<p>Compliance with Policy</p> <p>As discussed above and in the Transport Assessment there are bus stops adjacent to the site which provide frequent public transport to Mold, Chester and other surrounding settlements. The proposals therefore comply with this part of the policy.</p>
<p>(h) the development must have regard to the adequacy of existing public services (e.g. gas, water, electricity), with new infrastructure capable of being provided in reasonable time and at minimum public cost.</p>
<p>Compliance with Policy</p> <p>There are no constraints in terms of services that would prevent the site from being delivered.</p>
<p>(i) the development should not result in/be susceptible to problems related to drainage, land stability, contamination, or flooding, either on or off site.</p>
<p>Compliance with Policy</p> <p>The accompanying Geo Environmental Assessment and Flood Consequence Assessment conclude that there would not be any risk from contamination or flooding as a result of the development.</p>
<p>(j) the development should not prejudice land or buildings safeguarded for other uses, or impair the development or use of adjoining land.</p>
<p>Compliance with Policy</p> <p>There would not be any impact on the existing commercial uses located on the A5119 to the south.</p>
<p>(k) the development should not result in the permanent loss of the best and most versatile agricultural land where either suitable previously developed land or land in lower agricultural grades is available.</p>
<p>Compliance with Policy</p> <p>As mentioned above, the Agricultural Land Classification report concludes that the site is Grade 3b agricultural land and therefore the proposals would not result in the loss of best and most versatile agricultural land. The Welsh Government Predictive Agricultural Land Classification Map indicates that there is better agricultural land around the settlement. There is insufficient previously development land to meet the housing need for the County.</p>

POLICY GEN2 – DEVELOPMENT INSIDE SETTLEMENT BOUNDARIES

7.29 Part of the site is located within the Settlement Boundary therefore a number of dwellings proposed in the south east part of the site comply with Policy GEN2 of the UDP which states that **“development will normally be permitted within settlements defined by settlement boundaries.”**

POLICY D1 - DESIGN QUALITY, LOCATION AND LAYOUT

- 7.30 This policy sets out that development will be permitted only if it satisfies a list of criteria. Matters include scale, location, siting, layout, making best use of land, minimising the need to travel, density, its relation to topography and related aspect/view matters, creating attractive building alignments and frontages, providing adequate space around buildings including parking and landscaping, and maximising the efficient use of resources.
- 7.31 The proposed scheme is of high-quality design. The submitted Design and Access Statement sets out how the proposals take cues from surrounding vernacular, through material palettes and elevational treatments, to enhance local distinctiveness, visual connectivity and integration. The site is located on the edge of the settlement, surrounded by development on three sides, therefore its release for housing will form a logical extension to the village.

POLICY D2 - DESIGN

- 7.32 Again, this policy sets further design requirements that developments should adhere to. As set out above and in the Design and Access Statement, the proposed development will be of high-quality design. The applicant has been actively building at various sites in Flintshire (including in nearby Sychdyn) where their schemes have integrated seamlessly into their surroundings and this will be the case at New Brighton.

POLICY D3 – LANDSCAPING

- 7.33 Policy D3 sets out the landscaping requirements that new proposals are required to adhere to. New developments will be required, where appropriate, to include a hard and soft landscaping scheme.
- 7.34 The landscaping scheme proposed for this development has taken into consideration the topography of the site, the existing trees and vegetation and ensured appropriate boundary treatments are proposed. Landscaping has been an integral part of the development and existing features have been retained where possible for example the existing Category A and B trees to the west are retained and made a feature of. The hedgerows around the boundaries are retained as much as possible apart from where new accesses are proposed. The submitted planting plans show that significant new planting will be introduced throughout the development.

POLICY TWH1 - DEVELOPMENT AFFECTING TREES AND WOODLANDS

- 7.35 This policy sets out that the Council will protect from development those woodlands and trees which are important local landscape, townscape and wildlife features. The submitted Arboricultural Impact Assessment demonstrates that the majority of trees will be retained and will

be sympathetically be incorporated into the layout. A small number of trees (Category C and below) need to be removed however these will be sufficiently mitigated for by replacement trees.

POLICY AC2 - PEDESTRIAN PROVISION AND PUBLIC RIGHTS OF WAY

7.36 This policy sets three criteria that development proposals should adhere to. The application complies with these criteria as follows:

- a) There is clearly safe, direct, and overlooked foot access to main local pedestrian routes.
- b) There are easily identifiable routes to and from public transport facilities and other local amenities.
- c) The existing PROW to the west of the site will be incorporated into the layout and will not require to be diverted.

POLICY HSG3 - HOUSING ON UNALLOCATED SITES WITHIN SETTLEMENT BOUNDARIES

7.37 This policy sets out that on unallocated sites within settlement boundaries new housing will be permitted provided certain criteria are met. For Category B settlements there is a growth threshold of 15%, beyond which any additional development would have to be justified on the grounds of housing need. This policy is tied to the housing requirements of the UDP which is now time expired therefore no weight should be afforded to it.

POLICY HSG4 - NEW DWELLINGS OUTSIDE SETTLEMENT BOUNDARIES

7.38 Policy HSG4 deals with new dwellings outside settlement boundaries and states that they will only be permitted where it is essential to house a farm or forestry worker, which the proposals do not comply with. The proposals do not fall within the exceptions therefore there is conflict with this policy. However, it is clear that this policy relates to circumstances where the Development Plan is up to date; it does not address the present circumstances which apply here and whilst there is a conflict with the policy this is outweighed by the other material considerations outlined in Chapter 8.

7.39 As mentioned above under Policy GEN3, the Settlement Boundary was drawn to accommodate the development needs for the UDP plan period which expired on 31 March 2015 and greenfield sites will have to be allocated to meet the emerging LDP housing requirements.

POLICY HSG8 - DENSITY OF DEVELOPMENT

7.40 Policy HSG8 requires the density of residential developments to make efficient use of land, reflect the characteristics of the surrounding area, provide a range of house types with adequate

provision for privacy, whilst employing high quality design principles. These matters have already been addressed above and in the accompanying Design and Access Statement.

- 7.41 Policy HSG8 indicates that allocated sites should meet a minimum density of 30 dwelling per hectare on allocated sites in Category B settlements. Whilst this requirement is not relevant to the site because the site is not allocated in the UDP the proposed gross density of 25 dwellings per hectare (and 36 dwellings per hectare net) is a sympathetic reflection of the character of the site and an appropriate density for this edge of settlement location and a development which incorporates generous amounts of open space.

HSG9 HOUSING MIX AND TYPE

- 7.42 Policy HSG9 takes forward the requirement for housing developments to provide a range of housing types to meet local need. In this instance it is proposed to provide a range of house types providing 2, 3, 4 and 5 bed roomed dwellings which are interspersed with one another throughout the development. This is appropriate to the demands of the local area, ensuring each area of the market is provided for, including people on the affordable register, first time buyers, families and those downsizing.

HSG10 AFFORDABLE HOUSING WITHIN SETTLEMENT BOUNDARIES

- 7.43 This policy states that where there is a demonstrable need for affordable housing to meet local needs, the Council will take account of this as a material consideration when assessing housing proposals. Where this need exists, the Council will negotiate with developers to provide 30% affordable housing in suitable or appropriate schemes within settlement boundaries. Whilst the majority of the application site is outside of the existing UDP settlement boundary, this affordable housing policy has been applied in similar schemes elsewhere and continues to be used.
- 7.44 The proposed scheme includes 25 affordable homes (12no. 2 bed house types and 13no. 3 bed house types) on-site, which represents 30% of the total number of dwellings proposed. The scheme meets the requirements of the policy.

POLICY EWP17 – FLOOD RISK

- 7.45 This policy states that development within areas at risk of flooding will only be permitted where the Council considers that the development is justified and is satisfied that:
- The consequences of a flooding event can be effectively managed;
 - It would not increase the risk of flooding elsewhere;
 - Appropriate alleviation or mitigation measures have been incorporated into the proposal and will be available for the lifetime of the development; and

- It would not have any adverse effects on the integrity of tidal and fluvial flood defences.

7.46 The FCA which accompanies this application demonstrates compliance with all of these requirements.

THE DEVELOPMENT PLAN - SUMMARY

7.47 This chapter has set out that the application proposals accord with the relevant provisions of the Development Plan. It is acknowledged that there is some conflict with Policy GEN3, but the degree of conflict must be tempered against the fact that the Development Plan is now over 6 years time expired and does not reflect the needs of the County post 31 March 2015. Again, it is material to note that Policy GEN3 relates to the principal of development which the appeal Inspector did not raise any issues with.

7.48 In the following chapter we will set out that there are material considerations that weigh in favour of the proposals and outweigh any conflict with the time expired UDP.

8. OTHER MATERIAL CONSIDERATIONS

INTRODUCTION

- 8.1 Material considerations must be genuine planning considerations, i.e. they must be related to the development and use of land in the public interest. The considerations must also fairly and reasonably relate to the application concerned.
- 8.2 In this case the following material considerations are relevant when taking into account the appeal DL.

EMERGING LOCAL PLAN

- 8.3 At the time of writing the emerging LDP is at Examination stage and therefore has significant weight. The application site is proposed to be allocated for housing under Policy HN1.10 for 105 dwellings. The Summary Guidance for the allocation states:

“New Brighton Road / Bryn Lane Signalised Junction / new section of footway along the western side of New Brighton Road to the south East of site to improve pedestrian access / SuDs pond to collect all surface water run-off via gravity piped networks / retention of boundary trees and new planting / appropriate ecological avoidance and mitigation measures.”

- 8.4 All of these requirements are addressed in the proposals.
- 8.5 Hourigan Connolly has fully supported the proposed allocation and has assisted the Council in defending the site's allocation during the Examination Hearing Sessions. An extract of the Council's Hearing Statement in relation to Session Matter 12 is available at **Appendix 2** which sets out the Council's response to various questions raised by the Inspector in relation to the site. Clearly the Council is rigorously defending the site's allocation and we fully support that the site is deliverable. The applicant is fully committed to delivering homes at the site as soon as planning permission is granted.
- 8.6 In summary terms, the proposals comply with the strategy of the emerging Local Plan.

LOCAL PLANNING GUIDANCE NOTE (LPGN) 13: OPEN SPACE REQUIREMENTS

- 8.7 LPGN 13 states that *“Where proposals seek to develop 25 or more dwellings the minimum standard to be applied will be 56.65 square metres per dwelling.”*
- 8.8 As the proposals are for 84 dwellings there is an open space requirement of 4,758.8 m² (84 x 56.65). For the appeal scheme the applicant produced an open space plan for the proposals

which the Inspector used to assess the proposals. It is clear from the appeal DL that the Inspector took no issue with the landscaped area around the SUDS pond (labelled as Area 1) being included in the open space calculation. Accordingly, this area should also count towards the overall quantum of open space provided on the current scheme.

8.9 The open space in the revised proposals is proposed as a single area comprising 4,766.3 m² of open space in line with comments made on the first application and this additional area of 1341.5 m² around the SUDS pond which the Inspector took no issues with in the appeal DL. For ease these areas are shown on the revised POS Areas Plan at **Appendix 3**.

8.10 The proposals therefore provide an overall quantum of 6,107.8 m² and therefore there is an overprovision of 1,349 m² (6, 107.8 – 4, 758.8).

LPGN 13 GUIDANCE - DESIGN OF RECREATION SPACE

8.11 Given the wording of appeal DN it is reasonably assumed that the Inspector took no issue with the design of the recreation space however we have commented under each of the sections in relation to design in the LPGN 13 as the open space has now improved.

INTRODUCTION (PAGE 5)

8.12 This section states *inter alia* that;

“It is important that the design is:

- *easily maintained, but not to the detriment of natural character features which merit retention and protection;*
- *an integral part of the scheme which contributes to its character (and not a mere afterthought); and*
- *properly usable – one reasonably sized space, with additional minor landscaped areas, might be better than a spread of too small informal open space sites.”*

8.13 In relation to the first bullet point, the Inspector took no issue with the future management of recreation areas and did not allege that the recreation open space would be detrimental to natural features. The two areas of open space will all easily be maintained by a private management company and obligations in that respect can be include in the Section 106 Agreement.

8.14 Open space has been co-located with existing natural features to be retained e.g. trees and hedgerows which will result in an attractive setting e.g. the LEAP is located within a large area of open space.

- 8.15 In relation to the second bullet point the open space has now been substantially improved and is integral to the layout.
- 8.16 In relation to the third bullet point, the Inspector took no issue with the useability of the two areas of open space that have been incorporated into the current scheme. All the areas of open space would be useable and could be enjoyed by future residents and existing residents in the locality.

LOCATING PLAYSACES (PAGE 5)

- 8.17 This section states that:

“It is vital that all play areas for young and very young children, whether they are equipped or not, should be located in places that are surrounded by dwellings to allow natural surveillance and supervision, balanced against the residents’ desire for privacy and freedom from disturbance. It is therefore essential to ensure that adequate noise prevention measures are taken to minimise any potential negative impacts as well as ensuring that houses are not grouped too tightly around play areas. Fencing, planting and land moulding can provide useful barriers for reducing the problem of noise. All equipped play areas should be located away from roads. In those instances where it is not practically possible to do this the highest standards of natural and artificial barriers will be required to protect the safety of children”.

- 8.18 The revised proposals provide for the provision of a LEAP (comprising a 400m² activity zone with at least a 20 metre stand off to all dwellings in line with Fields In Trust (Wales) best practice and comments made on the first application. The open space would be well overlooked by dwellings providing appropriate natural surveillance to the area. No adverse noise issues are anticipated given the size of the open space, that it is primarily aimed at younger children and the fact that it accommodates existing trees.

MINIMUM SIZE OF CHILDREN’S PLAY SPACES AND SPORTS GROUNDS (PAGE 5)

- 8.19 This section states that inter alia:

“When a developer prefers to provide equipped children’s playing space on more than one site, the Council’s minimum requirement of 0.12ha will apply.....”

- 8.20 The LEAP is shown on the plan in **Appendix 3** as part of Area 2 which is a single area comprising 4,766.3 m² of open space therefore complies with the 1.2 hectare minimum size required by LPGN 13.

ACCESS (PAGE 5)

8.21 This relevant section states *inter alia* that recreation space:

“...should be well related to existing footpaths, and cycle paths and make sufficient provision for prams, pushchairs and wheelchair access. Boundaries should prevent unauthorised motor cycle vehicle access. Public rights of way through equipped playing areas are discouraged. Informal public access to playing areas should be controlled to prevent fouling by dogs and litter on playing surfaces. As a general principle, recreation grounds and play areas should be as accessible as possible from the dwellings they are intended to serve.

8.22 All of these matters have been applied to the application and the following points are relevant:

- The open space area in the north west corner retains the existing PROW.
- Footpaths within the site will be well connected to the areas of open space and will be able to accommodate prams, pushchairs and wheelchairs.
- The recreation and play areas would be accessible by future residents.
- Boundaries to the LEAP could be controlled by condition as could the requirement to install a sign stating that dogs are not welcome in this area.
- There is no PROW through the proposed LEAP.

BUFFER ZONE AND LANDSCAPING (PAGE 5)

8.23 This section states *inter alia* that

“Appropriately sized buffer zones should be provided between recreation grounds and adjacent dwellings and other occupied dwellings.”

8.24 The scheme provides a buffer zone in excess of 20 metres between the LEAP and the existing and proposed dwellings.

ENCLOSURE (PAGE 6)

8.25 This section states that:

“Children’s play area boundaries should be clearly defined with features that prevent unauthorised motor cycle / vehicular access, while any boundary fences and soft landscaping allow natural surveillance across the playing area from public spaces, roads and footpaths.”

- 8.26 The LEAP will include a fence and soft closing gate if necessary. Details of the enclosure around the children's play area can be controlled by condition.

LINKS TO THE COUNTRYSIDE AND TO GREEN CORRIDORS (PAGE 6)

- 8.27 The section states that *inter alia*: “The recreation spaces should wherever possible be sited so that they relate well to existing recreation spaces, green spaces, recreation networks and green corridors.”
- 8.28 As mentioned previously, the open space area in the north west corner would retain the PROW allowing residents to easily access this footpath network. The proposed pedestrian and cycle link to the south of the site would give future residents easy access to a further equipped play area to the south of the village off Clwyd Crescent via Argoed View.

OTHER DESIGN MATTERS

- 8.29 Other matters mentioned in LPGN 13 such as lighting, safety, seating, security, signage, topography and drainage, and play equipment have all been considered in the proposals and can be controlled by a planning condition if necessary.
- 8.30 In summary, the proposals fully accords with LPGN 13.

NATIONAL PLANNING POLICY

PLANNING POLICY WALES (EDITION 11 – FEBRUARY 2021)

- 8.31 Planning Policy Wales (PPW) sets out the land use planning policies of the Welsh Assembly Government. PPW aligns national planning policy strategy with the objectives of the Wellbeing of Future Generations (Wales) Act 2015, which is centred around achieving sustainable development. The proposed development is in line with PPW as it provides housing in a highly sustainable location. The below does not rehearse all the paragraphs in PPW but picks out the key relevant planning requirements.
- 8.32 Paragraph 1.18 states the following:
- “A plan-led approach is the most effective way to secure sustainable development through the planning system and it is essential that plans are adopted and kept under review. Legislation secures a presumption in favour of sustainable development in accordance with the development plan unless material considerations indicate otherwise to ensure that social, economic, cultural and environmental issues are balanced and integrated.”*
- 8.33 Paragraph 2.27 advises that the social, economic and cultural benefits of proposals need to be given weight in the decision making process:

“Planning authorities should ensure that social, economic, environmental and cultural benefits are considered in the decision-making process and assessed in accordance with the five ways of working to ensure a balanced assessment is carried out to implement the Well-being of Future Generations Act and the Sustainable Development Principle.”

8.34 Paragraph 3.43 sets out the search sequence for development site :

“In developing their spatial strategy planning authorities must prioritise the use of suitable and sustainable previously developed land and/or underutilised sites for all types of development. When identifying sites in their development plans planning authorities should consider previously developed land and/or underutilised sites located within existing settlements in the first instance with sites on the edge of settlements considered at the next stage...”

8.35 Paragraph 3.44 states that:

“Where there is a need for sites, but it has been clearly demonstrated that there is no previously developed land or underutilised sites (within the authority or neighbouring authorities), consideration should then be given to suitable and sustainable greenfield sites within or on the edge of settlements.”

8.36 This advice is also repeated in paragraph 4.2.16:

“Planning authorities, land owners and house builders must work together constructively to identify deliverable housing land in sustainable locations for development. When identifying sites to be allocated for housing in development plans, planning authorities must follow the search sequence set out in paragraphs 3.43-3.45, starting with the re-use of previously developed and/ or underutilised land within settlements, then land on the edge of settlements and then greenfield land within or on the edge of settlements.”

8.37 It is evident from the Candidate Sites selected for allocation in the Deposit LDP that the County Borough’s housing requirements in the period up to 2028 can only be met through greenfield site release. In light of the fact that there is no previously developed land to meet the identified housing requirements, the application site accords with the search sequence set out in with Paragraphs 3.43-3.44, 3.40 and 4.2.16 of PPW as set out above.

TECHNICAL ADVISORY NOTES (TANS)

8.38 A series of TANS produced by the Welsh Assembly Government provide detailed guidance on a range of technical matters which can material to the determination of Planning Applications. The following are relevant to this proposal.

- TAN 2: Planning and Affordable Housing (2006). This TAN provides guidance on the role of the planning system in delivering affordable housing.
- TAN 5: Nature Conservation and Planning (2009). This TAN provides guidance on how the land use planning system should contribute to protecting and enhancing biodiversity and geological conservation.
- TAN 12: Design (2016). This TAN provides guidance on how good design should be achieved through the planning process.
- TAN 15: Development and Flood Risk (2004). This TAN provides guidance which supplements the policy set out in Planning Policy Wales in relation to development and flooding.
- TAN 16: Sport, Recreation and Open Space (2009). This TAN provides guidance regarding planning for sports, recreation and open space provision as part of new development proposals.
- TAN 18: Transport (2007). This TAN describes how to integrate land use and transport planning. It explains how transport impacts should be assessed and mitigated.

BUILDING BETTER PLACES: THE PLANNING SYSTEM DELIVERING RESILIENT AND BRIGHTER FUTURES – PLACE MAKING AND THE COVID-19 RECOVERY (JULY 2020)

8.39 This guide published by the Welsh Government in July 2020 pinpoints the most relevant actions to aid the recovery of Wales as a result of the Covid-19 pandemic and has a focus of ensuring a placemaking pandemic recovery.

8.40 Notably Page 9 states that *inter alia*:

“PPW and the NDF can be used directly in the decision-making process, particularly where an LDP is silent or out-of-date on an issue. The Welsh Government will support decisions taken in this context, particularly in the short-term until an LDP is adopted”.

8.41 The above extract is highly relevant here.

8.42 Chapter 9 gives an overview of the benefits of the scheme but it is considered that the proposals are commensurate with this recent Welsh Government document in that:

- The proposals foster health and well being.
- The scheme will assist residents to stay local should they wish.
- The proposals will deliver an attractive neighbourhood.

- The scheme encourages active travel and sustainable modes of travel with benefits for health and air quality.
- The development will be connected digitally.
- The scheme includes generous green infrastructure which a benefit to health and well being.
- The proposals provide for substantial ecological enhancements.

FCC DEVELOPER ADVICE NOTE SPECULATIVE HOUSING DEVELOPMENT (FEBRUARY 2018)

8.43 Given the deficient housing land supply position in the County the Council has adopted the above-mentioned Developer Advice Note. This was prepared in order to inform developers submitting applications which are justified by the need to help meet the housing shortfall within the County. The advice note sets out criteria against which proposals will be assessed as follows:

1. THE CONTEXT FOR THE DEVELOPMENT PROPOSED

8.44 Turning firstly to the nature and function of the settlement within which the proposal is made, its role as part of the UDP/LDP spatial strategy and how identification of the site fits in with the requirement for a search sequence as referenced in PPW.

8.45 New Brighton is a designated Category B settlement in the adopted UDP where 8 – 15% growth was expected over the Plan period. However, the Plan period expired in 2015. As discussed above, no weight should be attributed to the growth aspirations set out in the time expired UDP.

8.46 At the time of writing the emerging LDP was at Examination and therefore at an advanced stage and the site has been allocated for housing under Policy HN1.10 Cae Isa.

8.47 In the Deposit Plan New Brighton is designated as a Sustainable Village, these being defined as:

“Settlements which benefit from some services and facilities and are sustainably located”.

8.48 Turning then to PPW, Paragraph 3.43 states that:

“When identifying sites in their development plans planning authorities should consider previously developed land and/or underutilised sites located within existing settlements in the first instance with sites on the edge of settlements considered at the next stage.”

8.49 The future housing needs of the County cannot be met from previously developed land and buildings. The subject site comprises a settlement extension which ought to be seen as preferable to any other undeveloped site surrounding New Brighton as all of the other undeveloped land

around the village is designed as Green Barrier and performs that function. Furthermore, New Brighton has the benefit of public transport links providing access to higher order centres. In summary terms there is no conflict here between the proposals and PPW.

2. FULL APPLICATION

8.50 The proposals have been presented in a full planning application and would be implemented promptly on receipt of planning permission.

3. SUSTAINABILITY APPRAISAL

8.51 In terms of sustainability assessment, the village has already been accepted as a sustainable location by the Council. This Statement along with the suite of supporting documents has demonstrated the sustainability credentials of the site and the settlement.

4. VIABILITY ASSESSMENT

8.52 A viability assessment has not been submitted with the planning application however we welcome any further feedback on any necessary planning contributions.

5. HOUSING DELIVERY STATEMENT

8.53 There are no land ownership constraints or known technical impediments to delivery of the scheme following the grant of planning permission. If the Council were to grant planning permission within 13 weeks of submission of the revised full planning application the development is likely to begin later this year/early next year and therefore make an immediate contribution towards the housing requirement.

FCC SUPPLEMENTARY PLANNING GUIDANCE DOCUMENTS

8.54 The Council has prepared and adopted several Supplementary Planning Guidance (SPG) Notes which support the continued use of the adopted Flintshire UDP. All development proposals will take account of adopted SPG where relevant, which includes detailed guidance concerning individual sites, development issues, and types of development and will be a material consideration in determining planning applications. In terms of material considerations, greater weight can be attached to a guidance note if it has been formally adopted as SPG.

8.55 Several SPG notes are relevant to the current application proposals at New Brighton. These include the following:

- SPGN2 - Space Around Dwellings.
- SPGN3 – Landscaping.
- SPGN4 - Trees and Development.

- SPGN8 - Nature Conservation and Development.
- SPGN9 - Affordable Housing.
- SPGN11 - Parking Standards.
- SPGN12 - Access for All.
- SPGN13 - Open Space Requirements.
- SPGN23 - Developer Contributions to Education.

8.56 The suite of documents provided in support of the application and the contents of this statement ably demonstrate compliance with the above SPG's.

NATURAL RESOURCES WALES ADVICE TO PLANNING AUTHORITIES FOR PLANNING APPLICATIONS AFFECTING PHOSPHORUS SENSITIVE RIVER SPECIAL AREAS OF CONSERVATION (SACs)

8.57 This document provides advice for planning authorities regarding developments that may increase phosphorus in river SACs and are subject to a Habitats Regulations Assessment (HRA). Developments with other types of impact that have the potential to affect a SAC must still be addressed through the HRA process.

8.58 The site falls within the catchment of Mold Waste Water Treatment Works. This facility has capacity and an existing phosphate permit in place, therefore there are no issues in relation to phosphates.

FLINTSHIRE HOUSING DELIVERY

8.59 The County has historically had a poor record of delivering housing. In respect of the UDP only 5,388 dwellings were delivered in the County over the Plan period (2000 – 2015) a shortfall of 2,012 dwellings or 27% of the requirement and an annual average of 359 dwellings. On any view this is a significant shortfall and highlights the need for deliverable sites to be brought forward in the future.

8.60 Delivery rates did improve in the period 1 April 2015 to 31 March 2019 as follows:

- 2015/15: 662 dwellings.
- 2016/17: 421 dwellings.
- 2017/18: 608 dwellings.
- 2018/19: 454 dwellings.
- Total: 2,145 dwellings.

- Annual average: 536 dwellings.

- 8.61 Perhaps ironically the 2,145 dwellings delivered in the 4 year period outlined above is broadly the shortfall that should have been delivered by 31 March 2015. It should be noted that a large proportion of the delivery for this 4 year period represents development on sites allocated for housing in the now time expired UDP and sites allowed on appeal.
- 8.62 Additionally, it is notable that the 2019/20 completion figures have yet to be compiled by the Council and indeed it will not be until the 2020/21 figures are available that the impacts of Covid-19 can be assessed in respect of housing delivery. What can be said in respect of the above is that 4 years' worth of data does not reflect the longer term trend which has witnessed far fewer dwellings being delivered in the County.
- 8.63 Given all of the above factors we are firmly of the view that there is a need to ensure deliverable sites are brought forward quickly for development. In that respect the site is one such site.
- 8.64 The need for affordable homes in the area is also acute with LDP Background Document BP07 – Affordable Housing (September 2019) noting in Section 2 that the Council's Local Housing Market Assessment (LHMA) Update of 2018 identifies an **annual shortfall of 238 affordable homes**. The appeal proposals will help to address that shortfall through the provision of 25 dwellings (30% of the total) identified as affordable. The affordable dwellings are located throughout the proposed development and comprise 2 and 3 bed dwellings. This is a clear benefit of the scheme.

RECENT FLINTSHIRE APPEAL DECISIONS

- 8.65 Whilst the Inspector dealing with the appeal scheme did not raise any issues with the principle of development it is still worth pointing out some recent appeal decisions where the need for housing was provided significant weight.
- 8.66 In the Flintshire context the deficient housing land supply position is discussed at length in a recovered appeal decision dated 25 May 2018 relating to land at Chester Road, Penyffordd². Many of the arguments discussed in that case in relation to housing land supply are relevant here notwithstanding the recent changes to PPW and the abolition of TAN 1.
- 8.67 A more recent appeal at land adjacent to Bank Lane, Drury³ also gives the need to increase the supply of houses considerable weight. It is important to note that this appeal decision was issued after the temporary disapplication of Paragraph 6.2 of TAN1 and Paragraph 20 of the Decision Letter states:

"The Council points out that paragraph 6.2 of Technical Advice Note 1 (TAN 1) Joint Housing Land Availability Studies, which required considerable weight to

² PINSW Reference: APP/A6835/17/3174699.

³ PINSW Reference: APP/A6835/A/18/3209704.

be given to the need to increase supply where councils had no five year supply of housing land, has recently been dis-applied. Nonetheless, the provision of over twenty dwellings in an area without a five year supply would be a considerable benefit, given that there are no compelling policy or other considerations weighing against the scheme”.

SUMMARY OF OTHER MATERIAL CONSIDERATIONS

- 8.68 The proposals comply with the national planning policy and the various guidance documents identified. The Council recognises the development potential of the site in the supporting evidence documents to the emerging LDP.
- 8.69 These material considerations clearly have significant weight in the decision making process and would outweigh any Development Plan conflict.

9. SUMMARY OF BENEFITS AND CONCLUSIONS

9.1 Hourigan Connolly has been instructed by the Applicant to prepare this Planning Statement in support of the proposed development at land south of New Brighton Road, New Brighton, Mold Flintshire, CH7 6RB

9.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that:

“where in making any determination under the planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise”.

9.3 This revised application has fully addressed the concerns raised by the Inspector who dealt with the appeal.

9.4 The benefits to the application can be summarised as follows:

- The proposals would make a very significant contribution towards the Council’s housing land supply (84 dwellings) in an area where the Development Plan expired on 31 March 2015 and where the long term record of housing delivery is poor as evidence by the substantial under-performance during the UDP period (-2,012 dwellings or 27% of the UDP housing requirement).
- The proposals would also make a significant contribution to affordable housing need (25 dwellings) where the Council’s evidence base points to a shortfall of 238 dwellings per annum. On any reading that is a significant annual shortfall and an acute need which the appeal proposals will contribute to addressing.
- The proposals also contain a mix of dwellings to meet a broad cross section of housing needs.
- By providing for a broad spectrum of needs also increases the potential for the Welsh language to thrive in a diverse community.
- The proposals are located within and adjoining a village which is described by the Council as a Sustainable Settlement with capacity for growth. There are a number of shops and services within the village and close by which can be accessed by non car modes of transport. Additionally, the village has a public transport service providing access to higher order centres.

- The proposals comprise Grade 3b agricultural land and hence they do not involve Best and Most Versatile agricultural land.
- The proposals do not require the use of land currently designated as Green Barrier in the UDP whereas all other land surrounding New Brighton has this status.
- The proposals are located on an unremarkable looking undeveloped site with a close physical relationship to New Brighton. The site is surrounded by development on three sides and therefore the development has the potential to be accommodated by the settlement without having any adverse impact on the wider countryside.
- Part of the site lies within the Settlement Boundary of New Brighton where the principle of development is acceptable.
- The proposals involve a site allocated for development in the emerging LDP and one which was proposed to be allocated (in part) in the last UDP. Bringing forward the site now clearly assists the Council in terms of the housing requirements in the emerging LDP.
- The site is controlled by an experienced national developer who has extensive experience of developing locally and is committed to bringing the site forward should the proposals be found to be acceptable. If the Council were to grant planning permission within 13 weeks of submission of the revised full planning application the development is likely to begin later this year/early next year and therefore make an immediate contribution towards the housing requirement.
- A high-quality development will be delivered and the new homes would be built to last.
- The scheme has been designed to minimise opportunities for crime thereby fostering a safe development.
- The proposals will be accessible to all and hence they will be inclusive.

- An appropriate density of development is proposed (36 dwellings per hectare net) which balances the need to make the best use of natural resources whilst delivering much needed new homes and generous areas of open space.
- The provision of accessible and high quality public open space and an equipped children's play area will be of benefit to new and existing residents both in terms of physical and mental well being. The scheme provides significantly more open space than what is required by policy.
- The development will have positive economic benefits (investment in jobs, services and supplies).
- The proposals will result in increased household spending in the area and would help to support the local economy and jobs.
- The proposals would support and sustain local services and facilities.
- The proposals would have a labour supply impact (i.e. those economically active residents of the new development (those in work or seeking work)).
- The proposals provide for highway improvements including a signalised pedestrian crossing to the A5119 / New Brighton Road / Bryn Lane signalised junction, with dropped kerbs and tactile paving to be provided along the New Brighton Road. Those improvements would not materialise without the development and would also benefit existing residents.
- A pedestrian and cycle link is also proposed to the A5119. The pedestrian element of the link will be of benefit to bus users as the link is located in close proximity to the bus stop.
- The proposals create a safe route to Sychdyn which is a significant benefit for new and existing residents of New Brighton.
- The proposals provide for the protection of hedgerows and important trees but also include substantial hedgerow and tree planting as well as the introduction of other new planting. All of these initiatives will have biodiversity benefits.
- The proposals include for the creation of a new wildlife pond which will have benefits for biodiversity.

- The proposals will also provide for bird and bat boxes to be installed in the development as well as hibernacula.
- All necessary utilities are available or can be made available to serve the development. Notably New Brighton has broadband available in the village and 4G coverage.
- All of the above measures will result in the creation of a high quality neighbourhood and encourage residents to stay local which is one of the Welsh Government's priorities as a result of the Covid-19 pandemic.
- The Applicant has a corporate and social responsibility to ensure waste is minimised in its development. That ethos will be deployed in this development.
- Finally, the way the scheme has been planned, designed, developed and will be managed has the potential to positively shape where and how people will live, work, socialise, move about and engage. The development will contribute positively to creating an environment within which people, communities and nature can thrive and has been developed with placemaking principles as an integral element of the evolution of the scheme.

THE DISBENEFITS

- 9.5 The disbenefits of the proposal are that they involve land which is currently undeveloped. However, in the context of the benefits and circumstances highlighted above it is respectfully suggested that this disbenefit should be afforded very limited weight and is out weighed by the substantial benefits outlined above.

SUMMARY

- 9.6 In summary, and in light of the matters set out in this statement, the planning balance clearly lies in favour of granting planning permission. The application complies with the majority of the policies in the Development Plan. Any limited harm identified from conflict with the locational policies in the time expired UDP is outweighed by the material considerations and significant benefits of the scheme. Accordingly, we respectfully request that planning permission is granted.

Appendix 1



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 12/01/21

gan Clive Nield, BSc (Hon), CEng,
MICE, MCIWEM, C.WEM

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 2nd February 2021

Appeal Decision

Site visit made on 12/01/21

by Clive Nield, BSc (Hon), CEng, MICE,
MCIWEM, C.WEM

an Inspector appointed by the Welsh Ministers

Date: 2nd February 2021

Appeal Ref: APP/A6835/A/20/3260460

Site address: Land to the south of New Brighton Road, New Brighton, Mold, CH7 6RB

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Stewart Milne Homes (North West England) Limited against the decision of Flintshire County Council.
 - The application Ref: 060220 dated 10 July 2019, was refused by notice dated 28 October 2020.
 - The development proposed is residential development for the erection of 92 dwellings including the provision of affordable units, areas of public open space, landscaping and associated works.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was originally made for 97 dwellings but was subsequently amended to 92, and it is the amended scheme that is subject to appeal.
3. The appeal was originally made against the failure of the Council to determine the application within the prescribed period of time. However, the Council then refused the application during the period of dual determination, and so the appeal is now considered to be against that refusal.
4. The Appellant has submitted a Section 106 Unilateral Undertaking covering the provision of affordable housing, the payment of contributions towards education costs, and the provision of an open space management plan.
5. An application for costs was made by Stewart Milne Homes (North West England) Limited against Flintshire County Council. This application is the subject of a separate Decision.

Main Issues

6. The Council was not opposed to the principle of the proposed development and refused it on just 2 matters of detail: firstly, it was not possible to demonstrate that the proposal would take adequate account of the possible presence of great crested
-

newts, a European Protected Species; and secondly, that the proposal provides an inadequate level of on-site play and recreational space. Consequently, the 2 main issues to be considered are: whether or not the proposal would be likely to be detrimental to the favourable conservation status of the great crested newt, a European Protected Species; and whether or not the proposal would provide adequate on-site play and recreational space.

7. The local residents group, several local residents and their representatives have also raised a number of other matters, in particular whether there is a "safe route to school", the difficulties of draining the land, the location of the site outside the settlement boundary and partly within a designated Green Barrier; and whether making a decision would be premature in view of the stage reached in the emerging Local Development Plan. These are also important issues that need to be considered.

Reasons and Conclusions

Great Crested Newts

8. The Council has relied on advice from Natural Resources Wales (NRW), as well as its own ecologist, in formulating its first reason for refusal, which says "*the proposal has the potential to cause disturbance to great crested newts and/or loss or damage to their resting places*" and that "*In the absence of adequate surveys, mitigation and reasonable avoidance measures it is not possible to demonstrate that the proposal adequately takes account of the European Protected Species and as such is contrary to policies GEN1 and WB1 of the Flintshire Unitary Development Plan*".
9. In considering this issue, it is pertinent to be clear what the relevant policies say. UDP Policy GEN1 requires, amongst other things, that development should not have a significant adverse effect on recognised wildlife species and habitats. Policy WB1, Species Protection, says "*Development which would have a significant adverse effect on important species or their habitats will not be permitted unless appropriate measures are taken to secure their long term protection and viability*". Great Crested Newts (GCNs) fall within the definition of "*important species*". These policies are consistent with national policy in Planning Policy Wales, which refers to development proposals which would be likely to result in disturbance or harm to the species or its habitat, and with similar wording in national guidance document Technical Advice Note 5 (TAN5), Nature Conservation and Planning.
10. It is clear that assessment against these policies should consider whether the proposed development would be likely to disturb or harm the species or habitat and whether any effects would be significantly adverse.
11. The Council's refusal is couched in much more precautionary terms, "*the potential to cause disturbance*", and NRW's advice is that "*it is possible that the species utilises the site for foraging, dispersal and sheltering purposes*". It is not surprising that NRW's consultation response was expressed in those terms as it was based on just 4 records of sightings of GCNs in the vicinity of the site. The Appellant has investigated the details of those sightings and explained that 3 of them no longer have much relevance and that the 4th has not been confirmed as being a GCN (as opposed to some other type of reptile). In the absence of any comments on this from the Council, I have no reason to doubt the Appellant's assessment.
12. The Appellant has also carried out several surveys to assess the likelihood of GCNs being present on the site for foraging, dispersal and sheltering purposes. There are 2 ponds near to the site, and the Appellant has been able to sample one of those and carry out a DNA investigation, which shows no evidence of any use of the pond by

GCNs. Access to the second pond has not been possible but the Appellant has carried out a remote study to assess its suitability for use by GCNs. That study concluded that the second pond was unlikely to provide a suitable habitat. A study has also been carried out on the site itself and found no evidence of GCNs on the site. Whilst NRW has criticised the quality of these studies, I consider them to be reasonable and adequate.

13. Some evidence has been provided by local residents which is intended to show that GCNs have been seen in the local area. However, even taking these at face value, they do not materially change the paucity of evidence of GCNs using the appeal site.
14. NRW also considers the compensatory element of the proposed scheme to be unsatisfactory. However, if the evidence of any use of the site by GCNs is highly questionable, as in this case, then extensive compensatory measures cannot be justified.
15. Although it is possible that the site does provide useful GCN habitat, I consider the lack of meaningful evidence indicates it is more likely that it does not. I do not consider the proposal conflicts with the policy requirements that development should not be likely to disturb or harm the species or its habitat and that any effects should not be significantly adverse. I conclude that the proposal would not conflict with development plan or national policies in respect of GCNs.
16. In addition to consideration against planning policies, as the competent authority for the appeal, I have a legal duty to have regard to relevant legislation, in this context the Conservation of Species and Habitats Regulations 2017 (as amended). I have considered the requirements of these Regulations and have taken a precautionary approach to my assessment. However, on the basis of the evidence described above, I conclude that the proposal would not be likely to offend the Regulations.
17. There has been some disagreement amongst the parties on the tests required by the Habitats Regulations, particularly those involved in a licence pursuant to derogation powers. However, as I have concluded that disturbance would be unlikely, those tests are not engaged.
18. My overall conclusions in respect of GCNs are that the proposed development would not conflict with development plan or national policy or with the requirements of the Habitats Regulations.

On-Site Play and Recreational Space

19. Turning to the second reason for refusal, the Council says that the provisions for on-site play and recreational space are inadequate for the number of dwellings proposed. UDP Policy SR5 says "*New residential development will be expected to include outdoor playing space at a minimum rate of 2.4 hectares per 1000 population*" and that "*this provision will include outdoor sport and recreation space together with equipped play space*". The policy also says provision can be off-site in exceptional circumstances, but that is not being proposed in this case.
20. The supporting text explains that outdoor playing space is split into 2 types of land: children's playing space at 0.8 hectares per 1000 population; and sports grounds for use by all at 1.6 hectares per 1000 population. The former should comprise formal equipped playing space and informal playing space (0.25 and 0.55 hectares respectively). The latter should be split into land for sports pitches (1.2 ha) and other outdoor recreation (0.4 ha).

21. LPGN 13, Open Space Requirements, provides supplementary planning guidance that is a material consideration and expresses the minimum standard for this size of development as 56.65 square metres per dwelling, which for 92 dwellings equates to 5,211.8 square metres. This requirement is not in dispute. In its committee report the Council says there is a shortfall of approximately 3,000 square metres of public open space, though it provides no details of how this has been calculated.
22. The Appellant, on the other hand says the proposal includes 7,044 square metres of outdoor play space if the area earmarked for the SUDS pond is included or 5,492 square metres if the pond is excluded, both of which are in excess of the calculated requirement. These calculations are based on 7 areas within the development (though Area 4 seems to have been excluded from the calculation):
 - Area 1 – 1340 square metres, around the SUDS pond;
 - Area 2 – 969 square metres, landscaped area along southern boundary of site;
 - Area 3 – 1270 square metres, equipped play area and surrounding open area;
 - Area 4 – 243 square metres; small open space near equipped play area;
 - Area 5 – 1280 square metres, informal area with small pond and PROW diversion in north west corner of site;
 - Area 6 – 634 square metres; narrow strip along northern boundary;
 - Area 7 – 1552 square metres; the SUDS pond.
23. In the absence of information from the Council on how they have assessed the provision of playing space, I have considered the suitability of these areas myself, taking into account the UDP policy and the Council's planning guidance note on open space requirements (LPGN 13), which is a material consideration. The latter is currently under review, but an updated version has not yet been adopted.
24. It is clear that there is no provision for adult sports pitches, as required by the policy, and that some of the areas do not meet the wider definition of public recreation space. Certainly, the SUDS pond falls outside this definition, as does the very narrow strip of land along the northern boundary, which has no recreational value other than as a green corridor. Although it is not quite so limited, I reach the same conclusion on the landscaped area along the southern boundary. Thus, I consider there to be a substantial shortfall in the provision of on-site play and recreation space, contrary to the requirements of UDP Policy SR5.
25. The Appellant has drawn my attention to provisions in LPGN 13 such that, in some instances, particularly where site constraints are such that the provision of an outdoor recreational area is not possible or because of the type of residential development proposed (e.g. retirement homes), other types of space may be considered to be appropriate replacements. The guidance includes "*woodlands, ponds and other amenity green spaces*" and "*green corridors*" as possible replacements. However, there are no significant site constraints or qualifying type of development here, and the possibility of alternative space provision does not apply.
26. The Appellant has also mentioned that the policy can sometimes be met by off-site provision or financial contributions towards it and that the Council has not been helpful in responding to approaches by the Appellant to try to agree suitable provisions. Nevertheless, although the policy does make that allowance (and the Council's guidance describes a sequential approach to the consideration of such matters), the

Appellant has made it clear that the appeal proposal is based solely on on-site provision of playing space, and no alternative arrangements have been put forward.

27. Whilst the basis of the Council's reason for refusal is not fully explained, my overall conclusion on this issue is that the proposed development makes inadequate provision for outdoor play and recreation space and conflicts with UDP Policy SR5 in this respect.

Safe Route to School

28. I turn now to a number of other matters raised by local residents, the first of which is whether or not provision is made for a "safe route to school". The Council says that Sychdyn is the closest primary school and that travel to that school (along New Brighton Road) would be along a route considered "hazardous" in its assessment of potential "safe routes to school". Local residents say it is a busy road at times, lacks footways and lighting, and is dangerous for pedestrians.
29. The Appellant maintains that Mynydd Isa is the closest primary school to the site and that it is the route to that school that should be taken into account, particularly as that route is through a 30 miles per hour area with streetlights and footways. The assessment is complicated by the fact that the infant school at Mynydd Isa is further away from the appeal site, and it is this school that leads the Council to argue that Sychdyn primary school is the closest.
30. I notice that the Council's supplementary planning guidance (SPGN 23) uses the term "*nearest suitable school*", and there are arguments in favour of adopting both of the alternatives as the preferred option. There is also, of course, the element of parental choice of school, and it is entirely possible that some of the children of future residents of the proposed new development would attend one school and some the other. Thus, the question of whether the route to Sychdyn school is safe or not is a matter that is relevant in any case.
31. Notwithstanding this conclusion, the Council explains that it considers it would be possible to negotiate a fairly simple scheme or measures to overcome its concerns such that it was not considered to amount to a reason for refusing the application. However, no information has been provided to indicate what that scheme or measures might be. The Appellant says the Council originally had in mind possible safety improvements to New Brighton Road but now does not seem to be pursuing that option.
32. I agree with the Council that, if there is a relatively simple solution, this matter is not one that warrants refusal of the application. However, I do not know whether the solution could be achieved by means of a suitable planning condition or would require a legal undertaking. The set of planning conditions suggested by the Council does not address this matter, and it has not been satisfactorily addressed in any other way. Thus, whilst not a reason for refusal in its own right, I consider it supports the conclusion I have reached on the previous issue.

Drainage

33. Local residents have raised concerns about the drainage of the site. The Appellant indicates that a sustainable drainage scheme (SUDS) is proposed to deal with surface water drainage, and that scheme would include a pond near the western corner of the site, next to the Cae Isa development. That is the lowest part of the site and is known to become waterlogged at times. Indeed, when I visited the site, that part of the field was covered by standing water. Some residents have said the Appellant intends to

discharge water to another pond nearby, which that landowner is unlikely to permit. In the light of these various uncertainties, concern has been expressed that a satisfactory scheme would not be achievable and so there would be harmful effects on adjoining properties.

34. It is Welsh Government policy that all new development above a certain size is served by sustainable drainage arrangements, and since January 2019 the SUDS proposals for all qualifying developments have been subject to requirements for approval by the SUDS Approval Body (SAB) before construction work begins. Thus, SUDS proposals are no longer part of planning permission procedures. SUDS approval would be required for this development.
35. The Welsh Government advises developers that applications for SUDS approval ought to be made at the same time as the planning application, as the maximum benefits and opportunities can only be achieved if the SUDS scheme is an integral part of the design of the overall development rather than a retrofit. However, in this case, the Appellant has chosen not to do that and would intend to pursue the necessary SUDS approval at a later date. Whilst this involves an element of risk that it may not be possible to gain approval for a SUDS scheme which meets the standards required within the constraints of the current housing scheme design, it is an approach that is permitted. Should SUDS approval not be gained, it would not be possible to implement any corresponding planning permission.
36. Clearly, on a greenfield site such as this it is entirely feasible to provide a satisfactory SUDS scheme so that the effect of the development on surface water drainage is entirely neutral. However, in the absence of details of the scheme, I cannot judge whether or not the intended SUDS scheme would meet the required Welsh Government standards, and it is outside the scope of this appeal to consider the matter any further.

Settlement Boundary and Green Barrier

37. The third matter raised by local residents is the relationship of the site to the settlement boundary and the designated green barrier. It is explained in the Council's committee report that most of the site lies outside the settlement boundary and that it is adjacent to the edge of the green barrier. The Council considers the proposed development would be a relatively small urban extension, rounding off the existing settlement form, and that it would not conflict with the purpose of the green barrier between New Brighton and Sychdyn. Nothing has been raised that leads me to disagree with that assessment.
38. Nevertheless, the fact that most of the site is outside the settlement boundary means there is a conflict with UDP Policy GEN3, which says that development proposals outside settlement boundaries will not be permitted, except under certain circumstances; and none of those exceptions apply to this proposal.
39. The Council has addressed this policy conflict by reviewing the principle of the development in terms of its sustainability on the edge of a category B settlement in the adopted UDP and in a Tier 3 sustainable settlement in the emerging Local Development Plan. On this basis it has concluded that the principle of residential development of the site is acceptable.
40. The appeal site is also being proposed as a candidate site for housing in the emerging LDP. However, it has not yet been subject to examination by a Planning Inspector, and so that possible designation carries little weight at present.

41. My conclusions on this matter are that the proposal would be contrary to UDP Policy GEN3 on account of its location partly outside the settlement boundary, but that this should carry only limited weight on account of its (otherwise) sustainable location on the edge of the settlement of New Brighton.

Emerging Local Development Plan

42. Finally, I turn to the question of prematurity with regard to the emerging Local Development Plan. It has been submitted that it would be premature to grant permission for the proposed development whilst the emerging Flintshire Local Development Plan is still subject to examination procedures. The appeal site is under consideration as a candidate housing development site in the draft Plan.
43. Prematurity can be an important consideration. However, Welsh Government Guidance (the Development Plans Manual) advises that: *"Refusing planning permission on grounds of prematurity will not usually be justified except in cases where a development proposal goes to the heart of a plan and is individually or cumulatively so significant, that to grant planning permission would be to predetermine decisions about the scale, location or phasing of new development which ought to be properly taken in the LDP context"*.
44. In this case, the proposal for 92 homes represents less than 5% of the allocations for new housing in the emerging Plan. As such, it is not considered to go to the heart of the Plan, and it would not be premature to grant planning permission.

Overall Conclusion

45. In addition to the issues above, a number of other matters have also been raised by local residents and their representatives, and I have taken these into account so far as they are material.
46. I have concluded above that the proposed development would make inadequate provision for outdoor play and recreation space, contrary to the requirements of UDP Policy SR5, and that the need to provide a "safe route to school" in respect of Sychdyn school has not been addressed in accordance with the Council's supplementary planning guidance, SPGN 23. The development would also be contrary to UDP Policy GEN3 as most of the site is outside the settlement boundary. In all other respects I consider the proposal would be in accord with development plan policy, and my overall conclusion involves balancing the benefits and conflicts.
47. Whilst the provision of much needed housing, including affordable dwellings, in a location that is sustainable in many respects would provide useful benefits, I consider the shortcoming in the provision of outdoor play and recreation space to be a serious matter that outweighs the benefits of the scheme. This shortcoming is also reinforced by the failure to adequately address the need for a "safe route to school".
48. These are matters that it should be possible to resolve quite readily, but no mechanism for doing so has been put forward. I have considered whether they could be resolved by the use of suitable planning conditions but am not satisfied that would be possible. Certainly, the draft conditions suggested by the Council would not provide any help. In addition, they are not matters that are covered by the Appellant's Section 106 Unilateral Undertaking.
49. Overall, and for the reasons given above, I conclude that the appeal should be dismissed.

50. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objectives of promoting good health and well-being for everyone and building healthier communities and better environments.

Clive Nield

Inspector

Appendix 2

Policy HN1.10 Cae Isa, New Brighton

Question a)

Is it clear why the sites have been selected over other candidate and alternative sites?

Council's Response

- a.1 The general approach to the consideration of alternatives and the site selection process is set out in response to the opening question above.
- a.2 The site sits on the edge of a Tier 3 Sustainable Settlement and represents a logical and physically well-defined extension to the settlement. It is bounded by development and the A5119 to the south, by residential development at Argoed View to the west, and existing residential development at Cae Isa and New Brighton Rd to the east and north. Only a narrow section along the north western part of the site bounds open countryside and the site takes the form of a rounding off of the settlement form. The site lies close to a local shop (petrol filling station), hotel / bar and community centre and is close to a wide range of other facilities and services in Mold, Sychdyn and Mynydd Isa and is in a sustainable location.
- a.3 The site has previously been considered by the UDP Inspector and although not recommended to be allocated in the UDP (housing allocation on another site in settlement - now built by Elan Homes) was recommended to be excluded from the green barrier and for the southern portion to be retained within the settlement boundary. This gave the site a clear context with which to be considered as part of the LDP. There is active developer interest as demonstrated by the submission of a planning application ([060220](#)) shortly before the start of the Deposit LDP consultation exercise.
- a.4 Notwithstanding the submission of other candidate sites for New Brighton, the site's sustainable location, lack of constraints, and willing developer is considered to make it a logical and sensible housing allocation. Given its sustainability, the Council is clear that there should be a preference to develop this site first, in advance of making other unnecessary greenfield allocations.

Question b)

Are the numbers of units identified realistic and achievable?

Council's Response

- b.1 The number of units (105) is based on a site density of 30units per hectare and is considered to be realistic and achievable. The submitted planning application ([060220](#)) provides for 92 dwellings which, considering the area of surface water flood risk in the north eastern part of the site is acceptable, and the implications of the appeal decision has indicated a further reduction to 84 units.

Question c)

What are the various constraints affecting the sites? In the light of constraints, and other matters, where is it set out what the requirements are for each site? Is there sufficient clarity and certainty?

Council's Response

c.1 There is not considered to be any overriding constraints to the development of this site, and the planning application ([060221](#)) was accompanied by a comprehensive set of background and technical documents. The application was refused by planning committee, not in terms of the broader principle of development but over matters of detail as set out in the [decision certificate](#). An appeal ([3260460](#)) was dismissed on 02/02/21 and the Inspector commented on the key issues:

- Great Crested Newts – The Inspector concludes in para 18 *'My overall conclusions in respect of GCNs are that the proposed development would not conflict with development plan or national policy or with the requirements of the Habitats Regulations'*.
- On-site Play and Recreation Space – The Inspector concludes in para 27 that *'.. the proposed development makes inadequate provision for outdoor play and recreation space and conflicts with UDP Policy SR5 in this respect'*.
- Safe Route to School – The Inspector notes in para 31 that the Council considers it would be possible to negotiate a fairly simple scheme or measures to overcome its concerns in relation to achieving a safe route to Sychdyn School. In this context the Inspector states in para 32 *'Thus, whilst not a reason for refusal in its own right, I consider it supports the conclusion I have reached on the previous issue'*.

c.2 It is notable in para 41 that the Inspector considers the site to be in a sustainable location on the edge of the settlement. It is also important to stress that in relation to the matters at issue above, the Inspector considered in para 48 *'These are matters that it should be possible to resolve quite readily, but no mechanism for doing so has been put forward'*. The Council is aware that the applicant is involved in discussions to overcome these detailed matters (see update in Appendix 2) and it is still considered that the site is viable and deliverable.

c.3 The Plan's framework of policies sets out key policy requirements and policy HN1.6 sets out summary design guidance in relation to the site. The Deposit Plan was supported by Background Paper 3 Infrastructure Plan ([LDP-EBD-BP3](#)) which set out a number of infrastructure requirements relating to the site. None of these requirements are considered to be abnormal, or what a site of this type shouldn't normally provide. This is supplemented by the Welsh Water / Hafren Dyfrdwy Statement of Common Ground ([SOCG005](#)) and the Education Position Statement [SOCG009](#).

<p>Question d) Having regard to constraints, where they exist, as well as the need to provide for affordable housing and infrastructure, are the sites viable?</p>
<p>Council's Response d.1 The site lies within the Mold and Buckley Sub Market area whereby policy HN3 requires 40% affordable housing, amounting to 42 units on a yield of 105 units. This is informed by the findings of the District Valuer Services (DVS) Viability Study LDP-EBD-HP6.1 and LDP-EBD-HP6.2. Further explanation is provided in Background Paper 7 Affordable Housing LDP-EBD-BP7. The site is not considered to raise any viability issues.</p>
<p>Question e) Are the delivery mechanisms for each site clearly identified? Is the timing and/or phasing of each site clearly set out?</p>
<p>Council's Response e.1 A large amount of background work has been undertaken to support the allocation as part of the planning application by Stewart Milne Homes. The trajectory for the site in Background Paper 10A (FCC002) shows completions first being achieved of 25 units for 2021/22 then 40 dwellings per year for the following 2 years. Given that Stewart Milne have a track record of delivering schemes in the County of varying sizes including St Marys Park, Mold (48 units) and Ffordd Eldon (39 units) this is considered to be realistic and achievable. However, in view of the appeal decision delays, the developer is proposing revised delivery rates of 15 (2022/23), 30 (2023/24), 30 (2024/25) and 9 in 2024/25. The site is easily deliverable within the Plan period.</p>

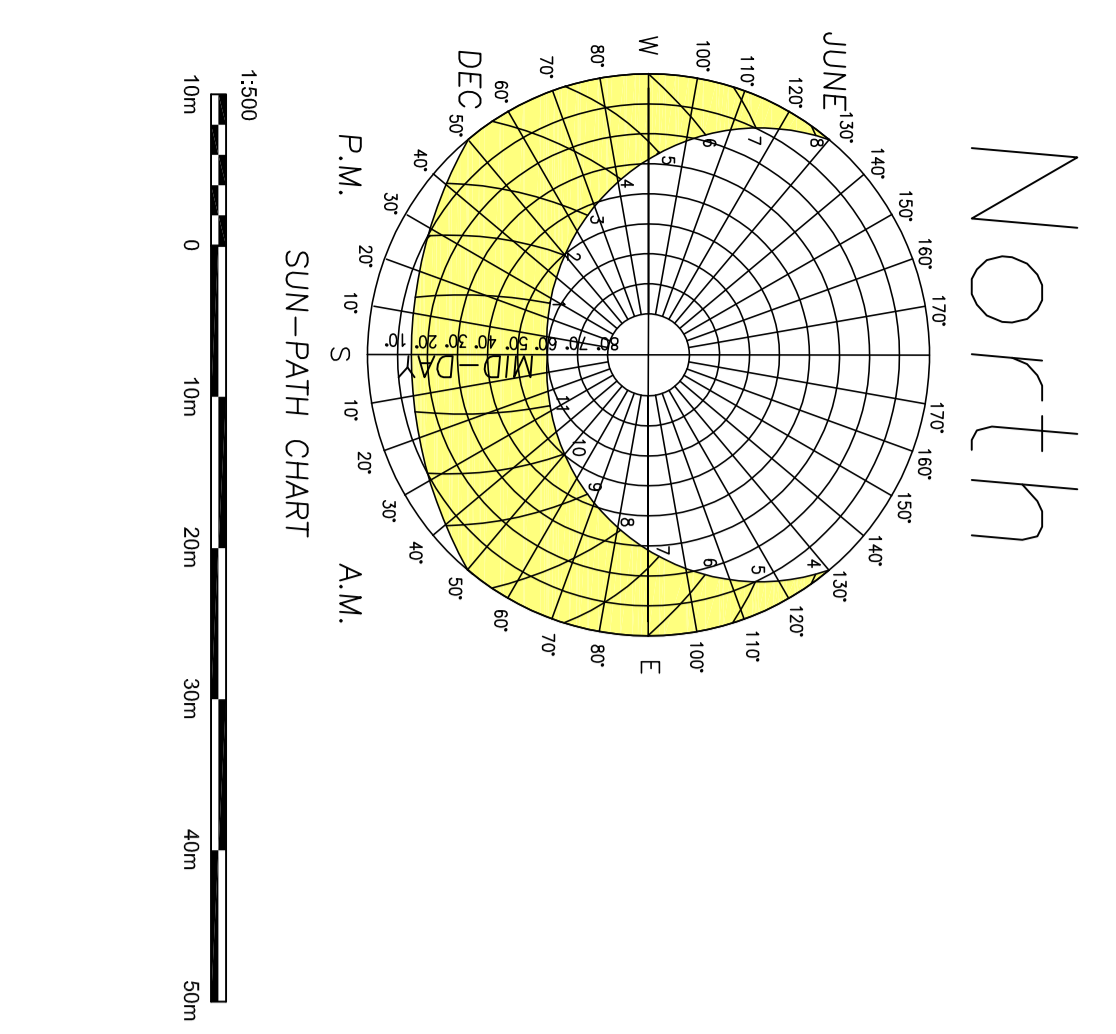
Appendix 3

Argoed View, Nr Mold

Proposed POS Area's Plan 1:500



	SITE AREA GROSS: 8.3 acres
1	SITE AREA POS: 0.331 acres 1341.419 m ²
2	SITE AREA POS: 1.177 acres 4766.271 m ²



<p>Revised Details</p> <table border="1"> <tr> <td>DATE</td> <td>04.2021</td> <td>DRAMW</td> <td>CMC</td> </tr> <tr> <td>SCALE</td> <td>1:500</td> <td>CHK</td> <td>DM</td> </tr> </table>		DATE	04.2021	DRAMW	CMC	SCALE	1:500	CHK	DM
DATE	04.2021	DRAMW	CMC						
SCALE	1:500	CHK	DM						
<p>Argoed View, Nr Mold</p>									
<p>POS Areas Plan</p>									
DWG No	SK296/NBM/AP03	Rev							
<p>STEWART Millie HOMES</p> <p>Stewart Millie Homes Harrier House 2 Lumsdale Road Cobra Business Park Trafford Park Manchester Telephone (0161) 866 6900 fax (0161) 866 6909</p>									