

TAN 24 and TAN 5:**Technical Advice Note (TAN) 24: The Historic Environment (2017)**

Guidance on how the planning system considers the historic environment during development plan preparation and decision making on planning and listed building applications.

As noted in the Planning Committee report on this application, site constraints include:

- Conwy Castle and Town Walls World Heritage Site, Scheduled Ancient Monument and Listed Building (Grade 1).
- Deganwy Castle Scheduled Ancient Monument and Remains of Deganwy Castle Listed Building (Grade 2*).
- Bryniau Tower Scheduled Ancient Monument and Listed Building (Grade 2).
- Bodysgallen Historic Park and Garden (Grade 1), including Bodysgallen Hall (Grade 1), walls and gateway (grade 2), walls to rose garden (grade 2), garden walls and railings (grade 2), walls to water garden (grade 2), walls to Dutch garden (grade 2), old cottage and dovecote (both grade 2), outbuilding (grade 2), terrace wall (grade 2), former stable block (grade 2), garden barn and granary (grade 2).
- Other listed buildings, including Harriet Robertson Research Institute (400m north), Bryniau Hill Watch Tower (Grade 2).
- Gloddaeth (St David's College) Historic Park and Garden (Grade 1).
- Creuddyn and Conwy Registered Landscape of Outstanding Historic Interest.

and

Technical Advice Note 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.

As noted in the Planning Committee report on this application, site constraints include:

- Special Landscape Area (Great Orme and Creuddyn Peninsular).
- Agricultural land (grade 3a).
- TPO A14 (1982) - group of trees (G4) on east boundary.

With regards to these historical assets, the application may be in contradiction to Conwy County Borough Council’s LDP Policies **CTH/1** and **CTH/2**, which state that [emphasis added]:

<p><u>CTH/1 – Cultural Heritage</u></p> <p>The council is committed to protecting and, where appropriate, enhancing its cultural and heritage assets. This will be achieved by:</p> <p>a) Ensuring that the location of new development on both allocated and windfall sites within the Plan Area will not have a significant adverse impact upon heritage assets in line with Policies CTH/2 – ‘Development Affecting Heritage Assets’, DP/3 – ‘Promoting Design Quality and Reducing Crime’ and DP/6 – ‘National Planning Policy and Guidance’;</p> <p>b) Recognising and respecting the value and character of heritage assets in the Plan Area and publishing Supplementary Planning Guidance to guide development proposals;</p> <p>c) Seeking to preserve and, where appropriate, enhance conservation areas, Conwy World Heritage Site, historic landscapes, parks and gardens, listed buildings, scheduled ancient monuments and other areas of archaeological importance in line with Policy DP/6;</p> <p>...</p>	<p><u>CTH/2 – Development Affecting Heritage Assets</u></p> <p>Development proposals which affect a heritage asset listed below (a-f), and/or its setting, shall preserve or, where appropriate, enhance that asset.</p> <p>Development proposals will be considered in line with Policy DP/6, where applicable and Policy DP/3.</p> <p>a) Conservation Areas b) Conwy World Heritage Site c) Historic Landscapes, Parks and Gardens d) Listed Buildings e) Scheduled Ancient Monuments f) Sites of archaeological importance</p>
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Therefore this may be in contradiction to **Policy DP/6**, which states that:
“Development proposals must comply with national [Welsh Government] planning policy and guidance.”

This is relevant in the context of **Planning Policy Wales 6.5.1** which states that [emphasis added]: “Conservation Principles [must] set out the basis for making informed decisions about any proposed change that has an impact on the historic environment. This [must be]... **based on a full consideration of the significance of an historic asset and the impact of the proposal on that significance. The greater the**

significance and/or impact then the greater the benefit needed to justify any harm.”

The site is also within the designated Creuddyn and Conwy Registered Landscape of Outstanding Historic Interest. Again, this application may be in contradiction to **DP/6** with regards to **PPW 6.5.27**, which states that [emphasis added]: “Information on the register of historic landscapes in Wales should be taken into account by local planning authorities in considering the implications of developments which meet the criteria for Environmental Impact Assessment, or, if on call in, in the opinion of the Welsh Ministers, they would have **more than local impact on an area** in the Register. **Cadw must be consulted** on development within a registered historic landscape area that requires an **Environmental Impact Assessment.**”

Both Cadw and Gwynedd Archaeological Planning Service (GAPS) were consulted, with **GAPS recommending refusal based on the four nationally important sites:** Bodysgallen Ha II Listed Building, Bodysgallen Registered Historic Park and Garden, Deganway Castle scheduled monument, and Bryniau Tower scheduled monument. Whilst Cadw advised that there was **inadequate information and analysis** of the impact on these four sites and the landscape of historic interest.

This may further be in contradiction to **DP/6** with regards to [emphasis added]:

- **PPW 6.5.5** - The conservation of archaeological remains is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where **nationally important archaeological remains**, whether scheduled or not, and their settings are likely to be affected by proposed development, **there should be a presumption in favour of their physical protection in situ**. It will *only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument* (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. In cases involving less significant archaeological remains, local planning authorities will need to weigh the relative importance of the archaeological remains and their settings against other factors, including the need for the proposed development.
- **PPW 6.5.11** - There should be a **general presumption in favour of the preservation of a listed building and its setting, which might extend beyond its curtilage**. For any development proposal affecting a listed building or its

setting, the primary material consideration is the **statutory requirement to have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest which it possesses.**

The aim should be to find the best way to protect and enhance the special qualities of listed buildings, retaining them in sustainable use. The continuation or reinstatement of the original use should generally be the first option, but not all original uses will now be viable or appropriate. The application of development and listed building controls should recognise the need for flexibility where new uses have to be considered in order to secure a building's survival or provide it with a sound economic future.

- **PPW 6.5.26** - Local planning authorities should protect and conserve parks and gardens and their settings included in the register of historic parks and gardens in Wales. Cadw must be consulted on all planning applications where development is likely to affect the site of a registered historic park or garden or its setting. **The effect of a proposed development on a registered park or garden or its setting should be a material consideration in the determination of a planning application.**

TAN 15:

Technical Advice Note (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.

Dwr Cymru Welsh Water has stated in its response to the consultation on this application that the following condition must be adhered to if this development goes ahead:

“No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.”

The reason provided for this condition is:

“To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution or detriment to the environment.”

At present, the Council are awaiting ‘further consideration of the surface water discharge rate’ [Addendum 09/08/2017], and therefore **NTE/8** and **NTE/9** may not yet be met.

<p>LDP Policy NTE/8 – Sustainable Drainage Systems</p> <p>1. The use of Sustainable Drainage Systems will be required wherever reasonably practicable with preference for on site disposal and where satisfactory arrangements can be put in place for the long term maintenance of those systems. Where this is not proposed a developer will need to justify that discharge is necessary and is adequately controlled.</p> <p>2. Subsequent preference for surface water drainage will be for:</p> <p>a) Drainage to a surface water body (river, lake etc.) subject to appropriate treatment and attenuation;</p> <p>b) Drainage to surface water sewer;</p> <p>c) Drainage to combined sewer.</p>	<p>LDP Policy NTE/9 – Foul Drainage</p> <p>1. Foul drainage to an adopted sewer should be provided wherever possible, in compliance with Welsh Ministers Build Standards which are effective from 1 October 2012. The development of sites where drainage to a public sewer is not feasible will only be permitted if proposed alternative facilities are considered adequate and would not pose an unacceptable risk to the quality or quantity of ground or surface water or pollution of local watercourses or sites of biodiversity importance.</p> <p>2. Development proposals which include vehicle parking and other hard surface areas used by vehicles must include measures such as trapped gullies and petrol / oil interceptors or other suitable</p>
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<p>3. The developer must demonstrate that higher preference drainage options are unfeasible before proposing less sustainable options.</p>	<p>methods of pollution control to safeguard against pollution of the water environment.</p>
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TAN 18:**Technical Advice Note (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.

TAN 18 (9.19) states that planning conditions should take into account:

- “the provision of safe and convenient cycle and pedestrian routes both on and off site, where the need for off-site routes arises from the development”
- “inclusive access arrangements on or off site”

As noted in the Planning Committee’s report:

“CCBC Highways has requested the following highway improvements to be required by planning conditions or S106 Financial Planning Obligations:

- To alleviate traffic congestion around junctions of Marl Lane/Drive with A470 link.
- Contribution to TRO to ensure vehicles do not park on Marl Lane.
- **To widen footway to a footway/cycleway along Pentwyn Road towards Deganwy School and other local amenities.**
- To improve a section of footway on the route to Ysgol Awel y Mynydd”

Further,

“The **applicant considers that that there is no justification/need for the off-site highway improvements.** However, subject to the Council resolving to grant planning permission, given the overall shortfall of housing land and desire to progress development as soon as possible, **the applicant reluctantly agrees to make the following contributions:** Overall sum in relation to the schemes to be agreed, but limited to **£50,000** in total; full contribution in relation to second obligation subject to agreement from third party owner to allow works on their land.”

“The applicant is in discussion with CCBC Highways regarding the requested highway improvements and an update will be provided”...