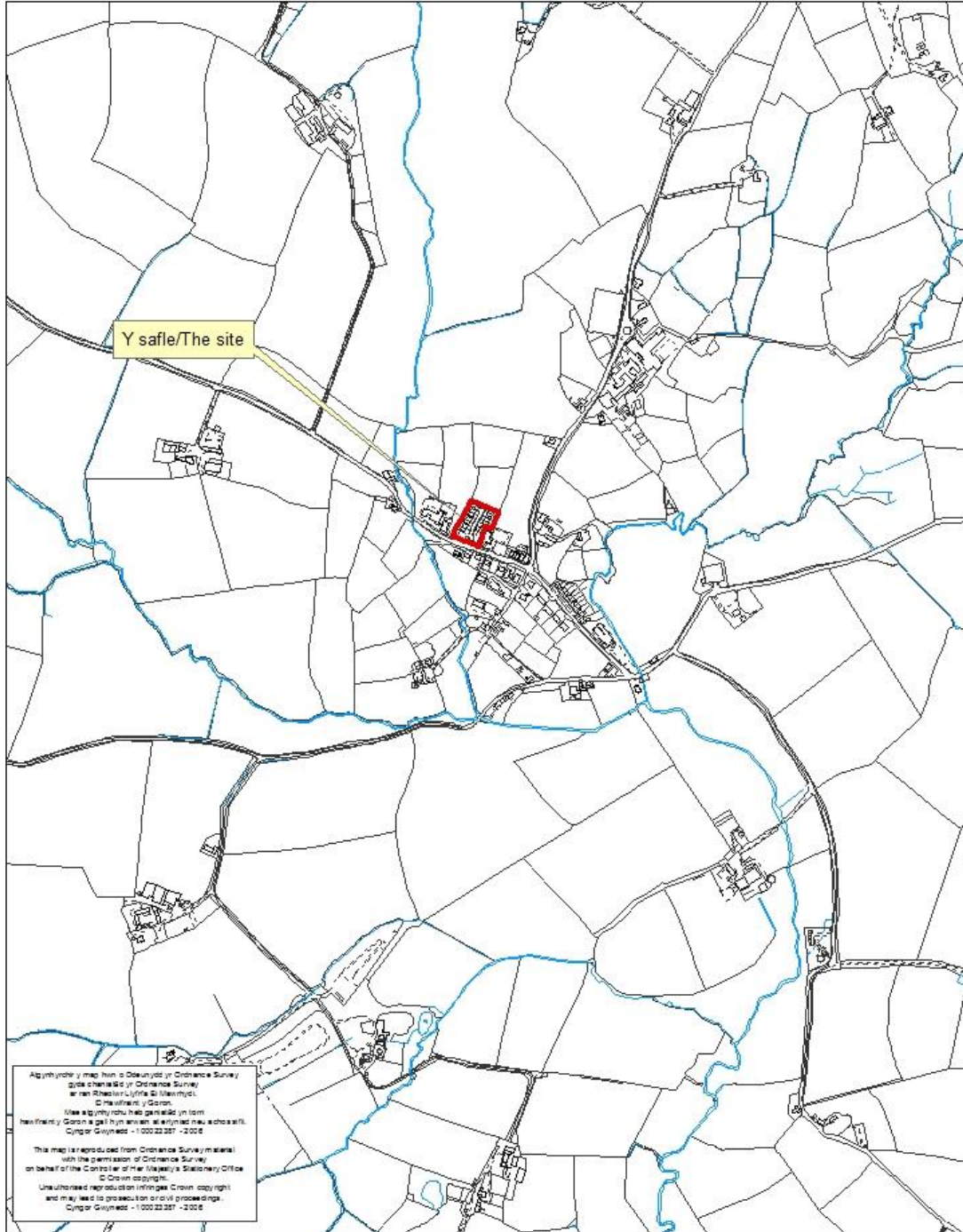


Number: 9



Rhif y Cais / Application Number : C15/0201/32/RC

Cynllun lleoliad ar gyfer adnabod y safle yn unig. Dim i raddfa.  
Location Plan for identification purposes only. Not to scale.



<b>PLANNING COMMITTEE</b>	<b>DATE: 18/05/2015</b>
<b>REPORT OF THE SENIOR PLANNING AND ENVIRONMENTAL SERVICE MANAGER</b>	<b>DOLGELLAU</b>

Application Number: C15/0201/32/RC  
Date Registered: 23/03/2015  
Application Type: Legal Obligation  
Community: Botwnnog  
Ward: Botwnnog

Proposal: DISCHARGE OF AFFORDABLE HOUSING 106 AGREEMENT  
Location: STAD CONGL MEINCIAU, BOTWNNOG, PWLLHELI, LL538RA

**Summary of the Recommendation:** TO APPROVE UNCONDITIONALLY

**1. Description:**

- 1.1 This is an application to discharge the 'affordable housing' 106 agreement on an estate of 12 houses in Congl Meinciau, Botwnnog approved under planning application C08D/0423/32/LL. The estate, which contains six three-bedroom two-storey semi-detached houses, was erected by private developers several years ago. The site is now in the ownership of the Grŵp Cynefin charitable housing association and it is controlled under the Local Allocation Policy of that association. The estate is located in the centre of the village of Botwnnog but outside the development boundary of the village.
- 1.2 The application is submitted to committee at the Local Councillor's request.

**2. Relevant Policies:**

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 2.1.2 of Planning Policy Wales emphasise that planning decisions should be in accordance with the Development Plan, unless material planning considerations indicate otherwise. Planning considerations include National Planning Policy and the Unitary Development Plan.

**2.2 Gwynedd Unitary Development Plan 2009:**

POLICY CH7 – AFFORDABLE HOUSING ON RURAL EXCEPTION SITES DIRECTLY ADJOINING THE BOUNDARIES OF VILLAGES AND LOCAL CENTRES – Permit affordable dwellings on rural sites directly adjoining the boundaries of Villages and Local Centres provided they conform to criteria relating to local need, affordability and impact on the form of the settlement.

A series of Supplementary Planning Guidance have been adopted by the Council. The following guidance is relevant to this application:

- Affordable housing
- Planning obligations

**2.3 National Policies:**

Planning Policy Wales – Edition 7 (July 2014)  
- Para. 9.2.14 – The community's need for affordable housing

Technical Advice Note (TAN) 2: Planning and Affordable Housing (2006)

Technical Advice Note (TAN) 6: Planning for Sustainable Rural Communities (2010)

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### 3. Relevant Planning History:

- 3.1 C08D/0423/32/LL Residential development of 12 local need affordable houses along with a shop and a flat above: Approved 12 February 2009

### 4. Consultations:

Community/Town Council:

Object to the application on the following grounds:

- a) As a legal agreement exists between Gwynedd Council and Grŵp Cynefin (formerly Cymdeithas Tai Eryri), should the application be approved, the agreement would depend entirely on the good will of Grŵp Cynefin rather than on a legal agreement.
- b) When the houses were built in Botwnnog, the intention was for the tenancies to go to people within the Communities First area and if no applications were made from these three Communities, then it would be extended to Dwyfor. Is it not a risk, if such an agreement does not exist, that we would see people from the Rhyl and Wrexham areas coming here? Certainly there is plenty of demand for housing locally.
- c) If the application is approved we could see the value of the houses increasing and they will be out of the reach of many local people. Note clause 1.13 of the Agreement of 6 February 2009, between Cymdeithas Tai Eryri and Gwynedd Council that “affordable price means the price that is at a discount of 20% less than the prevailing Open Market Value.” This factor itself restricts the right of the Group to sell on the open market, and therefore of assistance to the local people in order to be able to start to buy their own houses.
- ch) Note also clause 1.14 of the Agreement that “affordable rent means a level of rent inclusive of all service charges which does not exceed the level of rent and service paid by tenants of Registered Social Landlords for equivalent properties in the Community Council Area where the Red Land is situated or the nearest Community Council area where such properties are located.” This is again an important factor that should be kept as all the tenants, whether they be tenants of the local Council or Grŵp Cynefin, are treated in the same way. Therefore, given all the factors relating to this application, the Council wishes to strongly object to the approval of this application.

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Public Consultation:

A notice was posted on the site. The advertisement period will end on 5 May 2015, and the period had not ended at the time of preparing the report. One objection to the application was received on the grounds of:

- Important to ensure a supply of affordable housing for local people and that they remain affordable forever.
- Disagree with the applicant's reasons for discharging it
- Concern that Grŵp Cynefin could change its allocation policy which would mean that the houses could be allocated or sold to people outside Dwyfor.

**5. Assessment of the material planning considerations:**

5.1 The proposal involves discharging a 106 Agreement which secures affordable housing on an estate of 12 houses in Congl Meinciau, Botwnnog. The application is submitted by Grŵp Cynefin, which owns, lets and manages the estate.

5.2 In line with the information to hand, it is understood that Grŵp Cynefin is in the process of signing a new financial agreement to borrow £5million from Affordable Housing Finance (AHF) for funding new social/affordable housing developments. In order for the lenders to agree to release the money to Grŵp Cynefin, it must offer suitable property as security to them. The AHF is currently unhappy with the 106 agreement which is in force for the Congl Meinciau estate and therefore not willing to accept it as security as it is. Therefore, this application is made to ask to discharge the 106 agreement in order to secure the loan. It is not intended to sell the houses and it is emphasised in the statement that the Grŵp Cynefin local allocation policies will remain in force to control the future tenancy of the estate for those in community need for affordable housing.

5.3 The national guidelines related to planning obligations remain the same as when the application was originally approved in 2009, namely Circular 13/97 (Wales). It is noted that planning obligations, used appropriately, could allow applications that would otherwise be refused, to go ahead. However, such obligations should only be sought where it is necessary to make a proposal acceptable in planning terms. The circular notes five criteria that obligations should satisfy, namely:

- Relevance to planning;
- That it is necessary so that the proposal is acceptable in planning terms;
- That it is directly linked to the development;
- Relatively linked in terms of scale and size; and
- That it is reasonable in all other aspects.

It will be necessary to consider whether the obligation to bind these units to individuals in local community need for affordable housing satisfies the five criteria stated above.

5.4 The relevant legislation notes that an authority which receives an application to amend or discharge a planning obligation should consider whether that obligation serves a useful purpose in planning terms. The legislation does not state that the useful purpose must be the same as the original. It is therefore important to consider whether or not the planning circumstances have changed since granting the original planning consent.

5.5 The local planning policy background has not changed since the application was approved in 2009 and the Gwynedd Unitary Development Plan remains in force. The site is outside but adjoining the village development boundary, therefore the relevant policy is CH7 of the GUDP.

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Policy CH7 states that it is only affordable housing that can be considered on rural exception sites on the outskirts of villages. Twelve houses were approved in Congl Meinciau, namely six sets of semi-detached three-bedroom houses of the same size, approximately 106m<sup>2</sup>. These house sizes are within the size guidelines noted in the Supplementary Planning Guidance: Affordable Housing (November, 2009) and to all intents and purposes their size controls their future affordability. Their future size will be restricted through planning conditions, which have been imposed in order to withdraw some features of permitted development rights. Given the size, design and location of the development, along with the fact that it is controlled by a housing association, it is considered that these properties would actually be affordable even if no 106 Agreement was in place.

- 5.6 Several applications have recently been approved by the Planning Committee for new houses for housing associations in several places in Gwynedd such as two applications in Maesgeirchen, Bangor; Lôn Abererch, Pwllheli; Pendre Gardens, Tywyn and Y Wern, Felinheli. It is important to note that no request was made for Affordable Housing 106 Agreements on these because it was considered that the statutory regulations of the housing association and its allocation policies were adequate to control the tenancy/occupancy for those in local/community affordable need (as the 106 Agreements would also have ensured).
- 5.7 Criterion 4 of Policy CH7 of the GUDP requires assurance that adequate arrangements are in place to restrict the occupancy of any affordable house on the site initially and in perpetuity to those in general local need for an affordable house. In this case, Grŵp Cynefin provides rented social housing for local residents under its statutory responsibility and this is reflected in its Allocation Policy. The allocation policy in Congl Meinciau will not change as a result of the discharge of the agreement, and the housing association will continue to assess tenants based on their needs, namely that they have had links with the local community for ten years and against its points system. Priority will be given to housing those in community need with the biggest housing needs, and extend to the neighbouring area if necessary. Given that an allocation policy is in force, it could be argued therefore that the affordable housing 106 Agreement is unnecessary as appropriate and satisfactory arrangements are in place to restrict occupancy, in accordance with criterion 4 of policy CH7 of the GUDP.
- 5.8 It is understood from Grŵp Cynefin that it is not intended to sell the houses and therefore they will continue as affordable rented houses. In addition, the size and location of the development will restrict the open market value of the properties.
- 5.9 Based on the information to hand, including the Grŵp Cynefin Local Allocation Policy and the explanation provided, along with the planning history and the fact that new housing association applications do not include 106 agreements, it is not considered that the obligation which is the subject of this application has any useful planning purpose regarding current policies any longer and that it is possible to achieve this through the Grŵp Cynefin policy itself.

## 6. Conclusions:

Given the above, it is not considered that the affordable housing 106 Agreement is now necessary in terms of the five criteria noted in Circular 13/97 as the statutory allocation arrangements of Grŵp Cynefin duplicate this and are adequate to ensure that the houses will be affordable in the future.

## 7. Recommendation:

To approve the application unconditionally.