PLANNING STATEMENT APPENDICES

Prepared on behalf of Harworth Estates Investments Ltd

in support of an

Outline Planning Application

for the

Proposed phased residential development for the construction of up to 900 residential dwellings with associated infrastructure (playing fields, open space and SUDs attenuation) with all matters reserved except for detailed means of primary highway access

to Wrexham County Borough Council

Land off Cefn Road, Erlas Park, Wrexham, LL13 9TT

May 2025

Ref. J10-HE-PSA-RevC

J10 Planning Limited
2 Wrexham Road Chester CH4 7QR
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APPENDICES

A : Pre-Application Planning Guidance

B : EIA Scoping Response

C : Draft s106 Heads of Terms

D : SoCG for KSS2

E : Green Wedge Review extract

F : Relevant Caselaw

APPENDIX A

Pre-Application Planning Guidance

Wrexham County Borough Council / Cyngor Bwrdeistref Sirol Wrecsam
Guildhall, Wrexham. LL11 1AY
Neuadd y Dref, Wrecsam. LL11 1AY
DX: 721924 - Wrexham 4
www.wrexham.gov.uk www.wrecsam.gov.uk

wrexham
COUNTY BOROUGH COUNCIL
CYNGOR BWRDEISTREF SIROL
wrecsam

J10 PLANNING LTD

Your Ref/Eich Cyf	
Our Ref/Ein Cyf	ENQ/2021 /0324
Date/Dyddiad	10/06/2022
Ask for/Gofynner am	Matthew Phillips
Direct Dial/Rhif Union	01978 298780
E-mail/E-bost	matthew.phillips@wrexham.gov.uk

Dear Sir,

Town and Country Planning Act 1990

RESIDENTIAL DEVELOPMENT
LAND AT ERLAS PARK CEFN ROAD, , WREXHAM.

I refer to your recent enquiry in respect of the above. I apologise for the delay in responding.

NATIONAL PLANNING POLICY:

Planning Policy Wales Edition 10

Technical Advice Note 2: Planning and Affordable Housing
Technical Advice Note 5: Nature Conservation and Planning
Technical Advice Note 12: Design
Technical Advice Note 16: Sport, Recreation and Open Space
Technical Advice Note 18: Transport

DEVELOPMENT PLAN

Wrexham Unitary Development Plan

Strategic Polices

Policy PS1 Strategic Policy
Policy PS2 Strategic Policy

Specific Policies

Policy GDP1 Development Objectives
Policy GDP2 Capacity of Infrastructure and Community Facilities
Policy EC1 Green Barriers

Rydym yn croesawu gohebiaeth yn Gymraeg.
Byddwn yn ymateb i unrhyw ohebiaeth yn Gymraeg ac ni fydd hyn yn arwain at unrhyw oedi.

We welcome correspondence in Welsh.
We will respond to any correspondence in Welsh and this will not lead to any delay.

Policy EC2 Agricultural Land
Policy EC4 Hedgerow, Trees and Woodland
Policy EC6 Biodiversity Conservation.
Policy H5 Housing in the Countryside
Policy H7 Affordable Housing
Policy CLF4 Playing Fields, Children's Play Areas and Open Space
Policy CLF5 Open Space Requirements from new Residential Developments
Policy CLF6 Informal Recreation
Policy T8 Parking
Policy MW9 Protection of Mineral Resources

Local Development Plan

Strategic Policies

Policy SP1 Housing Provision
Policy SP2 Location of Development
Policy SP3 Key Strategic Housing Sites
Policy SP5 KSS2
Policy SP6 Planning Obligations
Policy SP8 Wrexham town
Policy SP12 Transport and Accessibility
Policy SP13 Design Principles and Masterplanning Framework
Policy SP14 Health and Wellbeing
Policy SP15 Natural Environment
Policy SP17 Minerals Supply and Safeguarding
Policy SP19 Climate Change
Policy SP20 Green Infrastructure

Topic, Criteria and Area Based Policies

Policy DM1 Development Management Considerations
Policy NE3 Trees, Woodlands and Hedgerows
Policy NE6 Waste Water Treatment and River Quality
Policy H1 Housing Allocations
Policy T1 Managing Transport Impacts
Policy T2 Active Travel
Policy CF1 Protection of Existing Open Space, Sport and Recreation Facilities
Policy CF2 Provision of New Open Space
Policy MW1 Minerals Safeguarding
Policy MW5 Sustainable Waste Management
Policy RE1 Development and Renewable Energy/Low Carbon Technology

LOCAL PLANNING GUIDANCE NOTES (LPGN)

LPGN10 Public Open Space in New Housing Development

LPGN16 Parking Standards

LPGN17 Trees and Development

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LPGN21 Spare Around Dwellings

LPGN30 Design

RELEVANT PLANNING HISTORY

Enquiry Site

CB02716 Use of lands for playing field development of eight pitches for Morgan Llwyd Welsh Secondary School. Granted 8.2.1999

Wider KSS2 site

P/2019/0005 OUTLINE APPLICATION FOR THE CONSTRUCTION OF UP TO 600 DWELLINGS, WITH ASSOCIATED LANDSCAPING, PUBLIC OPEN SPACE AND ON-SITE INFRASTRUCTURE, WITH ALL MATTERS RESERVED EXCEPT FROM THE NORTHERN SITE ACCESS. Refused 27.7.2020. Appeal pending.

P/2021/0436 OUTLINE APPLICATION FOR THE CONSTRUCTION OF UP TO 600 DWELLINGS, WITH ASSOCIATED LANDSCAPING, PUBLIC OPEN SPACE AND ON-SITE INFRASTRUCTURE, WITH ALL MATTERS RESERVED EXCEPT FROM THE NORTHERN SITE ACCESS. Pending

VALIDATION INFORMATION

Application form

Pre-application consultation report

Ecology assessment(s)

Arboricultural Impact Assessment

Location Plan

Block Plan

Floor plans and elevation plans (in the case of proposals for full permission)

Masterplan, including upper and lower length width and height of proposed dwellings (in the case of proposals for outline permission)

Application fee.

OTHER SUPPORTING INFORMATION

The following reports are considered necessary to assist with the consideration of any formal planning application(s) submitted for the proposals subject to the enquiry:

Existing and proposed ground levels and finished floor levels

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Detailed landscape scheme

Landscape and Visual Impact Assessment (LVIA)

Transport Impact Assessment

PLANNING OBLIGATION REQUIREMENTS

These are set out in Policy SP5 of the emerging LDP. In addition, a planning obligation will need to secure mitigation for phosphorous generated by the development. Contributions towards secondary school provision may also be needed.

VIEWS OF OFFICER

Principle of development: The site lies outside of the settlement limit of Wrexham and is situated within a Green Barrier as defined in the UDP. It also contains Best and Most Versatile (BMV) agricultural land. Given the site area and number of units proposed the development does not accord with policy H5, which only permits small scale residential development on sites outside of settlement limits by way of subdivision, conversion, infill, affordable housing adjacent to settlement limits and to house rural enterprise workers. The proposals therefore conflicts with that policy as well as PS1, EC1 and EC2.

It is acknowledged that the site forms part of the proposed Key Strategic Site 2 allocation in the forthcoming Local Development Plan (LDP). The LDP is still subject to Examination in Public (EiP), albeit is now at an advanced stage with the Council having recently commenced Matters Arising Changes consultation. Nevertheless as paragraph 9.4.8 of the Development Management Manual (DMM) the content of an LDP will only be achieved when LDP Inspectors delivers their binding report, which will take place following the completion of an Examination in Public (EiP). Paragraph 9.4.9 of the DMM does however acknowledge that the evidence underpinning an emerging LDP could be used as a material consideration when making planning decisions.

Should a formal application be submitted prior to the LDP having been formally adopted, the UDP will still need to be taken into account when considering the proposals.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the development plan in force in the area unless material considerations indicate otherwise. The relevance of other material considerations will be discussed in more detail below.

Green Barrier: The UDP designation of Green Barriers is consistent with the Green Wedges referred to in Planning Policy Wales (PPW). Paragraph 3.75 of PPW advises that the construction of new buildings is inappropriate development unless it is for the following purposes:

- justified rural enterprise needs;
- essential facilities for outdoor sport and outdoor recreation, cemeteries, and other uses of land which maintain the openness of the green wedge and which do not conflict with the purpose of including land within it;
- limited extension, alteration or replacement of existing dwellings; or
- small scale diversification within farm complexes where this is run as part of the farm business.

None of the above applies to this proposal and it is therefore inappropriate development for a site located within Green Barrier/Wedge. The development will inevitably result in a significant loss of openness. PPW paragraph 3.74 advises that inappropriate development should not be permitted within Green Wedges except in very exceptional circumstances where other considerations clearly outweigh the harm it would do to the Green Wedge.

Green Barriers/Wedges do not have the permanence of a Green Belt (there are currently no designated Green Belts in Wrexham) and should be reviewed as part of the development plan process. The existing Green Barrier designations have been reviewed (Strategic Green Wedge Review October 2017) as part of the process of preparing Wrexham's Local Development Plan. The site froms part of the proposed Key Strategic Site 2 allocation and would therefore not sit within the Green Wedge.

Exceptional Circumstances:

Housing Land Supply

The delivery of housing in the Country Borough is monitored using the Average Annual Requirement (AAR) as set out in a Local Development Plan. Despite the changes to national policy, housing delivery remains an important material consideration. This is evidenced by the advice in the amended paragraph 4.2.11 of PPW11 that a review of an LDP may prompted by an under delivery of housing.

Whist the UDP remains the operational development plan for the County Borough, the Plan period expired in 2011 with much of the evidence underpinning it now being at least 20 years old. The UDP strategy, including settlement limits and Green Barriers, are therefore fundamentally out of date and although being a starting point for the consideration of planning applications can no longer be afforded full weight.
The LDP identifies a requirement for 7,750 homes to be built over the 2013-2028 period. The Council has not been given any indication that LDP Inspectors consider this to be too high and no changes to the this requirement are proposed in the MACs currently subject to formal consultation. It is therefore considered unlikely that the LDP Inspectors will seek to impose a lower housing requirement.

The need to deliver 7750 homes by 2028 equates to an annual average requirement (AAR) for 517 dwellings over the whole Plan period. The actual rate of completions over the 2013-2019 period has been around half this on average. This amounts to a persistent and considerable undersupply of housing. This can only be addressed by additional land being brought forward for development and it is clear this will require a considerable release of land outside of settlement limits.

As already noted above, the site forms part of the proposed LDP allocation Key Strategic Site 2 (KSS2). Taking the site and the remainder of KSS2 separately, 14 of the LDP allocations are situated outside of UDP settlement limits and 10 lie within the UDP Green Barrier. These 14 sites are expected to deliver a significant element of the total LDP housing requirement as are indeed sites located in the UDP Green Barrier

Since 2013, greenfield sites that are not proposed for allocation in the LDP (including land in the Green Barrier) have already been developed, are in the process of being developed or have extant planning permissions. When these sites are taken into account then around half of the housing requirement will be met by sites outside of UDP settlement limits.

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The LDP identifies KSS2 as having the capacity to deliver 1,680 dwellings of which 1,580 are expected to be delivered over the plan period up to 2028. KSS2 is fundamental to the delivery of the LDP, accounting for 20% of the identified housing requirement and nearly half of the houses expected to be delivered from allocated sites.

Whilst the proposed development will develop only part of the KSS2 allocation, it will nevertheless make a significant contribution to meeting the LDP's housing requirement. This factor weighs significant in favour of the proposals.

Location of Development

Planning Policy Wales advises that new housing development should be directed to areas which are, or can be, easily reached by walking or cycling, and are well served by public transport.

LDP Background Paper BP02b: Settlement Hierarchy and Development Potential (BP02b) identifies settlements in Wrexham as falling within one of 5 tiers based on an assessment of the availability of employment, local services and accessibility by non-car modes:

Tier 1: Primary Settlement
Tier 2: Key Settlement
Tier 3: Local Service Centres
Tier 4: Minor Villages
Tier 5: Hamlets.

The application site is effectively an urban extension to Wrexham. Wrexham is identified as a Tier 1 Primary Settlement, or a settlement which has a critical role to play in the success of the region and which acts as an important local service and employment centre for surrounding settlements and rural hinterlands. This reflects the fact that it is a regionally important town with a high level of service provision and connectivity (i.e. good transport links). For this reason, it is the most appropriate location for strategically important housing developments.

Relationship between Wrexham and the Wrexham Industrial Estate

The site will project into the countryside approximately 1km metres beyond the existing settlement limit. This will inevitably result in a significant loss of openness within the site and will encroach into an area of land that separates Wrexham from the Wrexham Industrial Estate. Despite this, the site is separated from the settlement limit of the Industrial Estate by a gap of 0.9km. The landscape separating the site from the Industrial Estate is dominated by open fields, hedgerows and areas of woodland. Clays Golf Course also occupies a large area of land. The amount of existing built development is comparatively limited, consisting of small groups of buildings typical to a rural landscape.

Regardless of whether the development is considered in isolation or in the context of KSS2 as a whole, it will not result in the coalescence of or the blurring of the distinction between Wrexham or the Wrexham Industrial Estate.

Affordable Housing: UDP policy H7 and Local Planning Guidance Note 28 apply a uniform housing requirement across the County Borough for 25% of dwellings to be affordable on developments of 25 or more dwellings.

The forthcoming Local Development Plan policy H2 will take a different approach by applying a requirement to different areas of the County Borough reflecting variations in viability. The site will

sit in an area where the Wrexham Viability Study (2019) recommends that a 30% affordable housing requirement is likely to be viable, It is however acknowledged that the Wrexham Viability Study (2019) does not apply to KSS2. Acknowledging that KSS2 is expected to deliver necessary infrastructure including a new primary school and a new spine road connecting the A5156/A534 Holt Road roundabout with Cefn Road an affordable housing requirement of 20% for the site will applied. The tenure split of the affordable housing provided on site should accord with the need identified in the Local Housing Market Assessment Updated (2017).

Agricultural Land: The Welsh Government's Predictive Agrilcultural Land Classification Map identifies the site as containing a mix of Grade 2, Grade 3a, Grade 3b land as well as areas of non-agricultural land. The majority of the site comprises of Grade 2 land. The development will result in the loss of Best and Most Versatile (BMV) land and therefore policy EC2 and Planning Policy Wales paragraphs 3.58 and 3.59 are applicable.

Paragraph 3.59 of PPW advises that BMV land should only be developed where there is an overriding need for the development and either previously developed land or land in low is unavailable, or subject to other constraints that outweighs the agricultural considerations. Where BMV land needs to be developed and there is a choice of land available, PPW11 advises that development should be directed to land of the lowest grade.

Your attention is drawn to the fact that the Welsh Government Department for Environment, Energy and Rural Affairs issued a conditional objection to applications P/2019/0005 and P/2021/0436. Whilst the loss of BMV land has been given detailed consideration during the preparation of the LDP the Department's objection was issued due to the LDP having not yet been adopted. Their objection would be withdrawn upon adoption of the LDP. It is anticipated that their position would be the same for the proposals subject to this enquiry.

Notwithstanding the above, it is clear from the evidence discussed earlier that there is an overriding need for land to come forward for development to deliver the LDP's housing requirements. It is also evident that meeting the housing requirement is heavily reliant upon the release of greenfield sites. The decision to propose the allocation of KSS2 and indeed other LDP housing sites has been undertaken within the context of a substantial evidence base. This indicates that the housing requirements cannot be met without the loss of such BMV land, indeed all of the LDP housing allocations located outside of UDP settlement limits contain at least some BMV land. This is a consideration that has been factored into the relevant Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA) processes. It is therefore considered that the loss of BMV land would not, in this instance, be a valid reason to refuse planning permission.

Access and Highways: Paragraph 4.1.12 of PPW requires the sustainable transport hierarchy to be applied to reduce the need to travel, prevent car dependant developments in unsustainable locations and to prioritise access and movement by active and sustainable transport. The sustainable transport hierarchy promotes walking and cycling, then public transport ahead of private motor vehicles.

The site adjoins Wrexham, which as discussed above is a Tier 1 settlement, reflecting the fact that the town has good transport links. There are local needs retail, primary and secondary schools all within 2km and therefore walking distance of the site. The development will however need to ensure provision for safe means of crossing Cefn Road, particularly to access Ysgol Morgan Llwyn as well as to encourage walking to other services and facilities in the locality.

Journeys of up to 5km are generally accepted as being ones where cycling has the potential to replace short car journeys. Wrexham town centre lies within 5km of the site as does much of

Wrexham Industrial Estate via Bryn Estyn Road. The site is therefore well located to encourage cycling over the use of private cars for certain trips.

Measures to support/promote walking and cycling should be included within a Transport Assessment. The layout of the proposed development should encourage walking and cycling.

Highway modelling work was commissioned in 2019 jointly by the Council and the promotors of the KSS2 site, including the applicants and submitted as evidence to the LDP EiP. The modelling work took account of the potential implications of delivering KSS3 (i.e. the proposed extension to Wrexham Industrial Estate). The work already undertaken should be taken into account by any Transport Assessment accompanying the development.

The modelling work assessed measures that would be required to mitigate for the traffic growth likely to arise from both KSS2 and KSS3. Mitigation is identified as being required in the following cases:

Mitigation	**Timing**
Signalisation of the A534/Blackwood Way roundabout as well as an additional 100m long west-bound approach lane and an additional circulatory lane on the southern quadrant of the A5156/A534/Holt Road roundabout	Required when 710 dwellings are occupied on KSS2, assumed to be 250 dwellings on the northern part of KSS2 and 460 dwellings on the southern part and approximately half of KSS3 has been developed.
Spine road through KSS2 from the A5156/A534 Holt Road to Cefn Road	Required for the number of dwellings occupied in KSS2 to exceed 710, again assumed to be 250 dwellings on the northern part of KSS2 and 460 on the southern part..
An additional 100m long south bound approach lane, additional circulatory lane on the northern quadrant and signalisation of the A5156/A534/Holt Road	Required when the remainder of KSS2 is built out and for KSS3 to be fully developed.

The modelling work acknowledges that there will be some additional queuing at the Greyhound Roundabout when the number of dwellings on KSS2 reaches 710, but this does not result in concerns over the performance of the highway network.

The delivery of the spine road through KSS2 is key to enabling the full site to be developed, whilst also mitigating for the impact of traffic generated by the development once the number of dwellings exceeds 710. A number of potential routes for the spine road have been considered however a final option has not been selected. This is a matter that will need further discussion between the promotors of all parts of the KSS2 site, the Council and potentially third party landowners.

Primary School: It is noted that the masterplan makes provisions for a 2ha site for a proposed school. The location of the school is broadly acceptable and sufficient land has been identified for it.

LDP policy SP5, the proposed school would appear to be on land currently in use as playing fields thus reducing the overall provision below the 6.5ha referred to in the policy. Conformation as to the total area of the retained sports pitches is therefore necessary to ensure that adequate provision is retained to serve both the primary school and Ysgol Morgan Llwyd.

Open Space: In respect of the proposed phase 1 whilst the on-site open space provision appears to be broadly acceptable in terms of the layout and relationship with proposed dwellings there appears to be no provision for formal recreation, such as children's play areas. Furthermore the areas of open space appear to be documented by surface water drainage infrastructure. Whilst there is no objection in principle to such provision being made within areas of open space, in this instance the provision appears to be at the expense of both formal and informal recreation, including walking and cycling. The open space areas would also benefit from greater connectively with each other, particularly on Phase 1 (south).

Ecology: The application will need to be accompanied by an ecology assessment and, if necessary, mitigation. In addition paragraph 6.4.5 of Planning Policy Wales 11 requires development to provide net benefit to biodiversity. The plans and supporting details submitted with the application will need to set out in detail how this will be achieved. Long term management of habitat mitigation and provision to deliver net benefit to biodiversity will need to be secured by way of a Planning Obligation.

Hedgerows and trees: There are a number of hedgerows within the site that coincide with field boundaries. There are also mature trees within the site – most being found within the hedgerows. The indicative plan suggests that there is sufficient scope to incorporate many of the existing hedgerows and trees into the site layout, with the provision of public open space providing an opportunity for compensatory planting where hedgerow and/or trees are lost. This is a matter that will be given further consideration when approval for layout and landscaping is sought at reserved matters stage. It would however be appropriate to impose a condition to secure an arboricultural method statement so that protection measures are put in place during construction works to minimise the risk of damage to hedgerows and trees that are retained.

Minerals: The site is subject to UDP policy MW9 which applies to areas where there are potentially exploitable mineral reserves. The policy states that non-mineral development will not be permitted unless it has been demonstrated that no exploitable mineral reserves existing within the site. Where a development materially prejudices mineral resources, the policy requires provision to be made for prior removal of the mineral resources.

Whilst the site is proposed for allocation in the LDP, paragraph 5.29 of the Deposit Plan states that for the to KSS allocations '*a Prior Extraction Assessment will be sought in accordance with policy MW1 as it is considered that any opportunities to recover mineral prior to housing development should be sought on both sites'.*

Policy MW1 of the LDP seeks to protect potentially exploitable mineral resources and therefore states that non-mineral development will only be supported where:

i. The mineral underlying the site does not merit extraction, or
ii. The need for the non-mineral development outweighs the need to protect the resource, or
iii. The mineral can be satisfactorily extracted prior to the non-mineral development, or
iv. The development is of a temporary nature or can be removed within the timescales within which the mineral is likely to be needed, and

v. Essential infrastructure that supports the supply of minerals would not be compromised or would be provided elsewhere.

A formal planning application will need to be accompanied by a detailed assessment of the minerals reserves within the site and opportunities for prior extraction.

Phosphorous: Wrexham town is served by mains drains that connect to the Five Fords wastewater treatment works (WwTW). This has provision to remove a percentage of phosphates from wastewater and consents to discharge treated water into adjacent watercourses (and therefore indirectly into the River Dee), subject to specific limits on the amount of phosphate within the treated water.

Whilst the WwTW is currently operating within its consented limits, the existing discharge consent is around 10 years old and pre-date recent case law, and as such need to be reviewed using new data and specially developed models. This work is being undertaken NRW and Welsh Water. Furthermore whilst the existing provisions in place at the WwTW removes a proportion of phosphate from waste water, a residual amount remains. Development that increases foul water flows to the WwTW will therefore also result in an increase in phosphate discharges into the SAC.

The proposed development will increase foul water flows to the WsTW by way of foul water generated and therefore, in the absence of adequate mitigation, phosphorus levels in the SAC. The applicants will therefore need to identify and deliver a scheme or schemes of mitigation in order for a formal planning application to be supported. Such measures would need to be secured by way of a Planning Obligation.

CONCLUSION

The proposals represent a significant departure from adopted UDP policies, however I recognise that the emerging LDP as well as evidence that underpins it supports the site. On balance I consider the evidence does support the site being brought forward for development. Nevertheless there are a number of detailed and technical matters that would need to be addressed. I would be happy to discuss these matters further.

Yours faithfully,

Ian Jones

Prif Swyddog Cynllunio a Rheoleiddio Dros Dro

Interim Chief Officer Planning & Regulatory

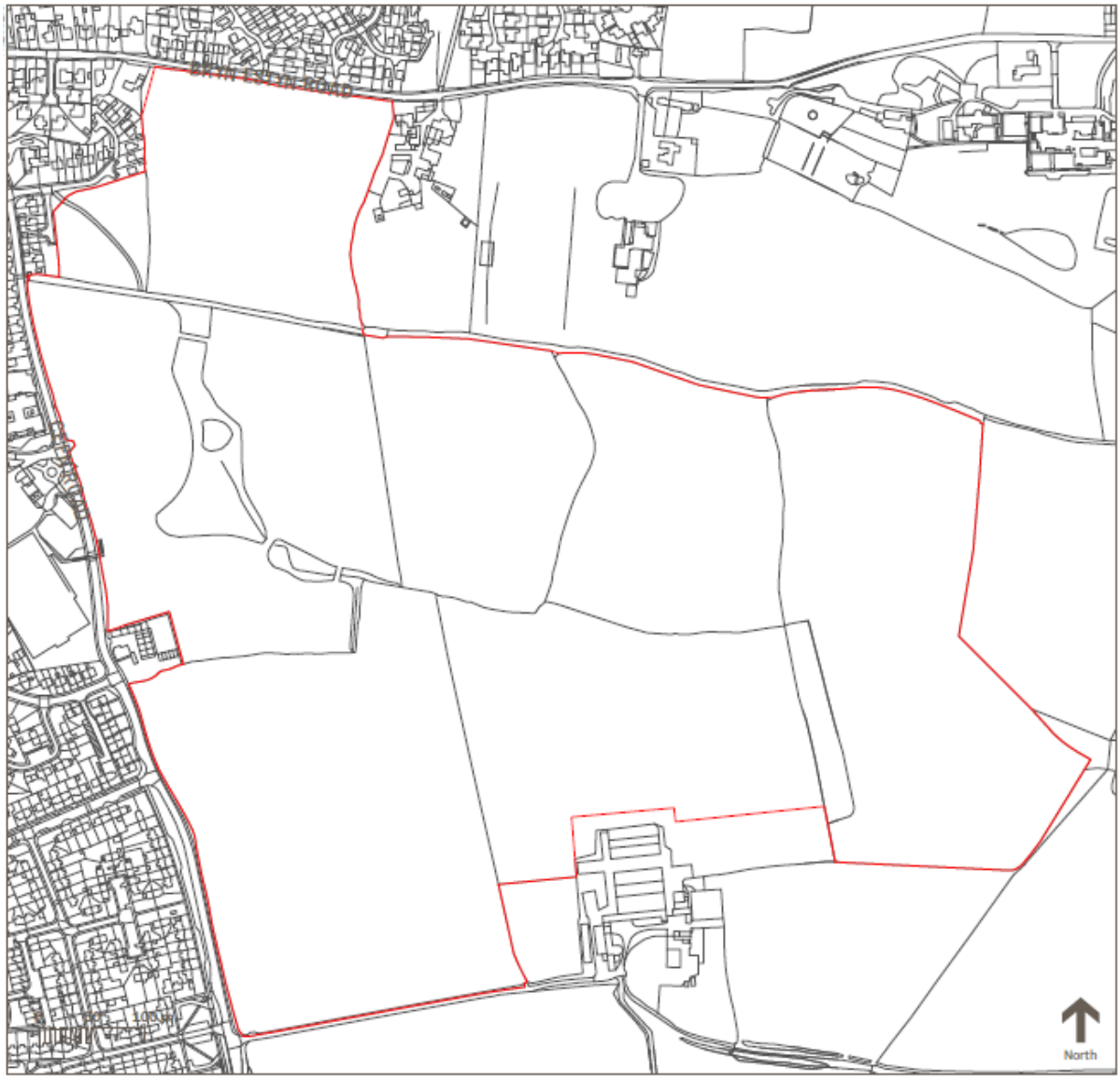
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APPENDIX B

EIA Scoping Response

THE SITE



PROPOSAL

Residential development of up to 900 dwellings.

CONSULTATIONS

In accordance with the requirements of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 consultations have been undertaken with the following:

- WCBC Highways
- WCBC Public Protection
- Welsh Water
- NRW
- Welsh Government (Trunk Roads)

- Welsh Government (Department for Climate Change)
- Cadw
- CPAT

MATTERS TO BE INCLUDED WITHIN THE ENVIRONMENTAL STATEMENT

Agricultural Land: Based on the Welsh Government's predictive Agricultural Land Classification Map the site contains Grade 2, Grade 3a (both being BMV Land, which is a high quality scarce resource) and Grade 3b as well as non-agricultural land.

The majority site is allocated for development in the adopted Local Development Plan (LDP) as part of Key Strategic Site 2. BMV land was a key consideration throughout the Local Development Plan Sustainability Appraisal and site selection process. Sites have only been allocated for residential development where there is an overriding need for development, and either previously development land or land in lower grades is unavailable. However it is also noted that the site boundary includes land that falls outside of the LDP allocation. The proposed development would therefore result in the loss of additional BMV land that was not considered by the LDP Sustainability Appraisal.

The Department for Climate Change has advised they have no comments on the EIA Scoping Opinion, however given the magnitude of the loss of BMV land and the loss of BMV land outside of the proposed housing allocation, this is a matter that should fall within the scope of the Environmental Statement.

Minerals: A Mineral Safeguarding Assessment has identified that the site is likely to be underlain by sand and gravel deposits.

High quality minerals are a scarce resource, as indeed recognised by LDP policies as well as PPW11 paragraph 5.14.7. Paragraph 3.31 of the LDP also advises that policy MW1: Minerals Safeguarding is applicable to Key Strategic Site 2, which this site forms an integral part of.

In light of this, the permanent sterilisation of minerals underlying the site as well as the potential sterilisation of minerals on adjoining land as a result of a buffer zone is considered to be a significant environmental impact. This matter therefore should fall within the scope of the Environmental Statement.

Nature and Ecology – Impact on River Dee and Bala Lake SAC: Welsh Water have advised that there is unlikely to sufficient capacity to accommodate the proposed development in regard to the protection of the environment. In light of this, development has the potential to have an adverse impact on the River Dee and Bala Lake SAC.

The capacity of the foul sewer network to accommodate foul water flows is a matter which could be assessed further by way of a hydraulic modelling assessment. However in light of the matters discussed above, the potential impacts upon the SAC constitute significant environmental impacts and therefore should be included within the scope of the Environmental Statement

MATTERS TO BE EXCLUDED FROM THE SCOPE OF THE ENVIRONMENTAL STATEMENT

Landscape and Visual: The site is not located within any statutory or local landscape designations. The proposed development would have a significant urbanising effect. However when considered in the context of its edge of urban location, the effect n the wider locality is not considered to be significant in EIA terms.

Whilst a formal application would need to be accompanied by a Landscape and Visual Impact Assessment, this is not a matter that needs to be included within the scope of the Environmental Statement.

Cultural Heritage: The responses from Cadw and CPAT have commented on EIA Scoping Report. The latter has advised that Cultural Heritage should be included within the scope of the Environmental Statement. The former has advised on the historic assets that should considered in any assessment of likely impacts arising from the development.

Whilst noting the consultation responses received, there are no Scheduled Monuments, Historic Parks and Gardens, Listed Buildings or Conservation Areas within the site. There are also none within the immediate vicinity of the site, with the nearest (Cefn Mark Lodge, Grade II Listed) being approximately 120 metres from the site boundary.

Whilst it may be appropriate for a Heritage Impact Assessment to be undertaken, it is considered that Cultural Heritage is not a matter that needs to be included within the scope of the Environment Statement.

Transport and Access: The proposed development has the potential to add considerable additional traffic to the local road network as well as to Junction 6 of the A483, particularly at peak times. However, the impacts arising from traffic generated by the development are likely to be relatively local in extent.

A formal planning application would need to be accompanied by a Traffic Impact Assessment. Measures to promote non-car modes of transport should also be considered, including promoting the use of an access to public transport and measures to promote walking and cycling. It is expected that these could be secured both through layout of the site as well as planning conditions and/or Planning Obligation.

The traffic impacts associated with the development are considered unlikely to be significant in EIA terms and therefore do not need to be included within the scope of the Environmental Statement.

Air Quality: The development has the potential to have an impact on local air quality both during construction and when completed. However, the impact on air quality, notably from traffic, it likely to be relatively localised in extent and therefore not significant in EIA terms. Whilst a formal planning application should be accompanied

by an Air Quality Assessment, this matter does not need to be included within the scope of the Environmental Statement.

Noise and Vibration: The development has the potential to give rise to noise and vibration during construction. Traffic generated by the development would also be a potential source of noise when the proposed dwellings are occupied. However, noise and vibration impacts are likely to be relatively localised in extent and therefore not significant in EIA terms. Whilst a formal planning application should be accompanied by Noise and Vibration Impact Assessment, this matter does not need to be included within the scope of the Environmental Statement.

Flood Risk and Drainage: No. The site is located in a Zone A on the Development Advice Map for Planning. No part of the site is subject to Zone 2 or 3 on the Flood Map for Planning.

The development has the potential to increase surface water run-off however there will be a statutory requirement for SAB approval for measures to manage this. The effects will be localised to the site and immediate surroundings and not significant in EIA terms. Flood risk and surface water drainage are not matters that need to be included within the scope of the Environmental Statement.

Nature and Ecology – Excluding Impact on River Dee and Bala Lake SAC: The consultation response from NRW is noted. Given the significant distances to the protected sites it is unclear why NRW have suggested that consideration of these matters should be included within the scope of the Environmental Statement.

There are no statutory or not statutory nature conservation sites within close proximity of the site.

The site has the potential to provide habitats for statutory protected species. However subject to the site being subject to appropriate ecology surveys and detailed consideration to avoiding or minimising impacts being given, the development is unlikely to effects on statutory protected species that are significant in EIA terms.

CONCLUSIONS

The following matters should be included within the scope of the Environmental Statement:

The following matters do not need to be included within the scope of the Environmental Statement:

- Landscape and Visual
- Cultural Heritage
- Transport and Access
- Air Quality

- Noise and Vibration
- Flood Risk and Drainage
- Nature and Ecology – Excluding Impact on River Dee and Bala Lake SAC

RECOMMENDATION

That a Scoping Opinion is adopted requiring the following matters to be included within the scope of the Environmental Statement:

- Agricultural Land
- Minerals
- Nature and Ecology – Impact on River Dee and Bala Lake SAC

Name and Job Title of Assessor	Matthew Phillips, Head of Planning Development Management
Date of Assessment	
Name and Job Title of Authorising Officer	David Fitzsimon, Chief Officer Economy and Planning
Signature of Authorising Officer	
Date	23/02/24

APPENDIX C

Draft s106 Heads of Terms

Land off Cefn Road, Erlas Park, Wrexham, LL13 9TT

DRAFT s106 Heads of Terms

Document Ref : J10-HE-HOTS-RevD

13 May 2025

Introduction

These draft s106 Heads of Terms have been prepared by the applicant (Harworth Estates Investments Ltd) to support an outline planning application at land off Cefn Road, Erlas Park, Wrexham for the:

> *"Proposed phased residential development for the construction of up to 900 residential dwellings with associated infrastructure (playing fields, open space and SUDs attenuation) with all matters reserved except for detailed means of primary highway access"*

It is anticipated that the following matters will be addressed through a Section 106 Legal Agreement, where it meets the tests of Regulation 122 of the CIL Regulations 2010.

The contributions below are in draft and their detail will be agreed with the Local Planning Authority during the determination of the planning application.

Policy Background

Contributions serve to follow the ambitions of the adopted Wrexham Local Development Plan ***Policy SP4*** *which seeks phased infrastructure and affordable housing on the following basis:*

Necessary Infrastructure:

- *Highway improvements to address known infrastructure capacity constraints at the Greyhound roundabout;*
- *Ensuring connectivity between the land north and south of Bryn Estyn Road;*
- *Education: on site provision of a 420 place primary school, contributions towards secondary provision in the vicinity of the site and the retention of existing (65,393 m²) of playing fields for Ysgol Morgan Llwyd;*
- *Public open space;*
- *Community and leisure facilities, including the retention of the Erlas Victorian Walled Garden;*
- *Active Travel; and*
- *Public transport.*

Affordable Housing:

- *The starting point for negotiation will be the delivery of 20% affordable housing.*
- *Affordable housing will be expected to be delivered on site in the first instance and only in exceptional circumstances will off site or commuted sum contributions be accepted in lieu of on-site provision.*

The LDP therefore envisages that the entirety of KSS2 (and KSS3 Policy SP10) will fund the list of infrastructure required by Policy SP4. The applicant is committed to ensuring their application will cover its proportion.

A Statement of Common Ground (SoCG002) and its Appendix 1 "Infrastructure Contributions Model" was agreed between the Council and the development partners inviolved in delivering the KSS2 site back in September 2019 as part of the emerging LDP.

This identified a Pro-Rata and proportionate method of provision according to unit numbers. A percentage split between Bloor/Barratt, Harworth and MD Developments was tabled, but it is proposed that a better approach is to simply adopt a roof tariff so that each Reserved Matters application that comes forward pays a sum per unit permitted for Education, Highway spine road link and off-site Highway Improvement contributions.

In the event that, during the course of the planning application, evidence is presented that suggests that there is a need for additional physical infrastructure or commuted sum contributions to mitigate against the impacts arising from the proposed development, and it can be shown that this would comply with Regulation 122 of the CIL Regulations 2010, then obligations will also be secured (subject to viability) in this respect via the s106 legal agreement. Clearly, there is a risk that should contributions become excessive that this could place viability under pressure.

Affordable Housing

Policy SP4 seeks the delivery of 20% affordable housing from the KSS2 strategic allocation.

The proposals provide for a policy compliant 20% affordable housing provision, which equates to up to 180 no. dwellings.

The method by which affordable housing is to be delivered and the precise mix and tenure split of affordable housing deemed appropriate is to be agreed with the Council at the Reserved Matters stage as set out in an Affordable Housing Scheme to be be agreed with the Council.

A "cascading" approach should be adopted based upon the applicant being obliged to submit an "Affordable Housing Scheme" having first liaised with Registered Providers and the Council's Housing Strategy team; as it will be based upon housing mix / type being sought at the Reserved Matters stage

No more than 75% of the market housing within any phase will be occupied until the affordable housing units within that phase have been constructed, ready for occupation and have been disposed of to a registered provider.

Biodiversity

Whilst not specifically identified as an item under Policy SP4 the applicant considers that there are opportunities for enhancements to the natural environment through new landscape planting and habitat management, protection and creation that can be identified in a Biodiversity and Landscape Action Management Plan with a view that this achieves Net Benefit for Biodiversity (NBB). This may be delivered through a suitable condition instead of the s106.

Public Open Space

Policy SP4 seeks Public Open Space on site.

The illustrative layout shows approximately 16.72 ha of public open space. The provision is likely to include LAP (Local Area of Play) and LEAP (Locally Equipped Area of Play) provision; the nature and location which will be determined in detail at the Reserved Matters stage.

This significantly exceeds the required standards set out in the adopted Local Development Plan Policy CF2 (which seeks 50 sqm per dwelling : 900 x 50 = 45,000 sqm (4.5 ha)).

A POS Management Plan will be provided at the Reserved Matters stage and no more than 90% of dwellings shall be occupied within each phase until the POS for that phase has been completed to the satisfaction of the Council.

The intention is that the main access roads (incl. the connective spine road) will be adopted by the Council.

The remaining estate roads, common landscaped areas, parking courts, SUDS, POS, etc will be managed by a Management Company set up by the applicant.

Playing Fields / Community & Leisure

Policy SP4 seeks to not only seek the retention of 65,393 m² of playing fields (for Ysgol Morgan Llwyd) in order to deliver community recreational provision.

The application demonstrates that whilst the existing playing field area comprises 91,039 sqm an area of just 9,100 sqm is lost to development. However, a new area equating to 9,100sqm will be re-provided on the development site; resulting in no net loss.

The 91,039 sqm exceeds the area sought for retention under Policy SP4.

In addition, the masterplan is enabling enhanced public access to and between the site and the adjacent Rugby and other playing fields associated with the Wrexham Rugby Club land to the north and also across Cefn Road through a new controlled grade level crossing.

Moreover, the newly constructed replacement playing field will be fully drained to an acceptable standard and made available prior to the decommissioning of the old pitch.

The existing pitches will be subject of new re-marking and re-orientation to provide greater flexibility in meeting the known local sports needs thereby enhancing provision for both school and community function and serve to improve both youth and adult football / rugby sporting use.

At the time of writing, we are aware of there being an expired playing field lease between the owner of the playing fields and the Council. Along with the long-term management of the playng field land these are issues that the applicant/owner will look to have addressed in the s106 legal agreement.

Education

Policy SP4 seeks the provision of a 420-entry Primary School upon the KSS2 site.

The Council (at a meeting held in August 2024 with Education, Asset and Planning Officers) confirmed that it was their intention and preference to propose the a new Primary School be sited upon Council owned land at the Bryn Estyn site – central to the KSS2 allocation. Therefore, provision for any educational need can be dealt with through a commuted sum at a Reserved Matters stage as phases come forward.

Current investigations, undertaken by the applicant, do not show there to be any need for additional school places to support this development (or indeed the whole KSS2) with there being sufficient capacity for both primary and secondary places in Wrexham locally and a falling birth rate.

This could render any commuted sum contribution unnecessary because to provide it could significantly and detrimentally impact upon the viability of existing school provision locally.

This being the case, the applicant suggests that any request for educational provision (and/or commuted sum contributions) must first of all involve the applicants assessment being validated and fully tested, with any alternative evidence presented being based upon an objectively assessed need; and for agreement to be reached between the Education team at Wrexham Council and the applicant.

The applicant recognises that there are sustainable access and other benefits to locating a new primary school within the KSS2 area, but if no need is found to exist then such a request would clearly not meet CIL Regulation 122, unless of course other existing provision was to be closed in lieu of new provision being provided here.

If a need is found to exist (for either Primary or Secondary) then any s106 must clearly show/link that educational contributions are being used to directly mitigate the effects of the development and used in a specifc manner; funds cannot be used for "other projects". This is enshrined in Planning Law. In addition, any unspent funds must also be returned (with interest) to the payee after a defined time period of 5 (but no more than 10) years from the date of first payment being received.

KSS2 North-South Connectivity

Policy SP4 requires the construction of a link road connecting the northern and southern parcels of KSS2 with one another.

The applicant has designed their masterplan to safeguard a point of exit on their northern boundary so that the route northwards can be facilitated.

The applicant has also designed their masterplan to ensure the spine road starts from its south-eastern site access on Cefn Road through the site. The link road is to be constructed to an adoptable standard following completion of a s38 Legal Agreement.

This route (within the application site) can be constructed fully from Cefn Road to a point on the northern boundary of the site prior to the occupation of the 601st dwelling.

It is proposed that the s106 will place a covenant on the Council to confirm within 12 months from the date of the grant of permission the exact required location on the northern boundary of the site to which the link road should be constructed and its preferred onward route to connect with the KSS2 northern development parcel located to the northside of Bryn Estyn Road. This is agreed with the Council as being a reasonable period of time to allow it to determine the most appropriate route for a north/south connection of the link road across its own land, which will then enable the developers to advance the detailed design of the future phases of the site and to bring forward the entire allocation.

The developers will make a "spine road link commuted sum contribution", prior to the occupation of the 601st dwelling, which the Council will then use towards the cost of delivering the spine road across its land to the northern part of KSS2.

The cost could follow the percentage apportionment split described above, whereby the applicant will fund no more than 53.6% of the total cost (which was identified to be £1,222,901.18) in the Brookbanks 10833 Holt Road Wrexham Highway Infrastructure WBC Option 3 report.

However, the applicant considers that a fairer and more reasonable approach would be that it is simply based upon a roof tariff approach wherby each Reserved Matters application that comes forward pays a sum of £728 / dwelling (1,680 dwellings divded by £1,222,901) instead.

Rather than following a percentage apportionment split as previously set out in the 2019 "Infrastructure Contributions Model", whereby the applicant would have funded a % of the total cost (which was identified to be £1,222,901.18 in the Brookbanks 10833 Holt Road Wrexham Highway Infrastructure WBC Option 3 report) the applicant considers that a fairer and more reasonable approach would be that it is simply based upon a roof tariff approach, whereby each Reserved Matters application that comes forward pays a sum of Total Cost (Brookbanks Report) / dwelling (as a proportion of total dwellings across allocations (tbc)) instead.

Highway Improvements

Policy SP4 seeks to deliver a number of highway improvements, with specific reference to "known" capacity issues at the Greyhound roundabout.

A series of off-site highway improvements are associated with both this site and the wider KSS2 (and the KSS3 employment allocation) site.

These involve :

- *Priority access points onto Cefn Road into the site*
- *A new signallised pedestrian crossing*
- *Improvements identified in the VISSIM network modelling assessment which involve improvements to both the Holt Road/A5156/A483 roundabout and the Llan-y-Pwlll/A534/Industrial Estate Road roundabout*
- *Pedestrian and cycle links*

It should be noted that the VISSIM model did not find there to be any need for improvements to be made to the Greyhound Roundabout (the 5-way intersection of Holt Road, Bryn Estyn Road, Cefn Road and Dean Road) to justify the KSS2 allocation.

However, despite this, the applicant has identified some improvements that (combined with Active Travel measures) might offer local betterment and positively address the local perception that improvements are needed at this junction; and the applicant is prepared to offer these subject to them being acceptable.

The shared (KSS2 and KSS3) off-site highway improvements (i.e. A5156 / A534 roundabouts) are best apportioned between the developers of KSS2 and KSS3 based on a total cost calculation divided by dwelling numbers (or equivalent floorspace for KSS3) i.e. a rooftax paid into a central pot held by Wrexham that the Council would then draw down from to deliver the junction improvement schemes envisaged, to be delivered at a time to be decided by the highway authority.

Payments would probably be best linked to housing (or floorspace) completion numbers. This would follow the same approach the Council adopt for the KSS2 spine road; thereby enuring that each Reserved Matters application pays its fair share as phases come online.

Active Travel & Public Transport

Policy SP4 seeks to deliver both Active Travel and Public Transport benefits.

The TA has been informed by discussions between the applicant and Active Travel officers within the Wrexham Highways Department.

The measures identified relate to on-site provision to encourage, prioritise and facilitate non-motorised forms of transport (pedestrian, cycle) within the site, along with inclusion of a scheme to provide a new grade level pedestrian crossing.

In addition, off-site initiatives are largely common to the wider KSS2 and the KSS3 employment allocation (most notably along Bryn Estyn Road) and shall be agreed as part of any s106 legal agreement.

Public Transport routes and capabilities have also been discussed with the Council and will be brought forward as part of any s106 legal agreement. Most notably these include the need to enable existing services to penetrate the new development and offer (once a spine road is fully connected) a public service route that runs through the entire KSS2 site along a north-south axis.

Erlas Victorian Walled Garden

Policy SP4 seeks to ensure the retention of the Erlas Victorian Walled Garden.

The aim is to ensure it remains intact and is protected. It is a popular cultural, leisure and community resource and a new resident population will introduce opportunities to enhance its activities. Careful attention will be needed to ensure plans to create new development north and south of it , which serves to benefit it and result in enhanced accessibility (pedestrian and vehicular) to it. The applicant is committed to achieving quality place-making outcomes and consider their masterplan ambitions align with the EVWG as a community resource and benefit.

The applicant is minded to suggest that perhaps this aim is best safeguarded, not through a s106 legal agreement, but through good masterplanning and the detail that is permitted at Reserved Matters stages.

APPENDIX D

SoCG for KSS2

wrexham
COUNTY BOROUGH COUNCIL
CYNGOR BWRDEISTREF SIROL
wrecsam

Wrexham Local Development Plan 2013 - 2028 EXAMINATION

SoCG002

housing	open space	employment	community	transport	education

Statement of Common Ground:

Key Strategic Site 2, Land East of Cefn Road, Wrexham.



Matter 6: Housing Allocations

This leaflet is available in accessible formats

Local Development Plan (2013-2028) Examination in Public

Key Strategic Site 2: Land east of Cefn Road, Wrexham

Statement of Common Ground: **SOCG002**

Prepared by:
Wrexham County Borough Council
Barratt Homes
Bloor Homes
Countryside Properties
MD Developments

10 September 2019

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Appendix 1 – Infrastructure Contributions Model

Appendix 2 – KSS2 VISSIM Modelling Report

Appendix 3 – Highway Mitigation Schemes

1.0 Introduction

1.1 This Statement of Common Ground has been prepared to inform the Examination of the Wrexham Local Development Plan 2013-2028 ('LDP') and relates to land proposed for allocation in the LDP known as Key Strategic Site 2: *Land east of Cefn Road, Wrexham* (hereafter referred to as 'KSS2' or 'the Site'). Policies SP3 Key Strategic Housing Sites and SP5 KSS2: Land east of Cefn Road, Wrexham of the LDP allocate KSS2 for development and the extent of the Site is identified in *Figure 6: KSS2 masterplan framework* of the LDP. These policies should be cross referenced with the Infrastructure Plan (EB101), a living document which sits alongside the LDP.

1.2 The Statement has been prepared jointly by Wrexham County Borough Council (the Council) and Barratt Homes, Bloor Homes, Countryside Properties and MD Developments (the Developers). The Developers have been working collaboratively with the Council over a number of years in the promotion of KSS2 through the statutory LDP process. Furthermore, the Developers themselves have been working in partnership to prepare workable solutions to the Site's key issues and infrastructure requirements, to ensure its delivery within the LDP plan period.

1.3 Barratt Homes and Bloor Homes are in control of land within KSS2 that falls to the north of Bryn Estyn Road and to the south of Holt Road (Northern Parcel). Land within KSS2 to the south of Bryn Estyn Road is under various ownerships, but is within the overall control of the Council, Countryside Properties and MD Developments (Southern Parcel). Crucially, KSS2 in its entirety will be delivered by the developers who are promoting it.

1.4 This Statement sets out the agreed position of the Council and Developers in relation to the following:

- the joint vision for KSS2;
- the current stage of planning in response of the proposals for the Site;
- how the Site will deliver the requirements of policy SP5 of the LDP;
- viability and affordable housing;
- minerals safeguarding; and
- development trajectory.

2.0 A Joint Vision for KSS2

2.1 KSS2 will make a significant contribution to meeting Wrexham's housing needs to 2028, whilst achieving a number of the LDP's Strategic Objectives. Delivering the required number of homes in the right locations is key to sustaining the economic prosperity of the County Borough. KSS2 presents an opportunity to create a community of high quality housing, including an element of affordable housing, in a sustainable location on the edge of Wrexham Town, where it can make the best use of existing infrastructure and services, allowing homes, jobs and other facilities to be in close proximity to each other, reducing the need to travel by car.

2.2 High quality green infrastructure, in the form of extensive public open space, playing fields and a network of multi-function green spaces and corridors will be a key feature of KSS2. Other important infrastructure will include a new primary school, determined on the basis of the need arising from the development, a spine road linking northern and southern parcels of the Site, which will not only serve the development's needs, but also assist in alleviating pressure elsewhere on the highway network.

2.3 Importantly, the Site promoters and the Council have a strong desire to see homes delivered on KSS2 at the earliest opportunity, with 1,580 new homes completed by 2028.

3.0 Current Planning Status

3.1 The Developers have been working extensively with their appointed professional teams and with the Council throughout the preparation of the LDP, in order to establish a sound strategy for the Site's delivery and to inform the masterplan framework (LDP Figure 6). An extensive range of technical surveys and assessments have been undertaken over a number of years to inform the Developers' emerging masterplans and ultimately allow the Council and other key stakeholders to fully understand what the impact of the development of KSS2 will be and of the opportunities it presents. This has included ecological surveys, flood risk assessment and drainage analysis, ground conditions testing, arboricultural surveys, landscape and visual assessment, traffic surveys and simulation modelling, utilities assessments, air quality assessment, noise surveys, testing of mineral deposits and agricultural quality.

3.2 In January 2019 Barratt Homes and Bloor Homes submitted an outline planning application for the development of up to 600 dwellings on 28.5ha of land forming the Northern Parcel of KSS2 (Application reference: P/2019/0005). The planning application includes details of the principal northern access into the Site, but all other matters are reserved for future detailed approval. The submission of the planning application followed extensive engagement with various Council departments, as well as consultation with local stakeholders and the general public, including through formal Pre-Application Consultation on the proposals in September and October 2018. At the time of this Statement the planning application is pending determination, and it is anticipated that the Council's Planning Committee will consider the proposals before the end of 2019. This demonstrates a clear commitment to the delivery of the site.

3.3 Countryside Properties is in the process of preparing for statutory Pre-Application Consultation, which is expected to take place in Winter 2019, with formal submission of a planning application in late 2019/early 2020.

4.0 KSS2 Necessary Infrastructure Delivery

4.1 LDP Policy SP5 "KSS2: Land east of Cefn Road, Wrexham" identifies the necessary infrastructure that the Site will need to deliver as follows:

- Highway improvements to address known infrastructure capacity constraints at the Greyhound roundabout;
- Ensuring connectivity between the land north and south of Bryn Estyn Road;
- Education: on-site provision of a 420-place primary school, contributions towards secondary provision in the vicinity of the Site and the retention of existing (65,393m^2) of playing fields for Ysgol Morgan Llwyd;
- Public open space;
- Community and leisure facilities, including the retention of the Erlas Victorian Walled Garden;
- Active Travel; and
- Public Transport.

4.2 Much of the extensive engagement that has taken place between the Council and the Developers to date has revolved around how the infrastructure requirements of policy SP5 will be delivered. Further detail of this is provided below and Appendix 1 contains a draft Infrastructure Contributions Model, which has been agreed between the Developers and the Council as an appropriate delivery mechanism that will be reflected in future S106 agreements.

<u>Addressing highway infrastructure capacity constraints</u>

4.3 The Council and the Developers have commissioned consultants to develop an extensive VISSIM model that provides a clear understanding of the implications of traffic growth associated with the development of KSS2 for 1,680 dwellings.

4.4 The extent of the model includes the network over which KSS2 traffic would have an impact. It includes the A534 Holt Road corridor from the A5152 (Tesco) roundabout on the east side of the town centre to the Industrial Estate access roundabout and includes the Greyhound junction - which is a key node in the local area and specifically referenced in Policy SP5 - and the A5156 roundabout from which the northern part of the site would be accessed.

4.5 The model also includes the Cefn Road corridor which runs south from the Greyhound junction and from which the southern part of the Site would be accessed. Other local road links are also included in the model.

4.6 The northern extent of the model is the roundabout on the A5156 with Borras Park Road. Traffic on the A5156 is dominated by the Industrial Estate. In the morning commuter peak southbound (towards the industrial estate) traffic is much higher than northbound and vice versa in the evening. In this context KSS2 traffic is counter peak with the highest flows being northbound in the morning and southbound in the evening. On this basis the impacts of KSS2 traffic to the north of the Borras Park Road junction are not expected to be significant.

4.7 Appendix 2 provides a report on the KSS2 VISSIM Modelling work, the parameters, methodology, and outputs for which having been agreed between the parties. The VISSIM modelling also specifically assesses the highway impacts of KSS3 (Policy SP11 of the Local Plan), which will deliver 28 ha of employment land at Wrexham Industrial Estate.

4.8 The delivery of a spine road through the Site, linking the Northern and Southern parcels, alongside associated off-site improvements, will be an important piece of infrastructure that will ensure access to the local highway network from all parts of the Site. The results of the traffic modelling show that the spine road will also be a key piece of transport infrastructure that will assist in mitigating the impact of

the development upon parts of the local highway network, notably at the Greyhound roundabout.

4.9 The traffic modelling has shown that at least 250 dwellings on the Northern Parcel and 460 dwellings on the Southern Parcel can be accommodated on the highway network prior to completion of the spine road.

4.10 To accommodate this level of development on KSS2, and other developments proposed in the LDP, the following mitigation is, however, required:

- Widening of the westbound approach to the A5156/A534/KSS2 (northern) Site Access roundabout to three lanes and widening the southern section of the circulatory carriageway to three lanes; and

- Partial signalisation of the A534/Industrial Estate Road Roundabout.

These mitigation schemes are shown in drawings CBO-0322-014 and 015 in Appendix 3.

4.11 Following completion of the spine road, to accommodate up to 1,680 dwellings on the Site, additional works are required to the A5156/A534/KSS2(Northern) Site Access roundabout, consisting of widening the northern circulatory carriageway to three lanes and widening the southbound approach to three lanes. In addition, traffic signal control is proposed to be introduced on the A534 westbound approach, and the A5156 southbound approach.

4.12 This mitigation scheme is included in drawing CBO-0322-016 in Appendix 3.

North-South Connectivity

4.13 The precise point at which the spine road will cross Bryn Estyn Road, and meet at the convergence of the Northern and Southern Parcels, is still to be finalised. However, there are three potential options, all of which are considered feasible.

4.14 In addition to the completion of the spine road through KSS2, a range of pedestrian and cycle connections will be provided between the Northern and Southern Parcels. This will allow for accessible linkages across KSS2 as well as enabling access to the existing Bryn Estyn Road foot/cycle that connects Wrexham Town to Wrexham Industrial Estate. Barratt and Bloor Homes' planning application demonstrates a commitment to delivering these linkages, alongside the masterplan that is being developed by Countryside Properties.

4.15 TheSite is already well served by public transport. Completion of the new spine road, which has been designed to accommodate bus services, will allow bus penetration through the Site to benefit public transport accessibility and increase patronage in the local area.

Education

Primary Education

4.16 Policy SP5 of the LDP requires the provision on site of a new primary school to meet the needs of KSS2 providing up to 420 places. Extensive discussions between the Council and the Developers has led to the identification of two possible options for the location of a primary school, either on land controlled by the Council or by the Developers. A suitable location for the primary school will be conveniently accessible to residents of KSS2 and the surrounding existing residential area on foot, bicycle, public transport and via a network of safe streets.

4.17 The cost of developing a new 420-place primary school has been estimated at £5.2m. The Developers agree in principle to the provision of a new school if it is

required but would expect the contributions to be determined on the basis of the need arising from the development.

4.18 Without prejudice, the Council's Education Department has indicated that subject to the relevant statutory/regulated processes including Planning and School Organisation the preferred site for the school, which has the advantage of allowing shared facilities, is located off Cefn Road. The Council will be responsible for the delivery of the primary school. The process of delivering a primary school will involve, at the appropriate time, the Education Department undertaking a full consultation under the School Organisation Code 2018 which will take approximately 12 months. Subject to demonstrated need and the proposal to establish the school being approved by the Council's Executive Board, without prejudice to the Council, the primary school would be available for intake at 2023 at the earliest.

Secondary Education

4.19 Policy SP5 requires contributions towards secondary education in the vicinity of the Site. In the event that the Council predicts insufficient capacity within local secondary schools to serve the development of KSS2, and that this is founded upon a robust evidence base and demonstrated need, S.106 contributions will be secured to increase capacity to ensure that places are available at accessibly located secondary schools for future residents

Ysgol Morgan Llwyd Playing Fields

4.20 Policy SP5 seeks the retention of the existing playing fields serving Ysgol Morgan Llwyd to the West of Cefn Road. The playing fields are presently located in the Southern Parcel and their retention and/or the provision of an area of playing fields (quantum to be agreed) in an equally accessible location to the school, will be provided for within the Developers' masterplan.

4.21 Through discussions between the Council and Developers it has been agreed that the area of retained or replaced playing fields will be at least 40,000 sqm of the Site, where it is supported by a robust evidence base and demonstrated need

Public Open Space

4.22 KSS2 will deliver high quality integrated green infrastructure, including public open space, in accordance with Policy CF2 Provision of New Open Space of the LDP. Public open space will be formed by a combination of formal and informal play space, naturalistic open space and informal green infrastructure that is accessible to all parts of the development. The Site's existing landscape and woodland features will be retained and enhanced where possible to create a development that is truly landscape led. Woodland buffers and green corridors will be used to enhance biodiversity.

Community and Leisure Facilities

4.23 Erlas Victorian Walled Garden is located immediately to the south of Bryn Estyn Road. It is recognised for its visitor experience and important community work. It is anticipated that the development of KSS2 will bring benefits to the Walled Garden through increased patronage from new residents in close proximity.

Active Travel

4.24 KSS2 will embrace the principles of Active Travel, as set out in PPW10 and Policy T2 'Active Travel' of the LDP. KSS2 will provide convenient and accessible new walking and cycling infrastructure, whilst enhancing existing routes, such as Bryn Estyn Road. The Developers will introduce measures to actively promote and facilitate sustainable travel choices through Travel Plans.

Public Transport

4.25 The spine road is to be designed to a standard that is suitable for bus use. The primary estate roads will also provide the potential for route diversions through other parts of the Site. Early discussions have taken place with Wrexham's bus operators and KSS2 is considered to provide a quantum of development that is sufficient to attract a new bus route, or route diversion, through the Site, without the need for additional funding once the key infrastructure is in place.

4.26 Prior to completion of the spine road there are opportunities to access existing bus services around the Site on Cefn Road and St Mellion Crescent.

Design

4.27 The developers are committed to delivering a high standard of design through the use of a variety of house types, materials and variation in built form to ensure the Site has a sense of place and distinctiveness.

5.0 Viability and Affordable Housing

5.1 Large-scale strategic development sites often perform differently, in viability terms, to smaller scale, more conventional development sites. KSS2 is no exception. The combined costs of "opening-up" the Site, delivering its key infrastructure and expected developer contributions, are significant. A balance therefore needs to be struck between the funding and phasing of on-site and off-site infrastructure, and the need to deliver affordable housing.

5.2 The District Valuers Service have been commissioned by the Council to consider the viability of the LDP affordable housing targets across the County Borough. The present target for KSS2 is 40% according to LDP policy H2, and in light of

this the Developers have commissioned a joint site-specific viability assessment of KSS2. The intention of the site-specific viability assessment is to ensure that the affordable housing requirement for KSS2 is viable.

5.3 The findings of the District Valuers Service assessment have not been published at the time of submission of this Statement. Once it is published the Developers joint viability assessment may need to be revisited so that all parties can seek to agree a position in advance of the relevant LDP Hearing Session.

6.0 Minerals Safeguarding

6.1 According to the British Geological Survey Aggregates Safeguarding map (2012) KSS2, like the majority of land surrounding the built-up area of Wrexham Town, is within a Category 1 Aggregates Safeguarding Area for sand and gravel. As a consequence, any planning applications for the development of the KSS2 must be accompanied by a Prior Extraction Assessment.

6.2 In the event that the extraction of the mineral deposit beneath KSS2 is found to be commercial feasible, prior extraction in advance of the Site's development will only be required for material that lies above a development platform and that is not otherwise required for the regrading of the Site in the process of its development.

6.3 It will not be possible to understand the potential for prior extraction of mineral from the Site until the detailed development proposals are at a more advanced stage, at which point detailed Prior Extraction Assessments will be undertaken.

7.0 Development Trajectory

7.1 The Developers consider the following housing completions trajectory to be achievable on KSS2, ensuring the delivery of 1,580 dwellings over the Plan

period, with an additional 100 units that will come forward post-2028, thus reflecting Policy SP5. This has been updated to reflect the current 2019 trajectory position.

Timescale	Dwellings Completed (Northern Parcel)	Dwellings Completed (Southern Parcel)
2019-20	0	0
2020-21	0	40
2021-22	50	140
2022-23	100	140
2023-24	100	140
2024-25	100	130
2025-26	100	130
2026-27	100	130
2027-28	50	130
2028-29	0	100
Total	600	1,080

Appendix 1: Infrastructure Contributions Model: to ensure infrastructure obligations are delivered and fairly equalised across KSS2

LDP Policy SP5 "KSS2: Land east of Cefn Road, Wrexham" : this policy identifies the necessary infrastructure requirements:

- Highway improvements to address known infrastructure capacity constraints at the Greyhound roundabout;
- Ensuring connectivity between the land north and south of Bryn Estyn Road;
- Education: on site provision of a 420-place primary school, contributions towards secondary provision in the vicinity of the site and the retention of existing (65,393 m²) of playing fields for Ysgol Morgan Llwyd;
- Public open space;
- Community and leisure facilities, including the retention of the Erlas Victorian Walled Garden;
- Active Travel; and
- Public transport.

The promoters of KSS2 support this ambition and are keen to deliver these commitments where robustly evidenced and proportionate to the KSS2 development.

Assumptions: Housing Delivery

- 1,680 dwellings across the KSS2 area
- Bloor / Barratt: an outline planning application (ref. P/2019/0005) proposes up to 600 dwellings; which is pending determination at the time this Model is prepared; with the balance of 1,080 dwellings to be provided on the southern part of the KSS south of Bryn Estyn Road.
- This (**presently**) equates to a 35% (north) and 65% (south) split in housing delivery provision;
- Draft Housing Trajectory information has been supplied to the Local Planning Authority by the promoters, which demonstrates the delivery of KSS2 within the plan period (with the exception of 100 dwellings in the southern parcel of KSS2 post 2028).

Other (emerging) LDP Policy Considerations

Policy SP6 "Planning Obligations": states that planning obligations will be sought to mitigate any impacts of development, with examples of the types of obligations that could be sought as follows (noting that they are not necessarily limited to these):

- Education provision / facilities;
- Active travel, public transport and highway improvements;
- Public Open Space and Green Infrastructure;
- Community facilities;
- Affordable Housing;
- Ecological mitigation;
- Health; and
- Preservation and enhancement of heritage assets.

Policy H2 "Affordable Housing": seeks affordable housing delivery at a rate of 40% in this location.

The viability of Policy H2 is currently being reviewed by the District Valuer, in response to concerns raised by Welsh Government. The promoters of KSS2 have commissioned a site-specific viability appraisal that will determine what quantum of affordable housing can be delivered on-site, with the aim of such provision being written into the LDP as acknowledgement of the significant infrastructure costs associated with the delivery of KSS2. To date this information (both in respect of the site-specific viability appraisal or wider Council viability report has not been provided).

Proposed Infrastructure Triggers

Contribution Item	Comments	Delivered	Bloor / Barratt	Countryside	LDP Policy Source
Greyhound Roundabout improvements	Traffic modelling has revealed that with the delivery of mitigation in the form of the Spine Road, no improvements are necessary at the Greyhound Roundabout. Instead, in addition to forming the northern site access, further improvements will be needed to the A534/A5156 Roundabout. The phasing of such works is to be investigated, likewise the contribution to be made by the promoters of KSS3. The modelling has also identified the need for mitigation at the industrial estate roundabout on the A534.	The modelling has demonstrated that at least 250 dwellings to the north of Bryn Estyn Road and 460 dwellings to the south of Bryn Estyn Road can be accommodated prior to the completion of the link road. Widening of the westbound approach to the A5156/A534/KSS2 (northern) Site Access roundabout to three lanes and widening the southern section of the circulatory carriageway to three lanes; and Partial signalisation of the A534/Industrial Estate Road Roundabout.	35% of improvement costs (pending modelling mitigation assessment and any contribution by KSS3 promoters).	65% of improvement costs (pending modelling mitigation assessment and any contribution by KSS3 promoters).	SP5 T1 T6
Spine Road connectivity		Must be delivered to the north of Bryn Estyn Road ("Northern Section") not later than upon occupation of the 250th dwelling to the north of Bryn Estyn Road. Must be delivered to the south of Bryn Estyn Road ("Southern Section") not later than upon occupation of the 460th dwelling to the south of Bryn Estyn Road. The Northern and Southern Sections of the road to be linked and the	Responsible for delivery on land north of Bryn Estyn Road and 35% of any cost involved over highway authority / WCBC land.	Responsible for delivery on land south of Bryn Estyn Road and 65% of any cost involved over highway authority / WCBC land.	SP5

		Spine Road operational upon completion of whichever Section is completed last.			
Primary School	Needs quantum of new residents therefore new dwellings need to be occupied where the need has been demonstrated The Council estimate the cost of the new school to be £5.2m and the suggested location is = off Cefn Road.	WCBC has confirmed that the earliest a new school can be delivered is 2023 Highway access to the site will be required and may be dependent upon the phased delivery of KSS2 housing and the joining of a spine road.	35% of the cost /contribution.	If located on Council land 65% of the cost /contribution. If located on Countryside land then a reduced contribution will be levied.	SP5
Secondary school contributions	WCBC Education to confirm whether a contribution is required and need is evidenced.				SP5
Retention of playing fields	Playing fields should be accessible to Morgan Llwyd Secondary School, existing neighbourhoods and both the north and south parts of the KSS; and also to the new Primary School. The quantum and form of playing field requirement has been identified by the LPA as at least 40,000 sqm. This need will have to be demonstrated and justified Noting here that the Rugby Club and its associated playing fields may provide a resource to address this need.	Land safeguarded at start; land made available for operational use upon occupation of 300th dwelling to the south.		If located to the south, then a reduced POS requirement be provided in the southern area combined with reduced contributions.	SP5 CF1
Public open space	POS sought at a rate of 0.25 ha		Provision of high quality	If playing fields located	SP5 CF2

	per 50 dwellings (50 sqm per dwelling).		and accessible POS in accordance with the outline planning application.	to the south, then a reduced POS rate be provided in the southern area.	
Green Infrastructure (incl. SUDs), ecology					SP5 SP20 NE3 NE6
Retention of Walled Garden	To be retained, subject to spine road route.				SP5
Active Travel improvements	Associated with pedestrian and cycle provision and connectivity.		Site Travel Plan.	Site Travel Plan.	SP5 SP12 T2
Public Transport	Initial contact has been made with a local bus operator. It is considered the scale of KSS2 and the provision of the link road will sustain public transport provision to the site in the long term. Funding may be required to provide public transport to the site during the development of the site. This will be discussed further with WCBC and the bus operator in line with the proposed phasing.	A scheme to be operational upon the delivery of the spine road (which ought to tie in with the occupation of the 750th dwelling).			SP5 SP12 T3
Affordable Housing	Delivered as a negotiated (viable and deliverable) percentage of each Detailed Planning Application phase coming forward. The rate will be determined through viability assessment.				H2

APPENDIX E

Green Wedge Review extract

Wrexham Local Development Plan 2013 - 2028

EBNB01

housing | open space | employment | community | transport | education



Wrexham Strategic Green Wedge Review (October 2017)

This leaflet is available in accessible formats

Wrexham Strategic Green Wedge Review – (October 2017)

1. Introduction

1.1 The Council is in the process of preparing a new Local Development Plan (LDP, 2013 - 2028). As part of the evidence base to support preparation of the Deposit Plan it has been necessary to undertake a green wedge review.

1.2 The current adopted Unitary Development Plan (UDP) (1996 – 2011) uses the term Green Barrier to define areas of land between settlements where it is desirable to maintain the openness of the area, and to ensure that settlements do not coalesce, amongst other things as defined in national Planning Policy Wales (see section 3 below). Indeed the function of the Green Barrier is essentially the same as the Green Wedge as defined in National Planning Policy Wales (Edition 9, January 2016, para 4.8.3), it is only the terminology which differs. In order to maintain consistency with National Planning Policy and for the avoidance of doubt, the term Green Wedge shall be used for the remainder of this paper, and in the deposit LDP.

1.3 This review was undertaken in 2 stages, stage 1 to assess the requirement for Green Wedge designation directly surrounding the settlement limit of Wrexham Town in the context of the iterative process of selecting Key Strategic Sites (KSS) for development, and the western villages (area to the west of Wrexham town, which comprises a number of villages in close proximity); and stage 2 to review the remainder of the Green Wedge (GW) designation in the County Borough in preparation for the deposit LDP, and make recommendation regarding the need for any new designations. This document combines both stages and forms part of the evidence supporting the Deposit LDP.

1.4 The rest of this paper goes on to explain why a GW review is necessary, the key aims and objectives of the study; the function of the GW in the context of National Planning Policy, the methodology employed to undertake the review and the findings and conclusions of the review.

2. Why is a Green Wedge Review necessary?

2.1 The Preferred Strategy is proposing to make provision for 8525 new homes in order to deliver a requirement of 7750 homes over the plan period 2013-2028 together with a maximum of 45 hectares of employment land.

2.2 In relation to the existing UDP green wedge designation (or green barrier as it is referred to in the UDP), it has been rolled forward from past development plans without any formal review. As per national policy, and unlike Green Belt

designations which are considered to have an element of permanence, green wedge require review, and the most appropriate time to review the designations are during the development plan preparation process.

2.3 During the initial hearing session into LDP1 the Planning Inspector[1] questioned whether the proposed green wedge designation were based on a formal assessment in line with national policy, which further highlights the need to undertake this review. It is conceded that the green wedges proposed in LDP1 was carried forward from the UDP, without any formal review. In light of these comments it is apparent that any green wedge designation in deposit LDP2 will require full justification in line with national policy, irrespective of other development pressure, and the carrying forward of the UDP designations without a formal assessment is not an option.

Key Aims and Objectives

2.4 In light of the context referred to in the introduction, a review of the existing Green Wedge designations is necessary. The aims and the objectives of the overall review will be to:

- Review the green wedge designations in the UDP using a standard methodology;
- Make recommendations regarding the designation of green wedge to be fed into the deposit LDP, and justify where changes are deemed necessary including, if appropriate, the removal of the green wedge designation; and
- Make recommendations to fill the policy vacuum if it is deemed appropriate to remove green wedge designations in certain locations
- Understand if it necessary to designate any Green Belts or new green wedge in the County Borough?

[1] Wrexham County Borough Council Local Development Plan, Examination, Inspector's Preliminary Findings Paragraph 7.1.

3. National/ Local Policy Context

3.1 The following section outlines the policy context which guides development plans in relation to the designation of green wedges. Planning Policy Wales (PPW) (Edition 9, November 2016 – Chapter 4) sets out guidance on the designation of green wedge in development plans.

3.2 It states that both Green Belts and green wedges must be soundly based on a formal assessment of their contribution to urban form and the location of new development and can take on a variety of spatial forms. The essential difference between them is the issue of permanence. Land within a Green Belt should be protected for a longer period than the current development plan period, whereas green wedge policies should be reviewed as part of the development plan review process (PPW 4.8.1).

3.3 Green wedges can perform certain roles such as providing access to the countryside, including opportunities for outdoor sport and recreation, maintain landscape and wildlife interests, retain land for agriculture and forestry, improve derelict land, and provide carbon sinks. However the extent to which the use of land fulfils these objectives is not a material factor in determining whether land should be included in green wedge designations (PPW 4.8.3). The objectives set out above are still worthy of consideration, and whilst it will not be appropriate to use green wedge designations to achieve them, it will be important to consider what policy approaches (either through local or national policy) could serve to protect those objectives.

3.4 The actual **purpose of Green Wedge** as set out in PPW (para 4.8.3) is to:

- prevent the coalescence of large towns and cities with other settlements;
- manage urban form through controlled expansion of urban areas;
- assist in safeguarding the countryside from encroachment;
- protect the setting of an urban area; and
- assist in urban regeneration by encouraging the recycling of derelict and other urban land.

3.5 The most important attributes of green wedge is their openness (PPW 4.8.5). To maintain openness, development within a green wedge must be strictly controlled. The general policies controlling development in the countryside apply in a green wedge but there is, in addition, a general presumption against development which is inappropriate in relation to the purposes of the designation (see bullet points above). When including Green Belt and green wedge policies in their plans, authorities must demonstrate why normal planning and development management policies would not provide the necessary protection (PPW 4.8.6). Therefore part of the conclusion for each

area will include reference to alternative policy approach which may render a green wedge designation unnecessary.

3.6 Green wedges should only be maintained where normal planning and development management policies cannot provide the necessary protection. This assessment, and subsequently the LDP, will need to state where the areas are that require extra protection and why. In defining green wedges it is important to include only land that is strictly necessary to fulfil the purposes of the policy. Factors such as openness, topography and the nature of urban edges should be taken into account. Clearly identifiable physical features should be used to establish defensible boundaries. When considering green wedges there is a **need to ensure that a sufficient range of development land is available which is suitably located in relation to the existing urban edge and the proposed Green Wedge** (PPW 4.8.13). Therefore the need for green wedge designations will need to be balanced against the need to provide land allocations for development in the LDP.

3.7 The purpose of green wedge as set out in Planning Policy Wales is the same as the purpose set out in the Wrexham UDP. However a formal assessment of the green wedge designation is still necessary in order to understand whether the existing designation actually perform the purpose as set out in both local and national policy.

4. Methodology for the Green Wedge assessment

In relation to the assessment of existing areas of green wedge there is no nationally prescribed methodology, it was therefore necessary to devise one for the study. The approach taken was to use the purpose of green wedge as set out in national policy as the basis for the assessment (see section 3.4 above). The Home Builders Federation (HBF) and Natural Resources Wales (NRW) were consulted on the methodology in order to gain any initial comments on the approach taken. HBF suggested minor amendments which have been incorporated into the study, and NRW had no objection to the methodology.

Further comments were received following consultation on the Preferred Strategy. The following issues were identified:

- 1 comment was received questioning the boundaries used to define the green wedge adjacent the Key Strategic Site 2 (promoters of the site).
  Response: The boundary of the green wedge on the eastern boundary of KSS2 was set along the edge of the original candidate site submitted. An amended alternative site was submitted by the site agents[2].
- Comments in general objecting to the development of some areas of green wedge.
  Response: Comments regarding the development of green field sites are noted. The green wedge designation required review as part of the LDP process irrespective of the need to release some green field sites for development as part of the housing allocations in the deposit LDP. The strategic green wedge review has sought to retain green wedge designations where appropriate, whilst recognising the need to provide a sufficient range of development land suitably located in relation to existing urban edges.
- Comments were received questioning why not all of the green barriers had been reviewed prior to the consultation on the Preferred Strategy.
  Response: Justification for the two stage approach was outlined in paragraph 4.1 of the Stage 1 Green Wedge Review. Ultimately all interested parties will have an opportunity to comment on the overall assessment of the green wedge, and proposed designation as part of the deposit LDP consultation.
- 1 comment was received questioning the assessment of candidate sites grouped together.
  Response: In certain areas it was considered appropriate to group candidate sites together. In this example there are a number of

[2] Alternative Sites Register (Nov 2016) http://wrexhamldp.wrexham.gov.uk

candidate sites in the area between Mold Road and the train line in the area between Wrexham and Gwersyllt. The area has common characteristics and can be read as a whole, and therefore its overall function as an area of green wedge was assessed on that basis.

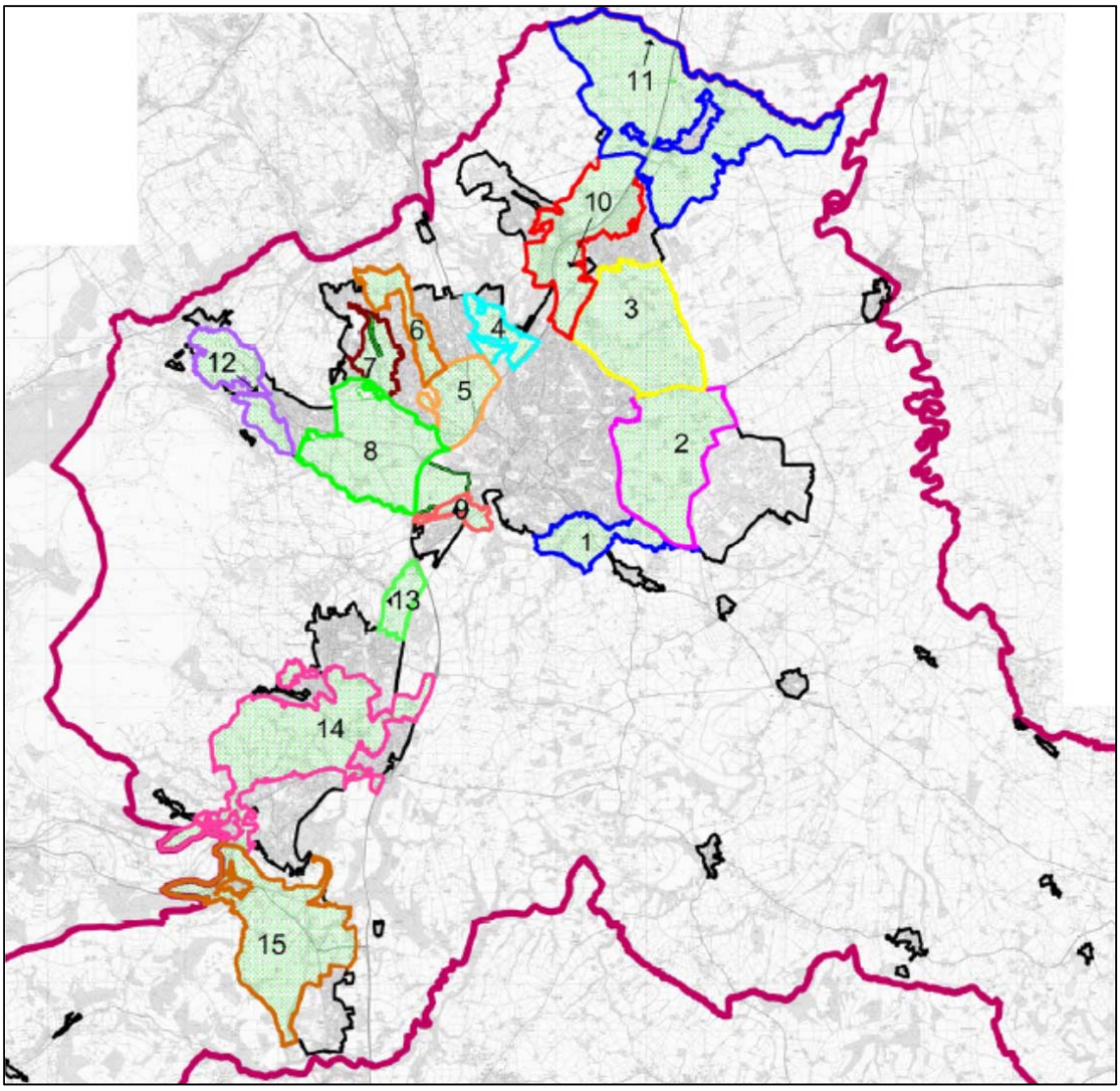
- Importantly, no fundamental objections to the overall methodology used to assess the UDP green wedge were received.

4.1 As stated in the introduction, the study was split into two stages. Stage 1 considered the areas surrounding Wrexham Town and the western villages (area to the west of Wrexham town, which comprises a number of villages in close proximity), and the second stage reviewed the remaining areas.

- this is the area where there is the most development pressure (as demonstrated by the number of candidate sites in the area);
- this area is most densely populated with settlements in close proximity to one another, which are at greater risk of coalescence should development occur;
- the presence of a number of potential Key Strategic and large sites in the area which are currently allocated as green wedge required review to assess their contribution towards the purpose of the green wedge designation;
- to allow consultation on the methodology undertaken for stage 1 to form part of the Preferred Strategy consultation, allowing officers to assess the robustness of the approach prior to rolling out the methodology for the rest of the County Borough and amending stage 1 if necessary; and;
- due to the timescales associated with the delivery agreement it was considered appropriate to concentrate on the stage 1 area initially.

4.2 To make the assessment process manageable, land in the green wedge was split into logical parcels of land, where possible, run along clear boundaries such as roads. The work is predominantly desk based, utilising secondary source material and information gathered on site visits.

Map 1: Review Area (Existing UDP Green Barrier)



The assessment is split into the following sub areas:

- Area1: Wrexham south
- Area 2: Wrexham east
- Area 3: Wrexham north east
- Area 4: Land between Bradley, Rhosrobin and east of Gwersyllt
- Area 5: Land South of Gwersyllt
- Area 6: Moss Valley
- Area 7: Land between Broughton, Brymbo and Southsea
- Area 8: Land east of Coedpoeth and south of Broughton and Southsea
- Area 9: Land South of Ruthin Road
- Area 10: Land between Gresford, Llay and Wrexham

- Area 11: Land between Gresford, Rossett, and Pulford
- Area 12: Land between Coedpoeth, Minera and Bwlchgwyn
- Area 13: Land between Rhostyllen and Johnstown
- Area 14: Land Between Penycae, Ruabon, Rhos and Cefnmawr
- Area 15: Land between Chirk, Pentre, and Froncysyllte

4.3 The intention of the site visits was to allow collection of more detailed information based on identified indicators which link to the purpose of green wedge as set out above (para 3.4). The indicators, and justification for using them, are outlined in the matrix in table 1below.

4.4 Each sub-area is assessed against the extent to which the different purposes of green wedge designations are fulfilled (using the indicators outlined). A conclusion for each area make recommendations as to whether the designation should be retained, amended or deleted. Where candidate sites are present in an area these have been assessed for their contribution to the functioning of the green wedge. Only those candidate sites, which were considered to have potential merit for inclusion in the deposit LDP, were assessed (see candidate site register for additional information on the approach taken to the assessment of candidate sites).

Table 1: Green Wedge Indicators		
Planning Policy Wales Purpose	**Characteristics of the area that contribute to the purpose of the Green Wedge**	**Purpose of the information**
Prevent the coalescence of large towns and cities with other settlements	**Barriers** What are the current barriers that make up the edges of the green wedge? Barriers can be man-made or natural and include rivers, roads, trees, hedgerows. Topography can also act as a barrier.	Development Barriers – Roads, rivers and railway lines of a certain size can represent physical barriers between settlements reducing, or sometime precluding, the possibility of development and/or coalescence.
	Physical Connection of Settlements Would development of the area / site lead to the physical connection of 2 or more settlements? Most relevant to areas that contain candidate sites (individually or cumulatively). However even in areas which do not contain candidate sites, this still gives an indication regarding the role of the area in the avoidance of coalescence between settlements.	If development would lead to the merging of 2 settlements then the purpose of preventing coalescence would not be met and the green wedge serves a purpose which remains relevant for inclusion in the LDP.
	Existing Development What development currently exists in the area of green wedge, including road linkages and other urban elements? Does the area have certain urban characteristics? What is the nature of the urban edge?	Road linkages – Roadsides are potentially suitable locations for development and, where there are direct road linkages between the closest edges of the settlements, development along them would make the boundaries more vulnerable. Direct road linkages also reduce the travelling distance between settlements which psychologically reduces the distance between them. The presence of road linkages in existing green wedges increases the effect outlined above.
		Urban elements within the area - Existing development of an urban nature (i.e. residential) between settlements automatically reduces the distance between them and places more pressure on the boundaries.

	Topography Does the topography of the area serve a purpose in the avoidance of coalescence between settlements?	Topography can impact the openness of an area, and can also act as a defensible barrier.
	Openness How open is the area? This may be influenced by topography, built development, trees and hedgerows.	If the area of green wedge has a sense of openness it serves an important role in maintaining a gap between settlements, and avoiding the coalescence of settlements.
	Candidate Sites Are there candidate sites present in the area of green wedge?	Candidate site submissions reflect an aspiration to develop. Where these are located between settlements they increase the vulnerability of the boundaries. Consideration should be given to the contribution the area covered by the candidate sites submission makes to the green wedge both alone and in combination (cumulative impact) with other sites.
Manage urban form through controlled expansion of urban areas	**Ribbon development** Ribbon development is building along the routes of communications radiating from a settlement, primarily along roads. Does the area of green wedge contain ribbon development?	If ribbon development is present there is potential for unrestricted sprawl.
	Isolated development (Candidate Site Specific) This is development specific and relates to the assessment of candidate sites in the green wedge.	If yes, result would be isolated development, with a high potential for urban sprawl.
	Well connected Two or more boundaries with the built up area.	If a site/area is well connected i.e. has several boundaries with the adjacent urban area, lower potential for urban sprawl. If only one boundary with existing urban area, development would 'jut out' or not be as well related and has more potential to result in urban sprawl
	Round off the settlement pattern (Candidate Site specific)	If development would 'round off' the settlement pattern there is low potential for unrestricted sprawl.

	Provide a good existing barrier Which if lost would result in urban sprawl.	If yes, higher potential for urban sprawl.
Assist in safeguarding the countryside from encroachment.	**Defensible Boundary** Is there a strong, defensible boundary between the existing urban area and the site – wall, river, main road etc (as opposed to garden boundaries)?	If there is an existing defensible boundary between the existing urban area and the green wedge/ candidate site, it performs a role in safeguarding the countryside from encroachment
	Other countryside characteristics This relates to the character of the area covered by the green wedge, including nature conservation areas, public rights of way, woodland, and the grade of agricultural land.	If the area includes these characteristics then the Green wedge assists in safeguarding the countryside from encroachment. .
	Existing Buildings (Candidate Site Specific) Does the site contain buildings?	If the site/area contains buildings that are not in agricultural / forestry use, development (on that part of the site) would be classed as brownfield rather than Greenfield development, so the site would not perform a role in safeguarding the countryside from encroachment. Notwithstanding this, development could still impact the openness of the area.
Protect the setting of an urban area.	**Proximity to Area of Built Heritage/ Perform a specific role in the setting of an urban area** Adjacent to a conservation area, listed building, historic park or garden or other features of historic significance. Does the area provide a landscape setting for an adjacent urban area?	Where a site is adjacent to such a feature, development may still be able to preserve the setting and special character if done sensitively through appropriate design. It may also play a role in relation to the overall setting of an urban area.
Assist in urban regeneration by encouraging the recycling of derelict and other urban	**Settlement Limits** This is controlled by settlement limits and the principles of Planning Policy Wales in relation to the preference for the reuse of land. It is recognised that there is not enough previously developed land in the County Borough to accommodate the development required for the	N/A

land.	LDP period. The other considerations in the assessment will help inform which areas of green wedge should be retained.	
N/A	**Other Designations** Other Designations in the area e.g. AONB, WHS, etc.	In cases where other planning and development management policies provide the necessary protection, it may be unnecessary to also allocate the area as green wedge.

4.5 Each area will be assessed against the extent to which the different purposes of green wedge designations are fulfilled (using the indicators outlined). The conclusion for each area makes a recommendation whether the designation should be retained, amended or deleted.

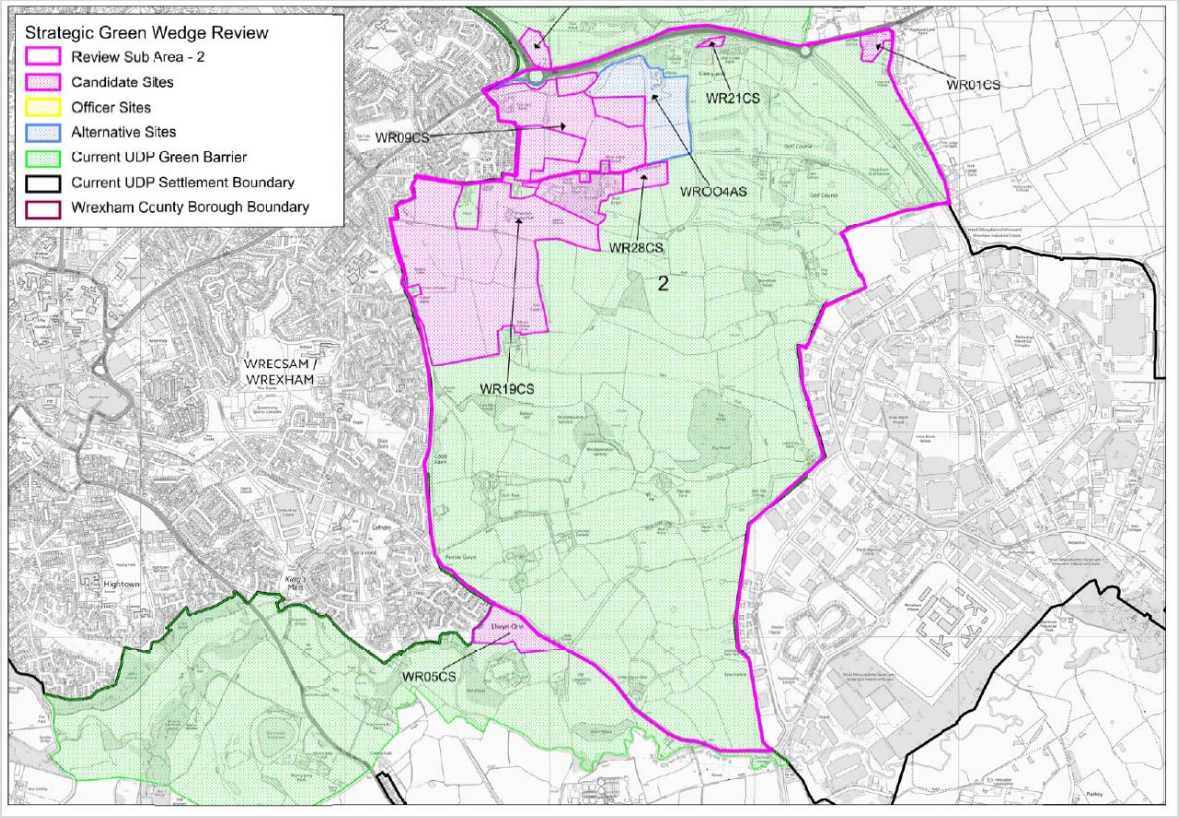
4.6 The matrix above includes candidate site specific questions. As candidate sites generally make up smaller parts of a larger area of green wedge, they will be assessed separately; however they will form part of the overall conclusion for each sub-area. The assessment will need to consider the role that the area being promoted as a candidate site plays in the overall function of the green wedge. Candidate sites can be assessed individually or in combination where there is a concentration of sites in an area.

4.7 The review does not make a judgement about the relative importance of the various purposes of green wedge, and aims to consider them all in the round.

4.8 The conclusion outlines which of the functions, based on the purposes set out in national policy, the area as a whole performs, and if the overall principle of the designation in the area is necessary.

Area 2: Wrexham East

Area 2: Wrexham east (incorporating proposed Key Strategic Site 2 Land surrounding Wrexham Rugby Club, Bryn Estyn Lane, Review Area)



Description	The area is bounded by Cefn Road to the south, the urban edge of Wrexham town to the west, the A534 to the north. To the east it is partly bounded by Wrexham Industrial Estate in the south and partly by Hugmore Lane in the north. The area is characterised by a mixture of undulating farm land, sports pitches (including Wrexham Rugby Club), and a golf course. Built development comprises a mixture of farm complexes and residential properties. There is concentration of development along Bryn Estyn Road which includes Council Offices at Erlas Centre, the Erlas Victorian Walled Garden, and Wrexham Rugby Club.
Planning Policy Wales Purpose	**Green Wedge Characteristics of the Area**
Prevent the coalescence of large towns and cities with other settlements	**Barriers** The area is bounded by Cefn Road to the south, the urban edge of Wrexham town to the west (which also follows Cefn Road), the A534 to the north. To the east it is partly bounded by Wrexham Industrial Estate in the south and partly by Hugmore Lane in the north. The eastern boundary with Wrexham Industrial Estate partly follows hedgerows, and partly follows Erlas Lane. The boundaries of the green wedge are formed along defensible boundaries, comprising largely of roads. Apart from parts of the eastern boundary which follows hedgerows.
	Physical Connection of Settlements Road Linkages – The area of Green Wedge is bounded by a number of roads (see above). The area is crossed by a number of smaller lanes, including Redwither Lane in the south. In the north Bryn Estyn runs east to west, however it is only partly accessible by car, Erlas Lane runs north to south. In the north east corner of the area the Industrial Estate Road (built circa 2012) cuts across part of the Green Wedge designation. The designation sits between Wrexham town and the Wrexham Industrial Estate.
	Existing Development Urban Elements - Built development comprises a mixture of farm complexes and residential properties. There is concentration of development along Bryn Estyn Road which includes Council Offices at Erlas Centre, the Erlas Victorian Walled Garden, and Wrexham Rugby Club. There is an element of built development associated with Clays Golf Club.
	Topography The topography of the area tends to be undulating, there are a series of hills that form a low ridge running north

	to south in the central area of the green wedge, which results in WIA not being visible when viewed from the western parts of the area, and vice versa
	Openness Whilst the topography is undulating, there are wide views across large parts of the area when viewed from the public right of way (PROW) that cross the area. The topography does however provide a degree of visual separation between certain elements of development. For example WIE is not highly visible from many points in the area as it sits lower down in the landscape and is partly screened by existing hedgerows and mature trees.
	Candidate Sites The area includes the proposed Key Strategic Site 2. Whilst development of the site would not result in the coalescence of two settlements, it does contribute to the functioning of the green wedge by means of controlling urban form, and development of the site would undermine existing defensible boundaries resulting in encroachment into the countryside. Therefore the site serves a localised purpose in the overall function of the green wedge.
Conclusion The area contains characteristics which serve the purpose of avoiding coalescence, including the presence of favourable topography and the existing green wedge being designated along defensible boundaries. Wrexham town to the west is a large urban area, and the Wrexham Industrial Estate to the east also comprises a large area of development. There are areas within the designation which include development, namely along Erlas Road. Elsewhere there is sporadic residential and agricultural development. Nevertheless, given the distance between the two settlements, the nature of the topography, and the fact that development in this location would be controlled by the presence of a settlement limit along with national (and if needed) local policies presuming against development in the open countryside, there appears to be little justification to retain a green wedge in this location based on this purpose in its current guise (the proposed Key Strategic site would significantly alter the urban form in this area).	
Manage urban form through controlled expansion of urban areas	**Ribbon development** There is development strung along Erlas Road in the form of ribbon development.
	Provide a good existing barrier The designation is set along defensible boundaries, and serves as a barrier to control development.
Conclusion The designation is set along a defensible boundary which serves to manage the urban form of the area. There is an area of ribbon development along Erlas Road. The designation serves a purpose to control the urban form between Wrexham town and Wrexham Industrial Estate.	

Assist in safeguarding the countryside from encroachment	**Defensible Boundary** The current designation is set along strong defensible boundaries.
	Other countryside characteristics Local Wildlife Area (Cefn Park) located in the south of current designation, comprising of woodland.
Conclusion The designation does assist in the safeguarding of the countryside from encroachment. The key characteristic that achieves this purpose is the defensible boundary along which the designation is set.	
Protect the setting of an urban area	**Proximity to Area of Built Heritage** The area contains Cefn Park (Grade 2 listed) and Llwyn Onn Hall (Grade 2 listed).
Conclusion The area contains Cefn Park (Grade 2 listed) and Llwyn Onn Hall (Grade 2 listed). The green Wedge would play a localised role in protecting the setting of the listed buildings. It also acts to separate the urban form of Wrexham town and Wrexham Industrial Estate.	
Assist in urban regeneration by encouraging the recycling of derelict and other urban land. **Settlement Limits -** This is controlled by settlement limits and the principles of PPW in relation to the preference for the reuse of land.	
N/A	**Other Designations or Relevant Planning History** Part of the designation in the south also includes the East of Wrexham Town Special Landscape Area. The Special Landscape Area designations will be reviewed as part of the LDP process. An application for the installation of a solar farm was submitted but withdrawn (P/2015/0640 – land west of Erlas Hall).

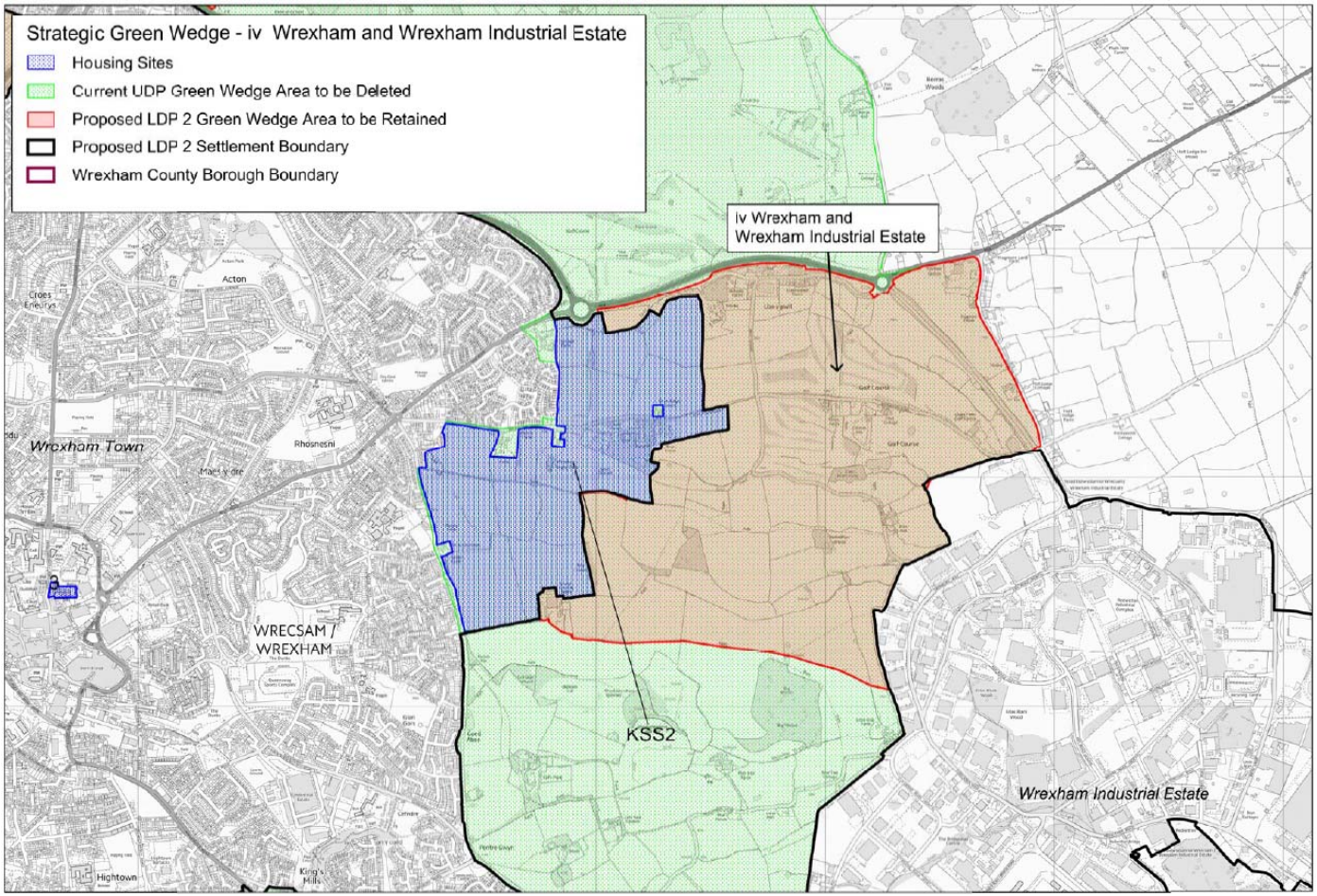
Overall Conclusion: Area 2 – Wrexham East With regards to the prevention of coalescence, the distance between Wrexham town and Wrexham Industrial Estate, the nature of the topography, and the fact that development in this location could be controlled by the presence of a settlement limit along with national (and if needed) local policies presuming against development in the open countryside, there appears to be little justification to retain a green wedge in this location based on this purpose in its current guise (the proposed Key Strategic Site will significantly alter the urban form in this area). The designation does serve a localised function in relation to the management of urban form in

areas along Bryn Estyn Road, and the defensible boundaries along which the existing designation is set act to avoid encroachment into the countryside. The designation also plays a localised role in the protection of the setting of listed buildings (although it is noted that separate legislation serves to do this also).

Notwithstanding the above, wider consideration must be given to the need to ensure that a sufficient range of development land is available which is suitably located in relation to the existing urban edge and any proposed green wedge designations in the deposit LDP. Wrexham town is identified as a tier 1 settlement in the settlement hierarchy (See Background Paper 2: Settlement Hierarchy and Development Potential http://wrexhamldp.wrexham.gov.uk/).

The area covered by the proposed Key Strategic Site could be developed without resulting in the coalescence of the two areas. Inclusion of the KSS will change the overall character of the area and the built form will be altered. In light of the proposed KSS allocation, it is recommended that the green wedge designation be amended to create a wedge in order to manage the urban form through controlled expansion in the area, and avoid any further coalescence between Wrexham town and Wrexham Industrial Estate.

Map 2 Proposed Green Wedge: Wrexham and Wrexham Industrial Estate





View north along Cefn Road from bridal path leading to Llwyn Knottia Farm



School playing field off Cefn Road



View south from PROW crossing the area.



View towards Erlas Lane and Wrexham Industrial Estate

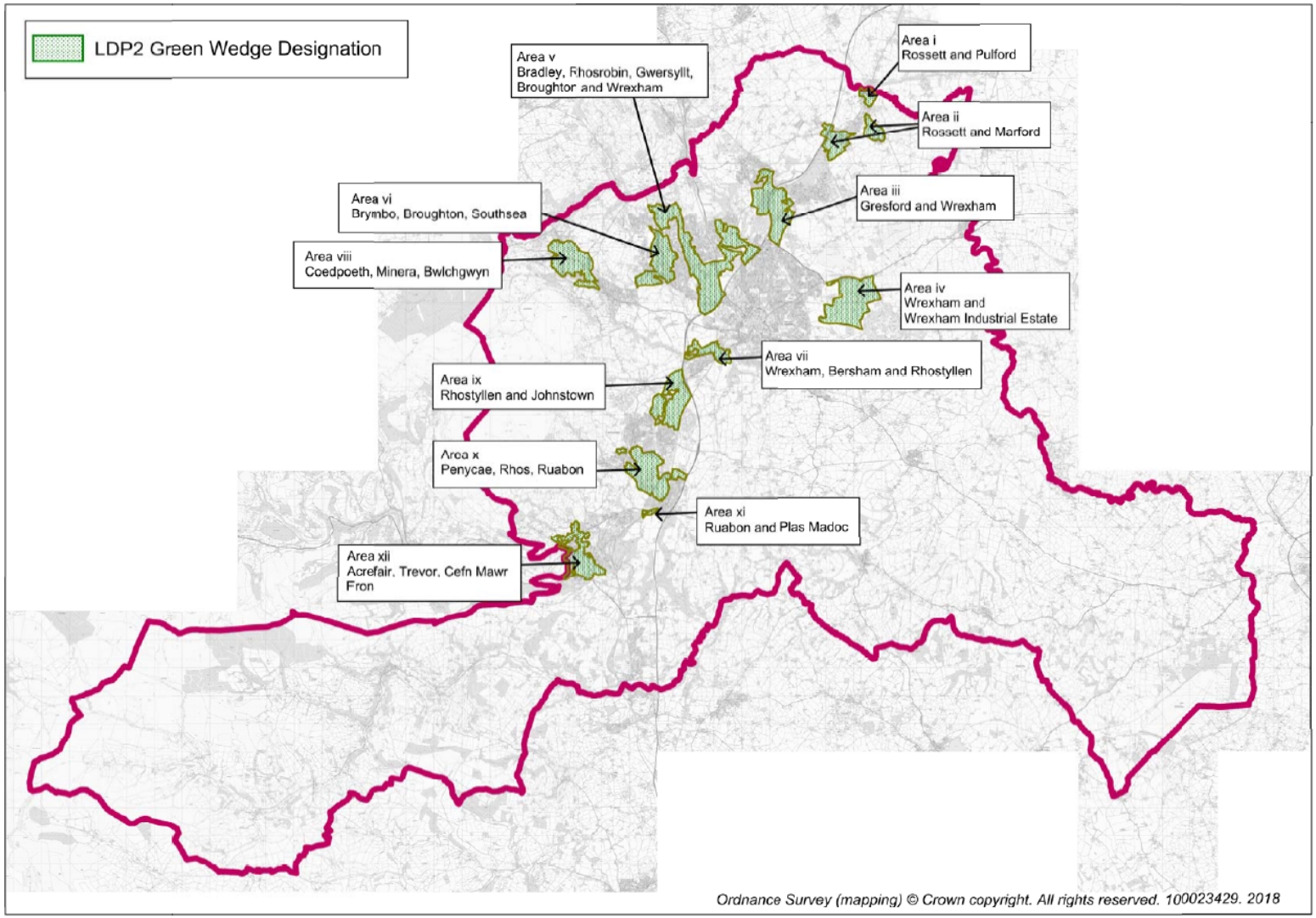


View of development on eastern edge of Wrexham



Clays Golf Club

Map 17: Green Wedge Review – Proposed LDP Green Wedge Designation



APPENDIX F

Relevant Caselaw

Lesley Griffiths AC/AM
Ysgrifennydd y Cabinet dros yr Amgylchedd a Materion Gwledig
Cabinet Secretary for Environment and Rural Affairs

Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: qA1286638

Mr Andrew Lucas
RPS Planning and Development
Park House
Greyfriars Road
Cardiff
CF10 3AF

lucasA@rpsgroup.com

4 October 2017

Dear Mr Lucas

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY REDROW HOMES LIMITED
RESIDENTIAL DEVELOPMENT OF UP TO 260 DWELLINGS WITH OPEN SPACE AT LAND NORTH OF HENDREDENNY DRIVE, HENDREDENNY, CAERPHILLY CF83 2UR
APPEAL REFERENCE: APP/K6920/A/16/3160099

1. Consideration has been given to the report of the Inspector, Declan Beggan BSc (Hons) MSc DipTP DipMan MRTPI, into your client's appeal against Caerphilly County Borough Council's refusal of outline planning application 15/0412/OUT for "residential development of up to 260 dwellings with open space" at "Land North of Hendredenny Drive, Hendredenny, Caerphilly".

2. On 9 November 2016, in accordance with section 79 and paragraph 3(1) of Schedule 6 to the Town and Country Planning Act 1990 ("the 1990 Act"), the appeal was recovered for determination by the Welsh Ministers as the proposal relates to residential development of more than 150 houses on more than 6 hectares of land. Under the provisions of the Government of Wales Act 2006 the power to determine applications under section 79 of the 1990 Act has been transferred to the Welsh Ministers, these functions have been exercised by me as Cabinet Secretary for Environment and Rural Affairs.

Bae Caerdydd • Cardiff Bay
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

3. In exercising their functions, as part of carrying out Sustainable Development in accordance with the Well-being of Future Generations Act ("the FG Act 2015"), section 2 of the Planning (Wales) Act 2015 requires the Welsh Ministers, as a public body, to ensure the development and use of land contributes towards improving the economic, social, environmental and cultural well-being of Wales. In order to act in this manner, the Welsh Ministers have taken into account the ways of working set out in section 4 of 'SPSF1: Core Guidance, Shared Purpose: Shared Future – Statutory Guidance on the Future Generations Act 2015' through examination of the appeal by way of Inquiry in accordance with The Town and Country Planning (Inquiries Procedure) (Wales) Rules 2003.

4. The Inspector held an Inquiry on 21 - 23 March 2017. Site visits were made on 22 and 24 March 2017. The Inspector recommends the appeal is allowed and planning permission granted subject to conditions. A copy of the Inspector's report is enclosed.

Main Issues

5. I agree the main issues are those listed by the Inspector:

   - The effect of the development on the transport network, with particular reference to highway junctions in Hendredenny.
   - Whether the proposed development would provide a suitable site for housing having regard to the principles of sustainable development and planning policies that seek to strictly control new development outside of settlement boundaries.
   - Whether the development is inappropriate development in a green wedge, and if so, whether any very exceptional circumstances exist to clearly outweigh this harm.
   - The effect of the development on the character and appearance of the area with particular regard to its location within a Special Landscape Area.

<u>The effect of the development on the transport network, with particular reference to highway junctions in Hendredenny.</u>

6. The Council's only reason for refusal is the proposed development would aggravate congestion at peak times on the local road network and the appellant has failed to demonstrate the sustainable transport initiatives proposed are of an adequate standard to off-set the traffic impact of the development. The Council consider the proposal, therefore, fails to accord with criteria-based Policy CW3 of the Local Development Plan (LDP) (IR 135).

7. The Inspector notes the Council's case is premised on conflict with criteria A of Policy CW3, which states a proposal must have regard for the safe, effective and efficient use of the transportation network (IR 136).

8. The main parties agreed the Hendredenny area does currently suffer from traffic congestion (IR 137).

Traffic growth

9. The Transport Assessment submitted by the appellant indicated two baseline scenarios for measuring traffic growth locally. The first scenario is based on suppressed demand or zero growth on the highway network (IR 138).

10. In this first scenario, the appellant did not apply any growth to future year assessments as traffic data for the area has not shown any material growth since 2008 (IR 139). The Inspector is satisfied the submitted evidence indicates, despite a significant amount of development in the wider area, the strategic highway network, of which the A469 forms part, has seen no material growth in traffic. Therefore, he considers it appropriate to assess traffic impacts on the basis of zero background growth (IR 140). I have no reason to disagree with the Inspector's view.

11. I note the Inspector is satisfied the submitted traffic modelling is broadly consistent with on-site observations (IR 141).

12. At the Inquiry, the Council argued the modelling approach did not consider cumulative impact on the junctions. However, the Inspector attached little weight to this point as the Council's highway witness accepted he had no modelling, or other data, to demonstrate a cumulative junction model would have produced any materially different result (IR 142).

13. The appellant's evidence, based on the zero growth forecast, indicates if the proposed development was completed, queuing at Hendredenny Drive/Station Terrace would be + 6 vehicles at Hendredenny Drive and + 7 vehicles on Station Terrace southbound during the AM peak. In the PM peak there is an increase of 6 vehicles in a queue on Station Terrace northbound, whilst at Hendredenny Drive it is an increase of 5 vehicles. The evidence, therefore, indicates the junction is within theoretical capacity with the addition of traffic generated by the proposed development. With regards to the St. Cenydd Road/A469 roundabout junction, the modelling indicates the junction is within capacity with the addition of development traffic (IR 143).

14. The Inspector is satisfied, whilst the proposed development will add additional traffic to the peak hour flows, it is not at any significant level and does not cause the junctions to be at over capacity (IR 144). I have no reason to disagree.

15. The appellant also modelled for additional growth at 11% and 22%. However, the Council's highways witness accepted growth at 22% would provide an unrealistic assessment of traffic impact (IR 145).

16. The effect of the development in 2021, assuming background traffic growth of 11%, would result in an increase in queuing on Station Terrace of + 7 vehicles northbound during PM peak, whilst the St. Cenydd Road/A469 junction operates within capacity. The model indicated traffic from the proposed development does not cause the junction to be over capacity (IR 146).

17. I am satisfied the Inspector has properly considered traffic growth on the local road network in concluding, whether zero growth or 11% growth is taken as the baseline, the proposed development is unlikely to have any material effect on peak flow traffic conditions on the local highway network (IR 147).

Congestion

18. The Inspector recognises the concerns of the Council and local residents in terms of existing congestion on the highway network and the effects the proposed development may have on existing congestion (IR148). He acknowledges the proposed development would have an impact on local congestion during peak hours, however, this impact could not be deemed significant due to the limited number of vehicles and considering the relatively short, existing queue times (IR 149). I am content with the Inspector's analysis of this issue.

19. The Inspector also considers any slight harm in terms of congestion would be mitigated by proposed sustainable transport initiatives (IR 149).

Sustainable Transport Initiatives

20. The Council's reason for refusal refers to the appellant's failure to demonstrate, through a robust traffic assessment, the sustainable transport initiatives proposed are of an adequate standard to off-set the traffic impact of the development. However, the Inspector notes the Council's highway witness accepted at the Inquiry there is nothing in local or national planning policy which requires such initiatives to off-set or cancel out all traffic impacts from development (IR 150).

21. The Inspector is satisfied the proposed transport initiatives are in line with local and national planning policies aimed at promoting more sustainable modes of travel (IR 151). The Inspector notes the proposed sustainable transport initiatives include:

    - A footway/cycleway link from the site to the National Cycleway Network to the north of the site.
    - Off-site improvements, including active travel routes/safe routes to school.
    - Provision within the site for a bus turning area.
    - £300,000 towards the improvement of the frequency of bus services to and from Hendredenny Drive.
    - £400 per dwelling towards a travel bond for a bus pass or cycle voucher.
    - £50,000 Travel Plan Contribution for school travel planning and personalised travel planning for residents (IR 152).

22. Although the Inspector accepts £400 per dwelling towards a travel bond for a bus pass or cycle voucher may not, bearing in mind the local topography, be a practical option for all, it will appeal to some and provides another sustainable travel option (IR 154). He acknowledges the Council and third parties questioned the value of the Travel Plan fund and personalised travel planning service. However, he notes the appellant highlighted discussions with local schools which indicated a desire for improved travel planning with less reliance on the private car for school journeys. He notes examples where such schemes have resulted in a reduction in the number of car journeys (IR 155).

23. Notwithstanding the views of local residents, the Inspector does not consider the walking time to Churchill/Energlyn railway station to be unreasonable. Whilst he appreciates not all trains stop at this station and trains may be full, the proximity of the station, which includes cycle parking, provides the opportunity to travel by means other than the private car (IR 156).

24. The Inspector considers the site lies in a sustainable transport location, in relatively close proximity to schools, shops and other amenities, which could be served within a reasonable walking distance of public transport in the form of buses and trains. In this context, the Inspector is satisfied the scheme performs well against the principles of sustainable transportation as identified in Planning Policy Wales (PPW) by reducing reliance on the private car (IR 157).

25. The Inspector notes the Council's highway witness accepted, although the policies were not cited in the Council's decision letter, the proposal meets criteria in Policies CW1 and CW3 of the LDP, which, respectively, seek to encourage walking and cycling through the provision of appropriate infrastructure and ensure development is designed to promote "the interests of pedestrians, cyclists and public transport before that of the private car" (IR 158).

26. The Inspector also notes the appellant suggests it is within the Council's power to use contributions from the development under the Community Infrastructure Levy (CIL) to make capacity improvements to the St. Cenydd/A469 junction as the junction is on the Council's CIL list (IR 161).

27. On this first consideration, the Inspector concludes the proposed development would not materially add congestion to the local road network at peak times. He is satisfied the appellant has demonstrated the sustainable transport initiatives proposed are likely to encourage non-car use, contribute to more sustainable means of travel and encourage a modal shift away from the private car. Therefore, he considers the proposed development would promote the safe, effective and efficient use of the transport network in line with criteria A of policy CW3 of the LDP and national planning policy. He also considers it would promote sustainable patterns of development in accordance with local and national planning policies. I am satisfied with the Inspector's conclusion on this issue (IR 162).

Whether the proposed development complies with national and local policy designed to protect the countryside and promote sustainable development

Settlement boundaries

28. The appellant accepts the proposed development conflicts with LDP policies as it is located outside the defined settlement boundaries (IR 163, 164).

29. The Inspector notes the site is located adjacent to an existing built up area, is relatively close to schools, shops and other amenities and could be served within a reasonable walking distance of public transport. However, the Inspector notes, whilst the site is sustainable in a number of ways, PPW stipulates the countryside, in line with sustainability principles, must be conserved. Therefore, the Inspector considers, as the appeal site is located in the countryside, it would not provide an appropriate site for housing when assessed against local and national planning policies relating to development outside settlement boundaries (IR 165).

30. I agree the appeal site is located in the countryside, outside settlement policies and, therefore, fails to accord with national and local planning policies designed to protect the countryside. However, as the Inspector notes in IR 165, notwithstanding the policy conflict, the site is located in a sustainable location in terms of access to services, amenities and public transport.

Green Wedge

31. The site lies within the Penyrheol, Hendredenny and Abertridw Green Wedge ("the Green Wedge"), as defined in the LDP. The Inspector notes the parties agree the proposed development would only result in negligible harm to the Green Wedge and its function and effectiveness would be maintained. The Council accept the proposal would not result in coalescence of Hendredenny and Abertridw, the Inspector agrees (IR 166).

32. The appellant accepts the proposal represents inappropriate development in the Green Wedge. The Inspector notes the proposal, therefore, clearly conflicts with local and national planning policies regarding development in green wedges (IR 167).

33. PPW states, when considering applications for development in green wedges, a presumption against inappropriate development will apply and substantial weight should be attached to any harmful impact on a green wedge. PPW confirms inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm. Both parties agree the very exceptional circumstances relate to the lack of five year housing land supply (IR 168). I consider this issue in paragraph 58 of this decision letter.

The effect of the proposed development on the character and appearance of the area with particular regard to its designation as a Special Landscape Area (SLA)

Character

34. The planning application was supported by a Landscape and Visual Assessment (LVIA), which the Inspector notes was undertaken in accordance with best practice (IR 169). In LANDMAP (a Wales-wide landscape assessment which is organised by Natural Resources Wales (NRW) in partnership with the Welsh local authorities) the majority of the site is within the Llanfabon Visual and Sensory Aspect Area, with a smaller section falling within Abertridw. The appeal site is also located in an area designated as the Mynydd Eglwysilian SLA in the LDP. The LDP identifies the primary landscape qualities and features of the SLA relate to all aspect areas, namely cultural, landscape habitats, geological, visual and sensory, and historic landscapes (IR 170).

35. The Inspector notes the Llanfabon landscape character area is described as having a rural and upland feel and is considered to be of moderate overall evaluation. Abertridw landscape character area is described as an urban area and it considered to be of low overall evaluation (IR 171).

36. The Inspector has considered relevant policies in the LDP (IR 172) and based on his observations, has no reason to disagree with the appellant's conclusions the proposed development would have a negligible effect on geological, historic and cultural aspects (IR 173).

37. The Inspector considers the scheme would have a moderate beneficial effect on landscape habitats as, although there would be loss of an area of grassland, the majority of field boundaries are shown for retention on the indicative masterplan. Some boundaries would be augmented with native species with an area set aside for a marshy/wet grassland habitat. The Inspector also notes the intention to retain an oak tree within the site, which could be used as a bat roost. I note these measures would be secured by the recommended conditions. Given these factors, the Inspector concludes he agrees with the appellant's view the proposal would have a moderate beneficial effect on landscape habitats (IR 174).

38. The Inspector notes the site would be visible within the landscape from a number of locations identified in the LVIA and a number of other vantage points. However, he considers visibility does not necessarily result in harm to landscape character as the local topography and existing landscaping would screen significant amounts of development from view. The proposed dwellings will be seen but from medium to distant vantage points with limited views. The Inspector considers the scheme would appear in keeping with the mass, scale, form and character of the adjacent residential areas (IR 176).

39. In terms of character, the Inspector concludes the proposed development would not have any significant effects on the character of the SLA (IR 177). I have no reason to disagree with this view.

Visual Impact

40. The Inspector notes the indicative masterplan envisages a scheme comprising two and three storey dwellings with a wetland area to the north eastern boundary, a central public open space area and green corridors in the form of existing hedgelines and trees (IR 178).

41. The Inspector accepts the proposal would be visible in the landscape. However, the issue for the Inspector is whether visibility is likely to have a significant adverse effect. In terms of those who live or travel in the area, the Inspector considers any visual impact will be limited by screening from local topography and existing hedges (IR 179).

42. From views further afield, the Inspector observed the proposed development would be visible from elevated sites to the north east near Pen-y-Heol Las Farm. However, he considers, due to the intervening distances involved and the presence of existing built development, the effect on visual amenity would be minor and not significant (IR 180).

43. The Inspector notes the proposed development would be visible from a number of adjacent properties. However, he considers, based on the submitted evidence, the partial screening effect of landscaping, the setback distance of proposed properties, the retention and augmentation of existing landscaped boundaries and the relatively low level nature of the development, these properties would not be unacceptably affected in visual terms (IR 181).

44. On this main issue the Inspector concludes the proposed development would not be detrimental to the character and appearance of the area, both in terms of landscape and visual impacts. The proposal would not conflict with LDP policies which seek to protect natural heritage (IR 182). I am satisfied with the Inspector's conclusion on this issue.

Other Considerations

45. The appeal site is within a mineral safeguarding area for pennant sandstone. The LDP safeguards mineral resources from permanent development and proposals for permanent development in mineral safeguarding areas are not permitted unless certain criteria are met, one of which is overriding need for development (IR 183). The Inspector deals with overriding need in his overall conclusions, see paragraph 57 of this decision letter.

46. The Inspector notes it is common ground a quarry would be unlikely to be granted permission on the site as it adjoins a built up area. It is also common ground no interest has been shown in mineral extraction near the site, the Council has a sufficient aggregates landbank and, as sandstone covers the majority of the County Borough, it would be difficult to find a suitable site for housing outside the safeguarding zone (IR 184).

Other Matters

47. The Inspector considers most of the concerns raised by local residents and groups are addressed under the main considerations or by recommended conditions. Other matters can be addressed when reserved matters applications are considered (IR 185).

48. The Inspector is satisfied there are no ecological constraints on the site (IR 186). The Council accept there is no evidence local schools, medical facilities, sewers and water supply could not accommodate the development. The site is not within a flood plain (IR 187).

49. The Council have not raised any objections on grounds of highway safety. The Inspector has no substantive evidence to take a contrary view (IR 188).

50. Some representations referred to the impact on human rights under the Human Rights Act. The Inspector is satisfied, based on the evidence submitted, the level of interference which would be caused to adjacent occupiers would be insufficient to give rise to a violation of rights (IR 189).

Overall Conclusions

51. The Inspector notes the proposed development conflicts with national and local planning policies relating to development outside development boundaries. However, PPW states development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access, habitat and landscape conservation. In these respects the proposed development performs well (IR 192).

52. The proposed development also conflicts with national and local planning policies which seek to safeguard Green Wedges (IR 193). PPW states there is a presumption against inappropriate development in a Green Wedge, with substantial weight to be attached to any harmful impact which a development would have on a Green Wedge designation. PPW confirms inappropriate development in a Green Wedge should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Wedge (IR 193).

53. The shortfall in housing land supply is significant and weighs heavily in favour of the development (IR 194, 195 and 196). The Inspector notes the Council's Annual Monitoring Report (AMR) states there is a need to address the lack of five year housing land supply through proactive action, including considering proposals for new residential development on their planning merits on a site by site basis.

54. I agree the shortfall in housing land supply weighs heavily in favour of the development, noting my letter of 23 February 2017 to the Heads of Planning in Local Planning Authorities, which states the Welsh Government remains committed to increasing housing land supply by requiring Local Planning Authorities to give it considerable weight as a material consideration when dealing with planning applications for housing. However, this is subject to the development otherwise complying with development plan and national planning policies as clearly set out in paragraph 6.2 of Technical Advice Note 1. This includes ensuring development proposals are well related to the existing settlement form and do not lead to unacceptable impacts on local economic, social and environmental infrastructure. The letter concludes the principles of sustainable development and the creation of cohesive communities, which form the basis of the Welsh Government's planning policy, remain and should not be undermined by the need to increase housing land supply.

55. The Inspector notes the parties agree there is no emerging development plan to address the shortfall, there is no mechanism to increase housing land supply in the short-term, or any possibility of a development plan solution any time soon. The LDP housing requirement is around 4,486 units to be delivered over the remaining plan period, i.e. up to 2021. The proposal would deliver up to 260 dwellings, 23% of which would be affordable. The proposed development would provide a significant number of dwellings towards addressing this shortfall (IR 198). I agree with this view and note the recommended conditions provide for a shorter period for the submission of reserved matters, which could lead to earlier commencement of development than would normally be expected.

56. Whilst the site is located in a mineral safeguarding zone it is unlikely to be granted planning permission for mineral extraction due to the proximity of residential development. LDP Policy CW22 refers to only allowing development in such areas where there is an overriding need (IR 199).

57. The Inspector concludes the proposed development will make a significant contribution to housing land supply. Although the site is outside the settlement boundary, it is in a sustainable location in terms of access to services, amenities and public transport and would not cause unacceptable harm to its surroundings. He finds there would be no material harm to the SLA. He considers there is an overriding need for this development and when the above factors are considered in their totality, they constitute the very exceptional circumstances necessary to outweigh the conflict with the national and local planning policies previously referred to (IR 200).

58. I agree the significant shortfall in housing land supply combined with the lack of a plan-led solution indicates there is an overriding need for the development, which satisfies LDP Policy CW22. This is particularly the case as the site is located in a broadly sustainable location, with no evidence to suggest there would be unacceptable impacts on local economic, social or environmental infrastructure and where no other material harm has been identified. When all these factors are considered in their totality, I agree they comprise the very exceptional circumstances required to satisfy national and local planning policies relating to inappropriate development in the green wedge.

59. The Inspector recommends planning permission is granted subject to conditions (IR 202).

Conditions and Section 106 Legal Agreement

60. I have considered the conditions suggested by the Inspector. I note the Inspector has included a condition, agreed by the parties, which requires the provision of an automatic traffic counter, however, he considers the condition is neither necessary or reasonable. I agree with the Inspector and have not included the condition in the Annex to this letter. Subject to this point I agree the remaining conditions are necessary and meet the tests in Welsh Government Circular 016/2014, "The Use of Planning Conditions for Development Management". I have included a condition to limit the total number of dwellings permitted to 260, which is the upper limit of the number of houses applied for.

61. A signed Section 106 Legal Agreement was submitted to the Inquiry and relates to the following:

- Provision of 23% of the dwellings for affordable housing.
- A suite of transport related initiatives including:
  - a Bus Service Contribution of £300,000;
  - the provision of a travel bond worth £400 for each dwelling on the site to fund the purchase of bicycles or vouchers for public transport;
  - to pay the Council or any other party nominated by them the sum of £25,000 to deliver a Travel Planning Service;
  - provision of off-site drop kerbs, footway/cycleway route improvements, street lighting and resurfacing works, and
  - obtaining delivery of a cycle link on Council owned land.
- Details relating to open space and its future management.

62. I am satisfied the Section 106 Legal Agreement, dated 23 March 2017, meets the appropriate tests in Section 122(2) of the Community Infrastructure Levy Regulations 2010 and Circular 13/97, "Planning Obligations".

Summary

63. I agree with the Inspector's reasoning and recommendation to grant planning permission, subject to conditions. I am satisfied the proposed development would be in a broadly sustainable location, adjacent to the existing settlement of Hendredenny. As outlined in the Inspector's report (IR 187) there was no evidence in front of the Inspector which would suggest there would be any unacceptable impacts on local economic, social and environmental infrastructure. I am content the proposed development would not undermine the principles of sustainable development or the creation of cohesive communities, which form the basis of national planning policy.

Formal Decision

64. For the reasons given, in exercise of the power referred to in paragraph 2 of this decision letter, I allow your client's appeal and hereby grant planning permission subject to the conditions detailed in the Annex to this letter. I confirm I have given weight to the Section 106 Legal Agreement, dated 23 March 2017, in the determination of this appeal.

65. In reaching this decision I note the duty to carry out sustainable development under section 2 of the Planning (Wales) Act 2015 and I consider the decision accords with the sustainable development principle set out in FG Act 2015. In accordance with section 3(2) of the FG Act 2015 and the well-being objectives of the Welsh Ministers, the decision will "improve access to secure, safe, efficient and affordable homes" and provides the opportunity to develop and "support safe, cohesive and resilient communities".

66. A copy of this letter has been sent to Caerphilly County Borough Council and to those attending the Inquiry who asked to be informed of the decision.



Lesley Griffiths AC/AM
Ysgrifennydd y Cabinet dros yr Amgylchedd a Materion Gwledig
Cabinet Secretary for Environment and Rural Affairs

Annex

Conditions attached to the Welsh Ministers' decision to allow planning appeal APP/K6920/A/16/3160099 – "Residential development of up to 260 dwellings with open space" on Land North of Hendredenny Drive, Hendredenny, Caerphilly.

1. Details of the appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any part of the development begins. The reserved matters shall follow the layout of development as indicated in the indicative masterplan.

2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission.

3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

4. No more than 260 dwellings shall be constructed on the site.

5. Prior to the commencement of works on site a phasing plan for the application site shall be submitted to and approved in writing by the Local Planning Authority. The phasing plan shall include details of:

   a) Public open space, including any wet/dry grassland habitat required in accordance with condition 13.
   b) Location of Local Equipped Area of Play (LEAP), and mini Multi Use Games Area (MUGA) or kick about pod.
   c) Strategic foul and surface water drainage features and Sustainable Urban Drainage System (SUDS), if applicable.

   The development shall be carried out in accordance with the approved phasing plan or in accordance with any revised phasing plan, which shall be submitted to and approved in writing by the Local Planning Authority.

6. No development shall take place until details of a scheme for the disposal of surface water and land drainage flows from the site has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

7. Prior to the first occupation of a dwelling within the phase in which the LEAP and mini MUGA or kick about pod are located, details of a scheme to provide such facilities shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

8. No development shall take place until an intrusive site investigation has been carried out in accordance with a methodology submitted to and approved in writing by the local planning authority. The results of the site investigation shall be submitted to the local planning authority before any development begins. If any land instability issues are found during the investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development shall be submitted to and approved in writing by the local planning authority. Remedial measures shall be carried out prior to the first occupation of any associated residential building and in accordance with the approved details and retained in perpetuity.

   If during the course of development, any unexpected land instability issues are found which were not identified in the site investigation referred to above, additional measures for their remediation in the form of a remediation scheme shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures which shall be retained in perpetuity.

9. The oak tree, "Tree with Bat potential", identified on plan EC02 attached to the ecological assessment dated May 2015 entitled 'Ecological Features and Survey Results', shall be retained and protected throughout the course of development in accordance with details to be submitted to and approved by the local planning authority prior to the commencement of development.

10. Prior to the commencement of development, a plan showing the location of trees to be retained within the development, together with details of the means for their protection, details of hedgerow enhancement planting and management including a species list and a timeframe for implementation, shall be submitted to the local planning authority for approval. Any subsequently approved details shall be implemented in full.

11. Prior to the implementation of any street lighting, a light mitigation strategy, including measures to ensure street lighting reduces light spillage into foraging habitat for bats, shall be submitted to the local planning authority for approval. The lighting shall be installed in accordance with the approved strategy.

12. Prior to the occupation of the development hereby approved, a landscaping and management scheme shall be submitted to and approved in writing by the local planning authority. Areas identified for native hedgerows, woodland or wildflower planting shall include a mix of approved species of which at least 75% shall be of local provenance. The approved details shall be carried out in the first planting or seeding season following the completion of the development. Any trees or plants which within a period of 5 years form the completion of the development die or are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the local planning authority gives written consent to any variation. The management scheme shall include a programme of landscape maintenance over the 5 year scheme together with a mechanism for managing the landscape during and after the scheme period.

13. Prior to the commencement of development details of a scheme to provide a marshy/wet grassland habitat within the site, including its provision and maintenance shall be submitted to and approved in writing by the local planning authority. In the event such provision cannot be reasonably provided as agreed by the local planning authority, an area of species rich dry grassland shall be provided in accordance with details submitted to and approved in writing with the local planning authority.

14. Pursuant to any reserved matters submission, the layout details shall include off-highway collection areas for refuse, recycling, food and garden waste to be collected by vehicles operating a highway kerbside collection service. The approved collection areas shall be completed before the residential units to which they relate are occupied and thereafter they shall be maintained free of obstruction for the storage and collection of refuse, recycling, food and garden waste only.

15. The proposed means of access as indicated on drawing No. P.20 Fig. 4.1 in the submitted Transport Assessment dated May 2015, shall be laid out, constructed and maintained thereafter with visibility splays of 2.4 m by 43 m. No obstruction or planting when mature exceeding 0.9 m in height above the adjacent carriageway shall be placed or allowed to grow in the vision splay areas.

Notification of initiation of development and display of notice

You must comply with your duties in section 71ZB (notification of initiation of development and display of notice: Wales) of the Town and Country Planning Act 1990. The duties include the following:

Notice of initiation of development

Before beginning any development to which this planning permission relates, notice must be given to the local planning authority in the form set out in Schedule 5A to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details which must be given to the local planning authority to comply with this duty.

Display of notice

The person carrying out development to which this planning permission relates must display at or near the place where the development is being carried out, at all times when it is being carried out, a notice of this planning permission in the form set out in Schedule 5B to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details the person carrying out development must display to comply with this duty.

The person carrying out development must ensure the notice is:
(a) firmly affixed and displayed in a prominent place at or near the place where the development is being carried out;
(b) legible and easily visible to the public without having to enter the site; and
(c) printed on durable material. The person carrying out development should take reasonable steps to protect the notice (against it being removed, obscured or defaced) and, if need be, replace it.

The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Adroddiad

Ymchwiliad a gynhaliwyd ar 21-23/03/17
Ymweliad safle a wnaed ar 22 & 24/03/17

gan Declan Beggan BSc (Hons) MSc DipTP DipMan MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 11/05/2017

Report

Inquiry held on 21-23/03/17
Site visits made on 22 & 24/03/17

by Declan Beggan BSc (Hons) MSc DipTP DipMan MRTPI

an Inspector appointed by the Welsh Ministers

Date: 11/05/2017

TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78

APPEAL BY REDROW HOMES LIMITED

AT LAND NORTH OF HENDREDENNY DRIVE, HENDREDENNY, CAERPHILLY, CF83 2UR

Cyf ffeil/File ref: APP/K6920/A/16/3160099

File Ref: APP/ K6920/A/16/3160099

Site address: Land North Of Hedredenny Drive, Hendredenny, Caerphilly, CF83 2UR

- 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 Redrow Homes Limited against the decision of Caerphilly County Borough Council.
- The application Ref 15/0412/OUT, dated 19 June 2015, was refused by notice dated 7 April 2016.
- The development proposed is 'a residential development of up to 260 dwellings with open space'.
- The appeal was recovered for decision by the Welsh Ministers by a direction made under Section 79 and paragraph 3(1) of Schedule 6 of the Town and Country Planning Act 1990, on 9 November 2016.
- The reason given for making the direction was that the proposal is for residential development of more than 150 houses or on more than 6 hectares of land.

Summary of Recommendation: That planning permission be granted.

Procedural Matters

1. A signed Section 106 Legal Agreement[1] was submitted at the Inquiry. The legal agreement contains obligations which include the provision of affordable housing, sustainable transport measures, and on-site open space facilities.

2. The Council brought to my attention the fact that the event date and venue, has not been advertised by way of a press notice. I sought the views of the main parties at the Inquiry. The Council confirmed that the letters of notification and a site notice in regards to the arrangements for the Inquiry have been carried out; in this regard 101 consultation responses had been received.

3. The requirement to advertise an Inquiry event is discretionary and not mandatory. Given that there is a degree of discretion in the application of the 'The Town and Country Planning (Inquiries Procedure) Rules 2003', the high level of consultation that had occurred in regards to the advertising of the Inquiry, and the fact that interested parties were clearly aware of the event as evidenced by their attendance, I did not consider that any party would be prejudiced by proceeding with the Inquiry.

4. A screening direction was made by the Planning Inspectorate that the proposal is not EIA development as it would be unlikely to have any significant environmental impacts. Having considered all the evidence I have no reason to disagree.

5. I undertook two accompanied site visits on 22nd and 24th March and carried out several other unaccompanied site visits to assess traffic conditions and to view surrounding vantage points in the wider area before, during and after the Inquiry closed.

The Site and Surroundings

6. The irregular shaped appeal site which extends to some 11.24 hectares lies adjacent to the settlement of Hendredenny and borders to the south existing residential areas

[1] Inquiry Document 4 xvii

which all link into Hendredenny Drive; the site is bounded to the north and west by open countryside, and to the east by the Aber Cycleway, a national cycle route, which runs along a disused railway adjacent to the Nant yr Aber River. The site includes five agricultural fields separated by mature hedgerows, trees, and post and wire fencing, and slopes from the south west down to the north east.

7. The site is located within the Penyrheol, Hendredenny and Abertridwr Green Wedge (GW) and also within the Mynydd Eglwysilian Special Landscape Area (SLA), as defined in the Caerphilly Local Development Plan (LDP), which was adopted in 2010 and covers the period upto 2021.

Planning Policy

8. The proposals Map of the LDP indicates the site as being outside of any settlement boundary; in policy terms it is within the countryside. The site is also within a designated Mineral Safeguarding Area.

9. The relevant policy referred to in the reason for refusal is CW3 which relates to highway design considerations; it states that, amongst other criteria, that any proposal must have regard to the safe, effective and efficient use of the transportation network.

10. A number of other development plan policies have been cited as being materially relevant in the consideration of the proposed development, and these have been identified and agreed by the Council and the Appellant in the Planning Statement of Common Ground (SoCG)[2].

11. Other material development plan policies include policy SI1 which relates to the protection of GW's, policy NH1.3 which states that SLA's will be protected from development that will harm their distinctive features or characteristics, and policy SP8 which relates to safeguarding mineral resources.

12. The parties agree that the main sources of national policies relevant to this appeal are contained in Planning Policy Wales Edition 9 (PPW) and associated Technical Advice Notes (TANs), in particular: TAN 1: Joint Housing Land Availability Studies (2015); TAN 2: Planning and Affordable Housing (2006); TAN 5: Nature Conservation and Planning (2009); TAN 12: Design (2016); TAN 18: Transport (2007); TAN 23: Economic Development and MTAN1: Aggregates (2004).

13. PPW is the overarching national planning policy document that guides planning and development in Wales. Chapter 4 *Planning for Sustainability* places achieving development that is economically, socially and environmentally sustainable at the heart of planning decision making in Wales in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act"). The WBFG Act is embedded into the process relating to all planning decisions in Wales and puts in place seven goals to promote the aims of sustainable development, including:

[2] Inquiry Document 1 ix

- A 'prosperous Wales' through the promotion of resource efficient and climate change resilient settlement patterns which minimise land take and urban sprawl, especially through the re-use of suitable previously developed land, whenever possible avoiding development on greenfield sites;
- A 'resilient Wales' that contributes to the protection and improvement of the environment, so as to improve the quality of life;
- A 'healthier Wales' that contributes to the protection and, where appropriate, the improvement of people's health and well-being as a core component of achieving the well-being goals;
- A 'more equal Wales' which promotes access to employment, education and community facilities, open and green space, maximising opportunities for community development and social welfare'; and,
- A 'Wales of Cohesive Communities' where development is located to minimise the demand for travel, especially by the private car, by ensuring that all communities have sufficient good quality housing for their needs including affordable housing, by fostering improvement to transport facilities and services, by fostering social inclusion, including helping to ensure that development is accessible by means other than the private car.

14. PPW states that development in the countryside should be located within and adjoining those settlements where it can be best accommodated in terms of infrastructure, access, and habitat and landscape conservation. It also states that within GW's there will be a presumption against inappropriate development and that substantial weight should be attached to any harmful impact on a GW. Paragraph 4.8.15 states that inappropriate development should not be granted planning permission within a GW except in very exceptional circumstances where other considerations clearly outweigh the harm to the GW.

15. Chapter 8 of PPW relates to transport issues and outlines that land use planning can help to achieve the objectives for transport through reducing the need to travel especially by the private car, and by locating development where there is good access to public transport, walking and cycling. TAN 18 recognises that the location of new residential development has a significant influence on travel patterns and requires appropriate levels of access by walking, cycling and public transport for new residents and the wider community to local services.

16. Paragraph 9.2.3 of PPW requires local planning authorities to ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of housing land. TAN 1 explains that the housing supply figure will be taken from the current Joint Housing Land Availability Study (JHLAS). Paragraph 6.2 of the TAN provides that where such a study shows a supply below 5 years that the need to increase supply should be given considerable weight when dealing with development that would otherwise comply with development plan and national planning policies.

17. TAN 23 recognises that house building in terms of construction represents an economic land use as it generates wealth, jobs and income.

The Proposal

18. The appeal application is made in outline form with all matters bar access reserved for subsequent approval.

19. The proposed scheme relates to a residential development of up to 260 dwellings with open space. The site has an area of 11.24 hectares, and on that basis the development would have a density of up to 23 houses to the hectare. An indicative masterplan has been submitted which shows the vehicular access to the site being gained from Hendredenny Drive where it adjoins the site. Potential cycle and footpath links are shown into the adjacent Rhuddlan and Chester Courts, and at three points along the western boundary. The road within the site would consist of a number of loops and culs-de-sac, with the potential for a bus turning area to allow for public transport access.

20. The SoCG indicates housing close to the existing development would be two-storey, but in the northern half of the site it could be up to 3 storey. Housing on the site is categorised as a mixture of coach houses, apartments, terraced, semi-detached and detached. An element of affordable housing will be provided within the development in a series of clusters.

21. A local equipped area of play (LEAP) is shown adjoining Rhuddlan Court and Chester Court. Where possible existing hedges would be retained and enhanced, and supplemented with areas of native planting and a wildflower grassland, particularly along the eastern boundary where there would be a 15m wide buffer. A green corridor would run from the western boundary to the LEAP.

24. In addition, the application is also supported by a Design and Access Statement, an ecological assessment, landscape and visual impact assessment, planning statement, transport assessment, tree survey report and hedgerow assessment, and a coal mining risk assessment.

Agreed Facts

25. The main parties have agreed separate statements of common ground dealing with planning and highways issues. Matters in agreement include there is not a 5 year supply of housing land in the County Borough of Caerphilly, that the site would deliver much needed housing, including 60 affordable units. Encroachment of development into the SLA is relatively small and therefore no concerns are raised. It is agreed the incursion of development into the GW would not result in the coalescence of Hendredenny and Abertridwr and as a result there is negligible harm to the GW with its function and effectiveness being maintained. It is also agreed that the thrust of land use policy is to promote and encourage the choice of walking and cycling above all else where travel needs to occur and that the maximum unfettered effect from 260 homes is 4 additional vehicles per minute (two way) during a peak hour at Hendredenny Drive/Station Terrace signal controlled junction.

The Case for Redrow Homes Limited

26. The appeal proposals represent a clear example of sustainable development, that have proper regard to economic, social, environmental and cultural factors, and

through the provision of up to 260 homes, will make a significant contribution to the chronic shortfall of market and affordable housing in the borough.

27. The Council's sole objection to the appeal proposals is on highways grounds. That objection was made with reference to policy CW3 of the LDP, but for reasons explored in the evidence, is simply not sustained. Once this objection falls away, the Council does not oppose the principle of housing coming forward on the appeal site. That is due to the considerable weight that should be provided to the provision of market and affordable housing, in light of the current chronic shortfall in the borough.

28. It is accepted the proposed development does not on balance comply with the development plan. In the appellant's submission however, this matter represents a clear example of when other material considerations indicate that permission should otherwise be granted having regard to s. 38(6) of the Planning and Compulsory Purchase Act 2004.

The provision of housing

(i) Housing supply

29. The starting point in terms of the provision of housing is the development plan. This sets out[3] a requirement for 8,625 dwellings to be provided across the borough during the plan period up to 2021. The 2016 Annual Monitoring Report (AMR) indicates that 4,239 houses need to be provided over the rest of the plan period to meet this requirement. As against this requirement, the Council's present 5-year supply position is 1.5 years.

30. The 1.5 year supply position was set out in the SoCG agreed between the parties. Notwithstanding this agreed position, in its opening, and without any prior notice nor supporting evidence, the Council contended that its housing land supply position was 2.2 years. The "5 Year Land Supply Calculation Note (March 2017)[4]" (the HLS note) that was subsequently provided on day one of the inquiry in fact states that the housing land supply is 2.0 years (the 2.2 year figure includes if account is taken of the proposed development).

31. This late-produced note from the Council has not been able to be tested in cross-examination since the Council chose not to provide any planning witness. In any event, the lack of prior notice and provision of any underlying information means that the appellant has not been able to investigate whether the data and assumptions within the HLS note are accurate. In these circumstances, it would be unfair and prejudicial to the appellant for any weight to be placed on this note at all.

32. In the time available, the appellant has nonetheless sought to understand the basis of the revised calculations as best it was able. Having done so, the appellant submits that the conclusions of the HLS note cannot in any event be relied upon. This is essentially for the reasons set out in the rebuttal note provided by appellant's

[3] Inquiry Doc 1 (iv) 8

[4] Inquiry Document 4 xii

planning witness when giving his evidence[5]. The rebuttal points include the lack of any evidence being provided for the assumed build out rates (e.g. by verifying assumptions with developers), and the apparent failure to undertake any analysis of undeveloped sites and whether (by reason of their continuing undeveloped state) they should fall out of the Council's housing land supply calculation.

(ii) Affordable housing

33. The Caerphilly Local Housing Market Assessment 2015 confirms that the Council has an annual requirement of 526 affordable housing units. As against this requirement, the Council's Joint Housing Land Availability studies from 2008 to 2016 stated that only 463 units were provided over this whole period. For the Caerphilly area, the amount of affordable housing units provided during this same period was 57 units. There is on any view also a chronic shortfall in the provision of affordable housing. Against this shortfall, the proposed development will provide 60 affordable housing units, and so by itself will provide more than double the number of units that have been provided in the Caerphilly area in the period between 2008 – 2016.

(iii) Relevance and weight of the HLS position

34. The recent letter from the Cabinet Secretary for Environment and Rural Affairs (the Cabinet Secretary)[6] could not be clearer about the need to deliver more housing in Wales. The letter confirms that the "*delivery of housing remains one of the highest priorities"* of the Welsh Government, and that each local planning authority "*must provide a genuinely available supply of land for housing"*.

35. This echoes the requirement in PPW for local planning authorities to ensure the provision of a 5-year supply of housing, and the guidance in TAN1 at para 6.2 that the "*housing land supply figure should also be treated as a material consideration in determining planning applications for housing"*. So far as TAN 1 is concerned, this provides that considerable weight should be given to increasing housing land supply so long as a development otherwise complies with development plan and national planning policies.

36. Given the acceptance that the appeal proposals do not comply with the development plan, TAN 1 [6.2] does not apply. As the appellant's planning witness explained, however, this of course does not prevent considerable weight still being given to the provision of housing supply in the particular circumstances that exist in Caerphilly of a steadily worsening housing supply position, housing policies that are necessarily failing to provide housing, and a shortfall that is chronic.

37. Such an approach is entirely consistent with the approach taken by the Cabinet Secretary in the recent *Pandy Road* appeal.[7] That appeal was also concerned with a site in Caerphilly and with development outside settlement boundaries, contrary to the same policies of the LDP as apply in this matter. Notwithstanding this conflict

[5] Inquiry Doc 4 xvi

[6] Inquiry Doc 4 xiv

[7] Inquiry Doc 1 vi 1

with the development plan, substantial weight was still provided to the provision of housing, with the Inspector concluding that "*Whilst the proposal does not accord with the development plan … the considerable shortfall in housing supply should be given substantial weight and weighs heaving in favour of the proposal".*

38. The Cabinet Secretary expressly agreed with this conclusion in the decision letter, noting the lack of compliance with the development plan, but adopting exactly the Inspector's approach to giving substantial weight to the shortfall of housing. The housing supply position in the *Pandy Road* appeal was 1.9 years. It is now 1.5. There at least cannot be any less weight given to this matter in light of the continued worsening of the housing supply.

39. The need to give this matter substantial weight arises not just from the size of the housing land supply shortfall, but from the matters discussed in the proof of evidence of the appellant's planning witness, namely:

- The extent of the current shortfall is on any view significant, requiring 17 developments of the size of the appeal proposals to come forward in the rest of plan period in order to meet the Council's housing requirement;

- The shortfall is likely to persist for some time. There is also no sign that the shortfall will cease, let alone improve, in the near or even medium future. Since 2011, the housing land supply position has been in a steady spiral downwards, going from a 4.2 year supply at this time to the present 1.5 year supply;

- The only apparent step that could be taken to reduce the shortfall is to release appropriate greenfield sites. The Council have recognised the need to release greenfield sites in its Annual Monitoring Reports;

- As against this, the contribution that the appeal site will make to the shortfall is significant. The provision of 260 new homes, including 60 affordable houses, represents a substantial injection of housing in the borough. In this regard, also, the appellant is willing to agree to conditions that reserved matters applications be submitted within two years and that the development commence within three years of the date of the permission or within two years of the approval of the last of the reserved matters. In this way, there can be further benefit gained from this development contributing to the housing land supply position in the shorter term.

40. It is accepted that the appeal proposals are contrary to the relevant settlement boundary policies SP3, SP5 and CW15. However, and as also set out in the SoCG,[8] it is common ground that breach of the settlement policies do not justify refusing permission in this matter. As is clear from the officer's report (and the limited nature of the refusal of permission by the Council), but for the highways objection, the Council's officers would have recommended this application for approval. In the context of the housing matters set out above, that is an entirely unsurprising view.

[8] Inquiry Doc 1 ix

The highways objection

41. The Council's refusal reason asserts that the appeal proposals will "*aggravate congestion*" and will be "*prejudicial to the effective and efficient use of the transportation network"*. It is also asserted that the sustainable transportation initiatives have not been demonstrated to "*off-set"* the traffic impact of the development. For these reasons it is said that the appeal proposals would be contrary to policy CW3.

42. Three topics are addressed in respect of this objection, namely: (1) preliminary matters including policy aims to prioritise sustainable transportation initiatives, (2) the robustness of the modelling done by the appellant, and then finally (3) the impact of the development on the highways network.

(i) Preliminary matters/sustainable transportation as an aim in itself

43. There are a number of preliminary matters, many of which were agreed with the Council's highway witness in cross examination, that fall to be addressed prior to considering the issue of traffic impact. These are as follows.

    a) Paragraphs B, C and D of CW3 are fully complied with by the development (or are capable of being so at reserved matters stage). These paragraphs include that the appeal proposals will be able to promote "*the interests of pedestrians, cyclists and public transport before that of the private car".*

    b) In respect of A, the Council's highway witness agreed that it is not sufficient (as the Council's reason for refusal does) to simply assert that there will be prejudice or aggravation of congestion to fall foul of CW3A. There needs to be a further judgment as to whether that prejudice or aggravation is unacceptable. If this were not the case, any worsening of highways conditions, no matter how minor, would amount to a breach of this policy.

    c) There is nothing in either policy CW3A or any other local or national policy that requires sustainable transportation measures, when provided, to "*off-set*" prejudice or aggravation of congestion to a highways network. It follows that this aspect of the Council's refusal reason is in any event not supported by policy.

    d) So far as the assertion of prejudice or aggravation of congestion in the refusal reason is concerned, the Council's highway witness agreed that he had undertaken no modelling or surveys which demonstrated what the effect of the appeal proposals on the highways network would be. The Council has offered no evidence to support the reason upon which it based its refusal of the planning application.

    e) The Council's highway witness offered no evidence in his own right as to what he considers is or is not acceptable. So there is neither evidence to support the refusal reason, nor any evidence from the Council on why, the appellant's highways evidence is sufficient to demonstrate that the highways impact is unacceptable.

f) The Council's highway witness instead made two principal points: (a) the appellant's traffic modelling is not robust so "*it cannot be said with any certainty whether the development*" meets policy CW3A, and (b) there is "*no real evidence … [of] a likely modal shift … [so that] the measures proposed are not expected to provide any tangible benefits or mitigate against the transport impact of the development*".

g) Four points arise from the evidence provided (and not provided) by the Council:

- The first point is the one alluded to above, namely that no evidence is provided to support the reason for refusal's allegations of prejudice and aggravation of congestion;

- As agreed by the Council's witness, the series of technical notes exchanged between the appellant and the Council's highways consultants during the consideration of the planning application did not conclude any indication from the Council that it was not satisfied with the robustness of the transport material provided. In fact, it must be directly to the contrary since at the time of refusing permission, the Council positively asserted that the appeal proposals would cause prejudice and aggravate congestion. The assertion of flawed modelling made by the Council's highway witness is accordingly a new point, raised after the refusal reason was issued;

- The appellant's highways case does not depend on the proposed sustainable transportation measures engendering a step-change in modal choice. It never has. Both in the Transport Assessment and subsequent technical notes, and in the evidence of the appellant's highways witness,[9] acceptability of highways impacts is judged based on the unfettered development traffic. Contrary to the Council's closing[10], the appellant has not in any way "rowed back from its original position on modal shift". The appellant's position has remained consistent throughout. The appellant's position is the scheme is acceptable without factoring in potential benefits from modal shift, which would simply make the highways impact more acceptable (i.e. they are not required to make the proposals acceptable).

- Given the Council has not undertaken any of its own surveys, this contention that there is a vanishingly small number of residents who choose to walk or cycle to work is based on the evidence of the residents who spoke at the inquiry. This is not a proper basis upon which to make such a submission.

h) As the Council's witness agreed in cross examination, there are two ways in which sustainable transportation matters are relevant. The first of these is that in so far as modal shift can be engendered, then such measures will assist in

[9] Inquiry Doc 1 viii – Mr M Thomas (MT4)

[10] Inquiry Document 4 xxiv

demonstrating that the traffic impacts of a development will be reduced. It follows from the points set out above, however, that proving the effects of such modal shift is not necessary to the appellant's case, albeit that it is the appellants view that such modal shift will occur, including based upon the studies referred to in evidence demonstrating modal shift in other parts of the country that have benefited from sustainable transportation initiatives.

44. The second way sustainable transportation matters are relevant is that providing such measures is a requirement of policy in its own right. In this regard, the following points are made:

- The Council's highway witness agreed in cross examination that the sustainable transportation initiatives proposed in this matter complied with policy CW1 of the LDP which, inter alia, requires that "*Walking and cycling are modes of travel which have been actively encouraged for short trips within the development and to nearby services and facilities, including public transport notes, through the provision of appropriate infrastructure";*

- The Council's agreement on these matters is not surprising given that policy CW1 is not referred to in the refusal reason at all, nor is it asserted that sustainable transport has not been actively encouraged. It was also the appellant's planning witness's view that policy CW1 and CW3B is satisfied;

- The submission that policy actively encourages sustainable transportation initiatives in their own right is further grounded in policies found in PPW which the Council's highway witness was taken to in cross examination. Those policies included PPW:

(i) 8.1.4, which supports a transport hierarchy for new development which seeks to establish priority for walking and cycling, then public transport, then finally by private car;

(ii) 8.2.1 – 8.2.3, which refer to the Active Travel (Wales) Act 2013, and the need to promote walking and cycling; and,

(iii) 8.3.1, which refers to promoting public transport as a means to achieve environmental objectives, assist in relieving congestion and to encourage social inclusion;

a. It was in light of these matters that the Council's highway witness agreed with the summary of policy set out by the Inspector in the *Pandy Road* appeal, namely that it is "*not the role of the planning system to protect the convenience of the car user but rather to seek to encourage non-car use through sustainable transportation methods*";[11]

b. The appellant's highway witness was taken to TAN 18 in cross examination and asked about whether the development could be said to encourage walking if it is

[11] Inquiry Doc 1 vi 5.

located on a hill. An objection was made to this question, on the basis that it was outside the evidence of the Council that policy CW1 was met (and TAN 18 is to the same effect). Be that as it may, in re-examination, the appellant's highway witness explained that the walking and cycling components of TAN 18 are fully met, having regard to: (a) the agreement of the Council's highway witness that local facilities and services are within a reasonable walking and cycling distance; and (b) the package of sustainable transportation initiatives which all (to quote from TAN 18, 6.2 and 6.4) "*promote*" and "*encourage*" walking and cycling respectively;and,

c. The package of sustainable transportation initiatives is summarised in the appellant's highway witness proof of evidence[12]. It sets out why in his view these packages fully complied with policy requirements to actively encourage sustainable transport. There is indeed consensus on this issue between the main parties. But since the delivery of such measures is the priority in policy terms, the level of compliance achieved by the appeal proposals necessarily informs the approach to what level of traffic impact is acceptable.

45. Finally, it is common ground that there is in any event no concern about traffic impact upon the Bowls Close / Station Terrace junction as confirmed at the Inquiry by the Council.

(ii) The modelling is robust

46. As set out above, the Council's highway witness agreed in cross examination that his evidence about the appellant's traffic modelling not being robust is a new point that was not part of the Council's refusal reason. The reference to a robust traffic assessment in the refusal reason (second sentence) goes only to whether the sustainable transportation initiatives will off-set the traffic impact of the development, this however not being a matter required to be demonstrated by policy.

47. The Council's highway witness further agreed that the point made at his proof about modelling junctions together was a matter that was not even raised in the Council's statement of case (unlike the other traffic modelling points in his section 4.2). The appellant had no notice of this point until the Council's highway witness referred to it in his proof of evidence, it also not being a matter that was ever raised by the Council's highways consultants in their two technical review notes prepared during the consideration of the planning application. Nor was it a matter required by the scoping, which the Council's highway witness confirmed was agreed. The appellant's highway witness explained that to undertake a cumulative junction model is both a time consuming and expensive process; he further explained that it could not reasonably have been anticipated that this point would be made given that his validation of the traffic model had confirmed the model's results.

48. This latter point bears upon an answer given by the Council's highway witness in cross examination who agreed that he had no modelling of his own, or any other data, to demonstrate that a cumulative junction model would have produced any

[12] Inquiry Doc 1 viii – Mr M Thomas

materially different result to that which the appellant has modelled. If (as accepted) there is no evidence to support an assertion of a flawed model, then this point cannot possibly get off the ground. The assertion cannot be tested, and nor can any conclusion be reached that such a modelling exercise would have made a difference.

49. The Council's highway witness also agreed at the Inquiry that his criticism of the trip distribution methodology was unfounded. This was a point that had been raised by the appellant in two technical notes. The second technical note did little more than point out that the requested information was in the original Transport Assessment. It is frankly remarkable that this point was continued to be made by the Council even though it had been answered one year ago.

50. So far as the alleged lack of validation of the appellant's modelling is concerned, the Council's highway witness answers were inconsistent. While agreeing that the detailed survey of the pedestrian crossing outside Hendre Infants School amounted to validation, he did not agree the logical result of that agreement, which is that theoretical unequal lane useage was immaterial since this point goes to the need to validate the traffic model, which however was agreed had been done. Much the same point applies in respect of modelling the pedestrian crossing. As the appellant's highway witness explained, crucially, this crossing was the subjected of a detailed survey, the results of which confirmed the modelling for the St Cenydd Road / A469 roundabout and that he had validated the traffic model for the remaining junction of concern at Hendrendenny Drive/Station Terrace by his numerous site visits, all of which had confirmed that the model was reliable.

51. These matters, together, show that the unsupported assertions made by the Council that the traffic modelling is not robust, is unfounded. A detailed Transport Assessment was prepared, subject to external review on two occasions by the Council's highways consultants, and was supplemented by the three technical notes. Ultimately, the material question is whether there is appropriate information upon which to base a judgment about the impact of the appeal proposals on the highways network. In the appellant's submission, the answer to that question is yes.

(iii) The traffic impacts are acceptable

52. As set out above, at no stage has the appellant's highway witness judgment about the acceptability of the traffic impacts of the development depended upon the sustainable transportation initiatives taking hold and effecting a step change in modal choice. It is the appellant's view that this indeed is what will happen, though necessarily the effects of any such change are difficult to predict. The fact that these measures will likely take hold, however, acts to give further assurance to the judgments made by the appellant's highway witness about acceptability of impacts (made without factoring in these further potential benefits).

53. Those judgments of the appellant's highway witness are made on two alternative baseline bases. The first basis is that there will continue to be suppressed demand or zero growth on the highways network. The second basis is that there will be growth, such that it is necessary to apply TEMPRO factors allowing for growth, with the development traffic then added to a highways network that has a baseline which includes this additional growth.

54. The Council's highway witness agreed that it is necessary, when choosing which baseline scenario to assess, to apply judgment. The reason for this is that if local factors indicate that there is suppressed demand, or zero growth, or some other features which demonstrate that there will be zero or reduced growth going forward, then it is unrealistic to ignore those local factors. It is not then the principle of determining not to apply growth factors that is in issue between the parties, but instead whether such a judgment is appropriate given the local circumstances of this case.

55. Those local circumstances are set out in the appellant's highway witness proof of evidence. Key among these is the fact that the local traffic network has not shown any material growth in the period since 2008. The relevant data comes from both a counter on Hendrendenny Drive and automated traffic counts (ATC) at four locations on the nearby strategic network. To verify the observed stagnation of traffic growth, the appellant's highway witness undertook a detailed exercise of identifying developments in the local area which will have added or drawn traffic to the local area. His assessment (which he accepted was broadly made) was that these developments would generate approximately 10,000 additional trips. The Council's highway witness did not dispute the trip number, though caveated this number by identifying that, for example, a proportion of these trips may not be new trips but may be trips that will have been on the network already (so far as food stores are concerned). With his caveats, he was however prepared to agree in cross examination that this analysis supported the appellant's view that traffic growth in the future would continue to be suppressed. The point put to the appellant's highway witness about the stagnation of growth in traffic relating to the recent recession (a) does not reflect the large amount of growth in the area with its commensurate traffic which is not however reflected on the network, and (b) was also not a factor in the conclusion that zero growth would continue in the *Grange Farm* decision.[13]

56. The appellant's highway witness is not alone in reaching the judgment that local factors may mean it is appropriate to not apply any traffic growth to the traffic baseline. WSP Parson Brinckerhoff, in its first technical note, accepted that this was a "*logical approach*",[14] and the Secretary of State in a recovered appeal decision in *Grange Farm* also accepted that it was appropriate to assess traffic impacts on the basis of zero background growth (in the area in question in that appeal). The judgment made by Council's highway witness is reasonable and in the appellant's submission should be the approach taken in this matter.

57. The appellant has in any event assessed the traffic impact of the appeal proposals on the alternative basis that there is background growth. Two scenarios have been considered: 11% growth and 22% growth. The appellant has discounted assessing the traffic network on the basis of 22% growth. The basis for this is that at this level of growth, the traffic models show that the assessed junctions are over capacity so become unstable. The Council's highway witness agreed in cross examination that when the models become unstable in this manner, they provide an unrealistic assessment of traffic impact. Being unrealistic is simply another way of saying the

[13] Inquiry 1 vi 6

[14] Inquiry 1 viii Mr M Thomas (MT3 para 2.22)

model is showing traffic that simply won't occur. It is pointless to assess such traffic levels for this reason.

58. That means that a judgment has to be made between two levels of traffic growth: 0% or 11%. The appellant's submission as set out above is that it is the 0% growth that will reflect reality. However, no matter which of these approaches is taken, it is the appellant's view that the levels of traffic impact are acceptable. Both in his written and oral evidence, the appellant's highway witness explained the basis for his judgments by reference to his tables 4.6 – 4.8, and the reasons he provided at 4.52 – 4.59 of his proof of evidence[15].

59. As set out above, the Council's highway witness provided no evidence on whether the levels of impact shown in these two scenarios were acceptable or not. Nor, crucially, were the appellants' highway witness judgments on these levels of impact challenged in cross examination by the Council, at all. If the Council's evidence that the traffic models are not robust is rejected, therefore, the unchallenged evidence before this inquiry is that the appeal proposals result in no unacceptable traffic impact. This too is confirmed by the Council's closing[16] which is similarly silent on the evidence on these matters.

60. As the appellant's highway witness explained in his examination in chief, there is congestion on the local traffic network. That congestion however is localised, not serious, allows traffic to move in platoons through the corridor leading up to the St Cenydd / A469 junction, and is confined to limited parts of the peak hour when it becomes influenced by the pedestrian crossing outside Hendre Junior School. These matters all support the view of there being no unacceptable impact. Contrary to the Council's closing[17], it is no part of the appellant's case that the development would result in gridlock.

61. The concerns raised by local residents otherwise need to be put in the context of the appellant's view that the levels of congestion are not untypical of other urban areas across the country. The current resistance to travelling other than by car that some residents hold are likely to be influenced by the sustainable transportation initiatives proposed for the appeal scheme – even the beginnings of change will further assist network congestion. As explained at the Inquiry, choices may also be made to avoid the peak times by those who have such an option, thereby enabling peak spreading and continued zero growth in congestion.

(iv) Modal shift

62. The relevance of the sustainable transportation initiatives finally fall to be considered in the context of whether they will or will not improve the assessed level of (acceptable) impact set out above. Since: (a) providing sustainable transportation initiatives in their own right is the priority of policy (which in this case is complied with for the reasons already set out), and (b) there is otherwise no requirement to

[15] Inquiry Doc 1 viii Mr M Thomas

[16] Inquiry Doc 4 (xxiv)

[17] Inquiry Doc 4 (xxiv)

demonstrate that such initiatives set-off or cancel out all traffic impacts from development.

63. It is common ground that the appeal site is within a reasonable walking and cycling distance from a range of facilities and services, including the train stations. Contrary to the Council's closing statement it is no part of the appellant's case that walking and cycling are appropriate for a weekly shop.

64. The cycling and walking links beyond the appeal site will be improved, by the proposed connection to the National Cycle Network 475 ("NCN475") to the north of the site and by the improvements along the routes to and from the local schools.

65. Topography will be a factor affecting the take up of some sustainable transportation initiatives for some people, but both the journeys to the schools and along NCN 475 avoid the journey up Hendrendenny Drive which was a large focus of the cross examination of appellant's highway witness, and increased bus provision can also engender modal shift. Contrary to the Council's closing statement, the appellant's highway witness's evidence was that he had spoken with the professional highways officer at the Council who had in turn spoken with 'Stagecoach' about its requirements for an expanded service. It does not aid the Council's case to argue that the evidence of an interested third party about the reason for Stagecoach stopping its service is not challenged. The appellant has engaged responsibly and reasonably as to the substance of an expanded service. Likewise, it is no part of the appellant's case that it can compel Stagecoach to increase its service.

66. The studies of personalised travel planning both in Caerphilly and other locations both within Wales and elsewhere universally show a step-change in modal shift. There is every reason to consider, as per the evidence given by the appellant, that the same or at least similar changes will occur with this development, and that these changes could extend to existing residents.

67. Finally, it does not take very much to make a marked change to the traffic impact upon junctions. The sensitivity test modelled in appellant's highway witness's third technical note[18] which applied c.1% less growth and 10% less development traffic resulted in what the Council's highway witness agreed was a marked change to the Hendrendenny Drive/Station Terrace junction. It is not difficult to conclude that changes of this order and better could be achieved, particularly bearing in mind that this sensitivity test in effect applied a growth factor of 21% whereas more recent TEMPRO factors suggest that no more than 16% should be applied in the 2031 design year.[19] It is this same junction that is referred to at paragraph 71 of the Council's closing. The sensitivity test showed this junction improving from a -23.6% capacity to a +4.8%. This also relates to 2031, being the year that the traffic model is unreliable. If the order of change for the sensitivity test was this amount, it will be much more with an overall TEMPRO growth factor of 16% being applied.

[18] Inquiry Doc 1 viii Mr M Thomas MT7

[19] Based on the updated TEMPRO growth factors as extracted in the tables handed into the Inquiry (Inquiry Doc 4 xviii)

68. The point put to the appellant's highway witness as to residents of the appeal proposals having the option to park multiple cars was, as explained, no more than a function of the appellant complying with the Council's parking standards. In so far as the sustainable transportation initiatives do engender change, it is contended they will, such change will occur with the benefit of choice of modes of travel being provided, as the package of initiatives allows.

(v) Conclusion on highways

69. All the above matters demonstrate in the appellant's submission that the appeal proposals comply with policy CW3 and indeed with all relevant transportation policies, including by reason of the appeal proposals seeking to encourage non-car use.

70. The Council is otherwise and in any event able to apply funds collected through CIL to undertake improvements to the St Cenydd / A469 junction (or the Trecenyyd roundabout). The Trecenyyd roundabout is an item of infrastructure listed on the Council's Regulation 123 list.

71. As the Council's highway witness agreed in cross examination, the Council has provided no evidence to say that improvements to this roundabout could not be undertaken.

Development in the green wedge

72. Very careful and detailed consideration has been given by the appellant to the landscape policies, including those that apply to the GW that exists between Hendrendenny and Abertridwr and within which the appeal site sits. It is common ground with the Council that the appeal proposals would result in only negligible harm to the GW, and that its function and effectiveness would be maintained should permission be granted for the appeal proposals and the housing built out.

73. The appellant's landscape witness evidence explains that while there would (inevitably) be a loss of openness at a very localised level, that loss of openness would not be appreciated from the wider area within the valley area. Viewpoints 5 and 8[20] amply demonstrate how in views from the cheeks of the valley, the visible rural separation between Hendrendenny and Abertridwr would be maintained. There would moreover be no perceptible difference to those travelling along the road on the valley floor between the settlements, due to the appeal site being located beyond a substantial tree belt.

74. The appellant's planning witness in turn explained in his examination in chief that it is accepted that the appeal proposal represents inappropriate development so far as PPW is concerned. That being the case, PPW requires that there be "*very exceptional circumstances*" that clearly outweigh "*the harm which such development would do to the … green wedge*". The very exceptional circumstances relied upon by the appellant are the provision of housing and affordable housing, which the appellant submits should be given substantial weight.

[20] Inquiry Doc 1 viii Mr Cook App. 11

75. These circumstances in turn fall to be weighed against "*the harm*". The harm here is a negligible impact on the green wedge and upon its function and effectiveness. This is not then a case where the very exceptional circumstances must outweigh some level of great or substantial harm. The harm to be weighed is likely to as low as is possible when considering green wedge policies. Having regard to these matters, it is the appellant's view that the very exceptional circumstances relied upon here are more than sufficient.

Effect on character and appearance of the area

80. The SLA spans a vast area and wraps entirely around Caerphilly. The base data that informed the designation of the SLA demonstrates that the appeal site falls within an area of the SLA that moves between having low to moderate value. As the appellant's landscape witness explained, this is no doubt a function of the appeal site abutting the hard edge of the Hendrendenny estate, but also the lack of the features identified with the SLA description as being of higher value (i.e. those areas described as being away from urban edges).

81. So far as the distinctive features of the SLA are concerned, the landscape proposals for the appeal scheme would reinforce and enhance the trees and hedgerows on the site, to the benefit of the wider SLA. The grassland on the appeal site would of course be lost over the majority of the site, but this grassland is not of high quality, and where it would be partly retained, it will be significantly enhanced.

82. In sum, there will be no material impact upon any of the other distinctive features of the SLA. The SOCG agrees that the appeal site would act as a logical rounding off of the settlement and that the Council's professional landscape officer, in agreement with Mr Cook, had no concerns about the principle of development on the appeal site from a landscape point of view.

83. Accordingly, in the appellant's submission, there will be no unacceptable impacts upon the SLA.

Sustainable development

84. The WBFG Act places a duty on public bodies to carry out sustainable development.

85. As set out in the evidence of appellant's planning witness, the appeal proposals meet the relevant sustainability objectives set out in PPW so supporting the conclusion that the appeal proposals represent sustainable development. In particular:

- A prosperous Wales: the development proposals will promote prosperity through the construction of new homes which TAN 23 recognises can provide economic benefits to the local economy. For the reasons already set out above, it is not possible to avoid developing on greenfield sites given the chronic housing land supply position in Caerphilly at present, however the effects on the landscape by developing this particular greenfield site are for the reasons set out above are negligible;

- A resilient and healthier Wales: well-being is acknowledged to be achieved through the provision of housing, including affordable housing, with health and

resilience further being secured by the development being accessible by public transport, walking and cycling to a range of services and facilities;

- A more equal Wales: the proposed development will provide equal opportunities for local people to access an increased choice in housing which evidence has shown to be in chronically short supply across the County Borough. The creation of a variety of family housing including a significant proportion of affordable housing will have direct social benefits and provide additional homes for people who wish to live in the area but cannot currently afford to or do not have access to a home in the area;
- A Wales of cohesive communities: locating the development in what is agreed to be an accessible location by different modes of transport, and seeking to minimise the demand for travel, all relate to the objectives under this heading;
- A globally responsive Wales: by reason of the above matters, the proposed development provides new homes in a way that encourages a move towards a low carbon economy.

86. Having regard also to the lack of any unacceptable traffic impacts, in the appellant's submission the appeal proposals clearly represent sustainable development and will provide a significant benefit to the community if approved by allowing more people to secure homes in the area, including of course affordable homes.

The overall balance

87. As the appellant's planning wintess explained in his examination in chief, the appeal proposals comply with a large number of relevant policies, including of significance for this appeal, policies CW1 and CW3. The fact however that the appeal site is located outside of the settlement boundary as defined in the LDP, means that the appeal proposals are contrary to the development plan.

88. Save for policy CW3A, the only other policy in respect of which there is any material disagreement as to compliance or not is policy CW22. There cannot be any serious dispute that the requirements of this policy are met. As explained during the Inquiry, in the light of the same factual context of an excess of a 20 year reserve, the conclusion reached in *Pandy Road* was that no quarrying would occur hard up against the settlement edge. Either for this reason or the overriding need provided by the housing supply matters referred to above, it is clear that the requirements of this policy are met.

89. In the final balance, and noting the presumption in favour of the development plan, it appellant's view that the delivery of much needed housing, including affordable housing, the delivery of a scheme that constitutes sustainable development, and the lack of any unacceptable traffic impacts, together demonstrate the other material considerations that conclusively demonstrate that permission should be granted in this matter.

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90. The proposed development is in most respects contrary to planning policy, and could only be acceptable as an exception to policy. It is situated outside the settlement

boundary of Caerphilly, and as such is contrary to Policy SP5 of the adopted LDP. The site is entirely within the Mynydd Eglwysilian SLA. It intrudes into the 'green wedge' between Caerphilly and Abertridwr. As such, development is *prima facie* also contrary to policy SI1.20. These are however surmountable objections and the Borough suffers from an undersupply of housing assessed over a 5-year period, though this undersupply may be less severe than appeared to be the case at the earlier stages of the appeal process. The Council would in the circumstances have permitted the proposed development were it not for highway objection.

91. The LPA's objections to the proposed development are that the vehicular traffic generated by proposed development will aggravate congestion at peak times on the local road network particularly at the junction of Hendredenny Drive with B4263 St Cenydd Road, and between that junction and the B4263/A468 junction. Furthermore the applicant has failed to demonstrate through a robust traffic assessment that the sustainable transport initiatives proposed are of an adequate standard to off-set the traffic impact of the development. The development would therefore be contrary to policy CW3 of the LDP because it would be prejudicial to the effective and efficient use of the transportation network.

92. Since the date of refusal, nothing of substance has changed. No evidence given by the appellant during the course of the appeal persuades the Council that the development can proceed without unacceptable prejudice to the effective and efficient use of the local transport network. The proposal attracts fierce local opposition from local residents. The objections raised by residents largely mirror those of the Council.

Is the proposed development in accordance with the wider principles of sustainable development, and will the proposed sustainable transport initiatives bring about modal shift?

93. The sustainable development principle means that "a defined public body must act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs." In refusing permission to the proposed development at Hendredenny Drive, the Council considers that it is acting entirely in accordance with this principle. The proposal is not sustainable. It merely purports to be.

94. Policy CW1 requires that walking and cycling are 'actively encouraged'. While the Council accepts that the measures adopted by the appellant comply with this aspect of policy, the weight to be attached to such compliance is limited if the appellant does not actually expect its encouragement to result in modal shift. Much of this encouragement will be of minimal duration; the £400 travel grant applies only to first occupants of the houses. The bus contribution lasts 3 years, and travel plan assistance ends when £50,000 is spent. These are not long-term measures.

95. Policy CW3 requires that the Council does not grant permission to unsustainable developments, which place unacceptable stress on the local transportation network. The Council consider that the proposal at Hendredenny Drive is unsustainable, and that considerable weight should be attached to non-compliance. The appellant submits with regard to policy that sustainable transportation is an aim in itself. This is true, but is not achieved by permitting traditional, unsustainable development

whose negative effects greatly outweigh any benefit of measures taken to mitigate its unsustainability.

96. The decision in the Pandy Road case can be distinguished. There, it was the Inspector's clear conclusion that the local road network was in a position to cope with the additional demand. In this case, the local highway network is plainly not up to the task. The development site is attached to a dormitory estate located on the outskirts of Caerphilly. It is some distance from shops and transport links. It is situated on the side of a steep hill. In all probability, the preferred mode of transport of residents at this particular location is likely to be the car.

97. This is certainly the case with existing residents. Levels of car ownership within the Hendredenny estate are high, at 1.65 cars per household. In the evening, parked cars put considerable pressure on road space within the estate. Alongside the parked cars were a number of vans, suggesting that a sizeable proportion of residents were tradesmen. The LPA does not consider, in the circumstances of the proposed development, that any alternative mode of transport will replace car use either for existing residents of the Hendredenny estate, or residents of the appeal site. More pressure will be placed on an already creaking road network.

98. The appellant does not propose to create any capacity improvements to improve the local road network or to address existing congestion, and acknowledges that the development will cause inconvenience to existing residents of Hendredenny Drive. Residents and the LPA consider that this inconvenience will be serious and substantial. Challenged on this, the appellant's highway witness repeated the mantra that it was not the purpose of planning policy to 'protect the convenience of the private car commuter'.

99. While CW3 places the interests of pedestrians and cyclists above those of car users, it is not a function of planning policy to penalise motorists who, through topography, climate and the availability of practicable alternatives have no choice. There are few existing pedestrians or cyclists. Allowing gridlock cannot be styled as advancing their interests. The appellant's highway witness repeatedly suggested in evidence that the effect of the development was to afford new and existing residents greater choice. He suggested that the location and topography of the site was a minor factor in choice of transport mode, and that residents were simply choosing to use cars.

100. This is questionable. It seems obvious that people will not choose to cycle up big hills in the rain. They are equally unlikely to choose to walk or cycle a mile to a supermarket and return with a weekly shop. They will probably not choose to use an unpunctual bus service, or infrequent rail links. They will not choose to travel in ways that are less convenient, given the location of their homes, than the methods they currently employ.

101. The measures proposed by the appellant do not offer residents a genuine choice. In reality, the presence of 260 new homes on the estate would restrict choice, and significantly inconvenience the majority of Hendredenny residents who depend on their cars. On this basis, the large number of residents who have registered their formal objections to the proposed development are quite right to have done so. The appellant recognises that their lives will be made more difficult, and in effect tells them they will just have to get on their bike. The design of the proposed

development is in most respects entirely conventional. 4 bedroom houses on the site will have parking space for 4 cars. 'Coach house' designs involve a two-bedroom flat above three garages. Nothing in the design is likely to disincentivise car use. It was open to the appellant to request lower parking provision, to disincentivise car use by residents. For obvious reasons, the appellant chose not to limit parking. It is disingenuous of the appellant to suggest that residents will not use cars, while ensuring that the development is as attractive as possible to those who do intend to drive everywhere.

The probability of modal shift occurring

102. When the appellant submitted its grounds of appeal[21], the appeal was based on the LPA having failed to appreciate the opportunities for modal shift afforded by the new development. In its transport assessment[22], the appellant asserted that the 'whole thrust' of the proposed development was achieving a substantial modal shift of around 10% change from car use. It appeared to be common ground that, without modal shift, the proposed development would be unacceptable.

103. As an alternative to 'fixing' existing congestion and highways 'issues' in the area around the proposed development, the appellant claimed it would bring about change in the way Hendredenny residents use their cars. During the course of the appeal, the appellant has sought to detract from the significance of modal shift. The appellant's highways witness claimed in evidence that local congestion near Hendredenny estate is not a problem, and the appellant does not need to bring about change in Modal shift to make the application acceptable. The appellant is in a state of denial about traffic problems around the Hendredenny estate. The appellant's highway witness could not bring himself to use the word 'problems' in his evidence, instead adopting the Zen-like formulation of styling the traffic problems near the estate at peak times as 'not a problem, but a state of being'. It is perhaps unsurprising the appellant has rowed back from its original position on modal shift. In the view of the LPA, this is not a site where one would reasonably anticipate any significant modal shift.

104. The appellant places reliance on results of the Cardiff SUSTRANS survey, which analysed responses from 32000 houses citywide. The Cardiff survey, dealing with a topographically flat capital city with far superior public transport infrastructure provides no meaningful comparison with Caerphilly. In the telephone survey conducted in Caerphilly[23], 70% of respondents were resistant to changing mode of transport. The reasons they gave for this resistance appear highly relevant to the proposed development. The reality is that the site itself is wholly unsuited to bringing about this kind of change, and that the measures proposed by the appellant are manifestly insufficient to bring it about.

[21] Inquiry Doc 1 i – Grounds of appeal, paragraph 3.3 (8-15)

[22] Inquiry Doc 1 ii V1 7

[23] Inquiry Doc 1 viii , M Thomas MT10, Active Travel Hub Caerphilly project report, page 26, paragraph 7.6.1

Buses

105. A local resident in her evidence to the enquiry said that bus services to Hendredenny Drive had recently been reduced. This evidence, it appears, is not disputed by the appellant. She understands that the reason for this is that services were unpunctual because of congestion. The appellant has not spoken directly to Stagecoach, and cannot confirm or deny that this was the reason for a reduction in services. However unpunctual buses using the route around the site are at present, the proposed development would inevitably create more traffic and exacerbate this unpunctuality.

106. The Council's highway witness felt that the junction of Hendredenny Drive and Station Terrace would struggle with any extra buses in the morning peak. A bus takes up the road space of 2 to 3 passenger cars, and the effect of a bus on the box junction is much more pronounced than that of a car. This in itself would be an incentive against greater use of buses. Residents who need to meet a train connection, or to be at work on time may experience a degree of frustration in sitting in a bus waiting at traffic lights at the end of Hendredenny Drive. Furthermore, buses may substitute some car use, but they may also substitute foot or cycle journeys. Someone who at present walks or cycles into Caerphilly from Hendredenny Drive may find an improved bus service (were such improvements to be effected) a step up in comfort and convenience. Existing car users would probably find it a step down in comfort and convenience from using their car.

107. There is no scope for provision of bus lanes on the affected part of the network, so bus passengers will be adversely affected by an increase in congestion in exactly the same way as motorists. It is in any event unclear how the £300,000 assistance set out in the s.106 agreement will translate into improved services. While the agreement can compel the appellant to give the money to a bus operator, it cannot compel the operator to run the buses. The LPA is not satisfied that changes in bus use will have any positive impact on the local road network, if 260 houses are added to an existing bottleneck.

Walking and cycling

108. At present, a vanishingly small number of Hendredenny residents choose to walk or cycle to work. The Council's nor the appellant's highway witness did not witness any cyclists in the estate on their joint visit to the site. One leisure cyclist was observed on the cycle link below the estate. The Council's highway witness observed some people sporadically walking on the estate, mainly with dogs. Nobody of any age was walking up the hill.

109. The LPA accepts that a substantial number of secondary school children living on the Hendredenny estate walk to school. However, a substantial number of primary school pupils are dropped off near to their schools by car. Few pupils currently cycle to school. Hendre Junior School specifically forbids cycling to school. Three of the four local schools have not been specifically consulted by the appellant as to the viability of cycling to school. There are no, or limited parking or storage facilities for cycles at three of the schools. Their head teachers did not appear keen to explore the use of cycling to school. The proposed development contains no measures that would make it substantially safer for children to cycle. An increase in traffic on the estate may have the opposite effect.

110. The low uptake of cycling on the estate is no surprise. The local topography, climate and nearby road network are largely unfavourable to cyclists. These factors are hard factors which make modal shift less likely. Two are entirely outside the appellant's control, and the third will be only marginally improved by the measures set out in the s.106 agreement. Even the appellant's highway witness thought that it would be the more enthusiastic sort of cyclist to whom cycling might appeal. If the enthusiastic cyclist in question were a tradesman, or someone who could not avoid using a car for business, enthusiasm in itself will not lead to modal shift in car use at peak times. In reality, the expectation that a large proportion of the residents of the new houses, who are generously provided with one car parking space per bedroom, will choose to cycle some distance to work on any but the fairest of days is fanciful.

111. A travel grant of £400 per household is not a realistic incentive towards modal shift to cycling. Residents may well gratefully take up the offer of a subsidised bicycle, for themselves or more probably as a Christmas present for their children. Many households own bicycles for leisure purposes. Far fewer use them as a primary mode of transport.

112. There are no major supermarkets or retail outlets within easy walking distance of the proposed development. The two small shops nearby are 'basket shops' and unsuitable for a weekly grocery run. No-one would walk or cycle to complete a weekly supermarket shop and the appellant's highway witness did not suggest otherwise. There is no retail offering near to the proposed development, and only one pub. For work, shopping and leisure alike, residents are obliged to travel off the estate. Except in fine weather, it is unlikely that they would choose to walk or cycle for these purposes.

Rail links

113. In order to provide any meaningful reduction to peak time vehicular traffic, rail use must be combined with walking and cycling to a railway station. Driving to a station will not reduce traffic on the local road network at peak times. There is little scope for cycles to be taken on local trains. There may be some leniency over policy banning cycles on peak-hour trains. Greater uptake of cycling may strain this leniency. The appellant's highway witness suggestion in response was that every resident should have a special, collapsible bicycle such as a £1000 Brompton. The appellant's highway witness also suggested that to conquer the hill, residents should provide themselves with electric bikes. Electric folding bikes are available, but they are heavy and even more expensive. A £400 grant will go nowhere to getting a family of four using the train rather than cycling. Rail links at the Energlyn station are in any event insufficiently frequent to attract regular use by residents of Hendredenny Drive. Other stations, although within reasonable walking or cycling range if it were on flat ground, are at locations which strongly encourage driving to the station rather than walking or cycling. This would not relieve any of the existing stress on the local road network, particularly the exit to Hendredenny Drive, at peak hours.

114. Consequently, the LPA do not anticipate that a significant number of private car commuters on the Hendredenny estate will switch to rail travel. In the LPA's view, the proposal represents unsustainable development. It has no special character that is likely to encourage modal shift. Quite to the contrary, its location, extensive parking provision and character are all such as to encourage or necessitate car use.

It is not enough to greenwash an application and assert that this will lead to modal shift. The site itself must be suitable for such a shift to occur.

Does the traffic modelling provide a robust assessment of the baseline position/ traffic impact, and what is the cumulative impact of junctions and signal crossings on the highway network?

115. The LPA is not satisfied that the appellant has correctly assessed the base level of future traffic, the impact of the proposed development on traffic levels, or correctly modelled traffic flow at junctions. The appellant's projection of traffic volume relies on incomplete and outdated figures that understate traffic growth, and on a theory of suppressed demand on the local network that is unevidenced and speculative. The table at 4.18 of the transport SoCG[24] shows an upward trajectory in traffic volume, interrupted from 2008 to 2013. This interruption correlates eerily with the interruption in economic growth caused by the recession. The trajectory is now, once again, upwards.

116. The appellant has provided no compelling reason to conclude that the 2008-2013 reduction in volume was instead a function of suppressed demand. The appellant's planning witness theory of suppressed demand is anyway of no obvious relevance when the appellant proposes to build 260 houses with one car parking space per bedroom, and there is only one practicable way out of the Hendredenny estate.

117. The appellant's modelling fails to take into account the impact of the pedestrian crossing outside Hendre Infants School. The effect of this failure is significantly to underestimate congestion at peak times. The appellant also understates the effect of future traffic levels on the junction of Hendredenny Drive and Station Terrace.

118. The Vectos Technical Note[25] shows that at the Hendredenny Drive Signals in the 2031 PM peak the PRC goes from 12.8% (without development) to -23.6% with development. This is fundamentally the difference of the junction being over capacity or not.

119. The appellant's highway witness disagrees as to the rate of growth, but concedes traffic will grow through to 2031. Either way, the junction is also likely to become unstable. It was the Council's view that even a small increase in traffic would produce a marked difference on the Station Terrace/ Hendredenny Drive junction. It is the Council's view, supported by all available data, that the junctions identified in the LPA's refusal of permission are over capacity even without the proposed development. Any growth will lead to those junctions coming under further pressure.

120. Lane use on the approach to the Trecenydd roundabout is modelled unevenly. The appellant suggests that the LPA could somehow improve traffic flow, but improvements works in respect of the roundabout were completed in 2011/2012 and it is felt that no further improvements could be made. The appellant has made no constructive suggestions as to how it could be improved to ease congestion, were the Hendredenny proposal approved.

[24] Inquiry Doc 4 v

[25] Inquiry Doc 1 iii 1

121. The appellant has placed considerable weight on the 'validation' of his modelling by observations. The LPA strongly contests the suggestion that the modelling has been adequately validated. The appellant made a conscious decision not to re-model following criticism of the failure to include the effect of the pelican crossing. The appellant similarly chose not to validate the results of modelling by a comprehensive survey of queue lengths. The LPA consequently does not accept that the data presented by the appellant presents

122. an accurate picture of base load, or of the likely increase in traffic volume on the local network.

Conclusions

123. The proposed development site is an entirely traditional housing estate that promises nothing new in terms of transport use and the existing problems on the local road network would be exacerbated by the proposed development. The LPA accepts that there is a shortage of development land across the Borough, this cannot in itself justify approval of an unsuitable, unsustainable proposal, which will put unacceptable strain on local road networks.

Other interested parties or persons appearing at the Inquiry

124. A number of people spoke at the Inquiry in support of the Council's decision to refuse planning permission; their names are listed at the end of this report. In broad terms their objections and concerns to the proposed development are summarised as follows:

- The proposal would result in additional traffic congestion in the area particularly along the junctions in the immediate vicinity of Hendredenny Drive where congestion is already severe due to the traffic associated with a number of nearby schools. The overall Hendredenny estate is only served by one access road off Hendredenny Drive which the proposed development will feed into, and add to an already heavily congested situation. It is argued the capacity of existing roads cannot cope and it is maintained the appellant's submitted transport assessment has under reported the impact of the development on the surrounding highway network. The proposed sustainable transport initiatives will not provide a realistic alternative to the use of the private car;

- Public transport is not adequate to serve the site and it would not encourage alternative forms of travel due to the topography of the area and the need for local people to commute to work by car;

- This is a greenfield site outside settlement boundaries, with poor accessibility to public transport services, and the development would have detrimental impacts on the transport network due to the use of the private motor car;

- Concerned that additional traffic would make the Hendredenny estate roads less safe particularly for young pedestrians as there are a number of schools nearby;

- The proposal would have a negative impact on the wildlife and general ecology of the area;

- It is inappropriate development within a green wedge as designated in the LDP and would result in Hendredenny merging with other areas;
- Would be detrimental to the visual amenities of an area of open countryside that is also designated as a Special Landscape Area in the LDP;
- Would result in the development of land that is safeguarded for mineral extraction;
- Concerned that existing local services, particularly medical and educational services will not be able to cope with the increased population arising from 260 new dwellings, and that local infrastructure such as sewerage would not be able to cope; and,
- Would result in detriment to the residential and visual amenities of existing residents living adjacent to the site, and result in loss of privacy, overlooking and loss of light.

Written Representations

125. In response to the appeal publicity, 100 letters of objection, including a petition signed by over 100 people, were received; in addition one other was received during the time the Inquiry sat. These letters of objection broadly reflect the comments made by those who spoke at the Inquiry. However, additional issues raised by objectors are summarised as follows:

- It is argued brownfield sites should be used to address any shortfall in housing land supply in preference to the green field sites and that other parts of the county are better suited to residential development due to the number of brownfield sites, and their links to public transport and the wider highway network;
- Concerned that the proposed development would detrimentally affect local air quality and may result in local subsidence or flooding;
- Detrimental effect on human rights as enshrined under Articles 1 & 8 of the Human Rights Act in regards to the peaceful enjoyment of property and respect for the right to a private and family life and for the home.

126. In addition one letter was received that supported a restriction on the use of the private car in relation to the development. An additional letter was received from NRW who reiterated their previous non objection to the proposed development.

127. Other written representations (amounting to 247 letters of objection and a petition signed by 102 people) that have been taken into account are those from local residents submitted to the Council at the application stage[26]. Again, the objections raised broadly reflect the comments of the interested parties as indicated in the preceding paragraphs.

[26] Inquiry Doc 2 i

128. Responses received from consultees and other organisations at the application stage have also been taken into account. As detailed on the Council's planning officer delegated report[27], there were no objections to the proposal from the Council's public protection, drainage, outdoor leisure, public services and countryside and landscape service sections, nor from NRW, the Coal Authority, Dwr Cymru or the Glamorgan/Gwent Archaeological Trust.

129. Penyrheol Trecenydd & Energlyn Community Council objected to the proposal which broadly reflected the comments made in the preceding paragraphs. The Council's Strategic & Development Plans Section highlight that whilst the proposals are contrary to the provision of the LDP insofar as it lies outside of a settlement boundary and is within a GW and SLA, nonetheless this has to be considered against the need to increase housing land supply which is a significant material consideration. The Council's minerals officer stated that the applicant needs to demonstrate that there is an overriding need for the development which outweighs the need to safeguard the sandstone resource as required by the LDP.

Conditions and Obligations

Conditions

130. During the Inquiry the main parties presented a draft list of suggested conditions[28], which discussed in the light of Circular 16/2014[29]. That list forms the basis of the schedule set out in Annex A to this report with amendments and refinements to align the conditions with the advice and model conditions in Circular 16/14 as discussed at the Inquiry.

131. The first would require the submission of those matters reserved for a later application, that is, appearance, landscaping, layout and scale. Conditions 2 and 3 relate to time limits and require the submission of reserved matters within 2 years and that the development be commenced within 3 years. Condition 4 requires the submission of a phasing plan involving details for public open space, a wet/dry grassland habitat, play/recreational and drainage. Condition 5 relates to drainage of the site. Condition 6 relates to submission of details for a locally equipped play area and mini multi use games area or 'kick about area'. Condition 7 relates to an intrusive site investigation in regards to land instability issues.

132. Condition 8 protects an oak tree within the site in the interests of ecology. Condition 9 relates to the protection of trees and hedges within the site, hedgerow enhancement and future management. Condition 10 relates to a street lighting strategy for ecology reasons. Condition 11 relates to the submission of a landscaping and management scheme. Condition 12 relates to the submission of a grassland habitat scheme. Condition 13 relates to the submission of details for refuse collection. Condition 14 relates to the construction details for the proposed access

[27] Inquiry Document 2 i

[28] Inquiry Documents 4 (vii)

[29] Circular 16/14, *The Use of Conditions for Development Management*

into the development, whilst condition 15 relates to the submission of details relating to an automatic traffic counter.

Obligations

133. A signed and dated Section 106 Agreement was discussed at the Inquiry. The Agreement relates to the following:

- Provision of 23% of the dwellings for affordable housing;
- A suite of transport related initiatives including, a contribution of £300,000 towards the improvement of the bus service serving Hendredenny Drive, the provision of a travel bond worth £400 for each dwelling on the site to fund the purchase of a bicycle or vouchers for public transport, to pay the Council or any other party nominated by them the sum of £25,000 to deliver a Travel Planning Service, provision of off-site drop kerbs, footway/cycleway route improvements, street lighting and resurfacing works, and obtaining delivery of a cycle link on Council owned land; and,
- Details relating to open space for the site and its future management.

Conclusions

[The numbers in parentheses refers to the foregoing paragraphs]

134. These conclusions are based on the evidence submitted and given at the Inquiry and the written representations summarised above, and my findings at the accompanied and unaccompanied inspections of the site and surroundings. Whilst the Council only refused the proposal on one ground relating to highway impacts, having read and heard the submitted evidence, I consider that there are a number of other main considerations upon which this decision should be based as follows:

i. The effect of the development on the transport network, with particular reference to highway junctions in Hendredenny;

ii. Whether the proposed development would provide a suitable site for housing having regard to the principles of sustainable development and planning policies that seek to strictly control new development outside of settlement boundaries;

iv. Whether the development is inappropriate development in a green wedge, and if so, whether any very exceptional circumstances exist to clearly outweigh this harm; and,

v. The effect of the development on the character and appearance of the area with particular regard to its location within a Special Landscape Area.

The effect of the development on the transport network, with particular reference to highway junctions in Hendredenny

135. The Council's sole reason for refusal asserts the proposed development will aggravate congestion at peak times on the local road network, and that the appellant has failed to demonstrate through a robust traffic assessment that the sustainable transport initiatives proposed are of an adequate standard to off-set the traffic impact of the development. Consequently it is considered the proposal would be prejudicial to the effective and efficient use of the transportation network and contrary policy CW3 of the LDP. [9,27, 41, 43, 88, 91, 95, 99]

136. Policy CW3 of the LDP states the development proposals must satisfy a number of criteria detailed from A to D. At the Inquiry the Council's highway witness confirmed the proposed development fully complies with criteria B,C & D or was capable of being complied with at the reserved matters stage. The Council's case is therefore premised on conflict with criteria A of the policy which states a proposal must have regard for the safe, effective, and efficient use of transportation network. [43, 91]

137. There is no dispute amongst the main parties that the Hendredenny area currently suffers from congestion with the primary concerns being those junctions where the Hendredenny Drive meets Station Terrace, and where the St. Cenydd Road meets the A469 roundabout; traffic flows two ways at both sets of junctions. Congestion is evident at two peaks, in the morning and afternoon, although the afternoon peak is slightly different as the school afternoon peak of 15:00-16:00 is typically outside of the highway peak. Between Hendredenny Drive and the A469 roundabout three schools can be found, namely, Hendredenny Infants, Hendre Junior & St. Cenydd Comprehensive.

Traffic Growth

138. As regards the issue of aggravating congestion at peak times on the local road network, the submitted TA[30] indicated two baseline scenarios for measuring traffic growth locally. The first scenario is based on suppressed demand or zero growth on the highway network, and the second scenario based on growth such that it is necessary to apply TEMPRO modelling factors, with the development traffic then added to a highway network that has a baseline which includes this additional growth. [53, 54, 55, 56, 57,58, 115]

139. In regards to the first scenario, the appellant did not apply any growth to future year assessments as historic traffic data for the area has not shown any material growth since 2008; I have no reason to believe this data is inaccurate. The appellant also undertook research into the level of residential and commercial development that has taken place in the wider Caerphilly area which indicated there may have been some 10,000 trips added to the network. The findings of that survey work indicate that despite estimated growth from housing and other larger development between 2008-2016, there has not been any significant traffic growth. The Council argue that the traffic growth may well have stagnated due to the recent recession, however, that is

[30] Inquiry Doc 1 (ii) 7

not reflected in the large amount of growth in the wider area with its commensurate traffic that is not reflected on the network. [55, 115]

140. The Council's highways witness accepted this analysis, caveated with the view that, for example, a proportion of the estimated trips generated may not have been new trips but trips that will have already been on the network already. Nonetheless, the submitted evidence indicates that despite a significant amount of development occurring in the wider area, the strategic highway network, of which the A469 forms part, has seen no material growth in traffic; the Council have provided no substantive evidence that this approach is flawed and consequently I consider it appropriate to assess traffic impacts on the basis of zero background growth as a robust assessment of likely future traffic trends.

141. The Council argue the submitted traffic models have not been validated, however, validation has taken place via on site observations made by the appellant's highway consultant. At the Inquiry the Council's highway witness accepted that such validation had occurred in the case of the St. Cenydd Road/A469 roundabout; I see no reason why such validation cannot apply to other modelling that was carried out. Based on a number of site visits I carried out I agree with the appellant that in broad terms the submitted modelling is broadly consistent with on-site observations.[50]

142. The Council also argue the modelling approach considered each junction in isolation and does not consider the cumulative impact on the junctions. This was not a matter raised during the Council's consideration of the application, nor for that matter as part of the Council's initial statement of case submitted with the appeal. The Council's highway witness accepted that he had no modelling of his own, or any other data, to demonstrate that a cumulative junction model would have produced any materially different result to that which the appellant has modelled; accordingly I attach little weight to this point. [47, 48]

143. The appellant's submitted evidence based on a zero growth forecast indicates that with the development the queuing at Hendredenny Drive/Station Terrace junction to be + 6 vehicles at Hendredenny Drive and + 7 vehicles on Station Terrace southbound during the AM peak[31]. In the PM peak there is an increase of 6 vehicles in a queue on Station Terrace northbound, whilst at Hendredenny Drive it is an increase of 5 vehicles[32]; the junction is therefore within theoretical capacity with the addition of the development traffic. As regards the St. Cenydd Road/A469 roundabout junction, the modelling indicates the junction is within capacity with the addition of the development traffic[33].

144. Whilst the proposed development will add additional traffic to the peak hour flows, it is not at any significant level, and as indicated in the submitted evidence, development traffic does not cause the junctions to be at over capacity.

[31] Inquiry Doc 1 viii Mr M Thomas para 6.19

[32] Inquiry Doc 1 viii Mr M Thomas para 6.19

[33] Inquiry Doc 1 viii Mr M Thomas para 6.19

145. However, even if I were not to accept zero growth, the appellant has modelled for additional growth at 11% and 22%. Whilst growth at 22% has been modelled, the appellant argues such growth should be discounted on the basis that at this level of growth, the traffic models show that the assessed junctions are over capacity so become unstable and therefore provide an unrealistic assessment of traffic impact; at the Inquiry the Council's witness accepted this point, consequently I consider it reasonable to only consider additional growth at 11% and upto the year 2021. [57,58, 115, 116]

146. The model indicates that the effect of the development in 2021 assuming a 11% increase in background traffic, at the Hendredenny Drive/Station Terrace junction would result in an increase in queuing on Station Terrace of + 7 vehicles northbound during PM peak[34], whilst the St. Cenydd Road/A469 junction operates within capacity with the addition of the traffic from the proposed development[35]. The model indicated that traffic from the proposed development does not cause the junctions to be over capacity. In addition the appellant provided at the Inquiry revised statistics[36] relating to the TEMPRO growth model which indicated lower background growth. [67]

147. Whatever baseline approach is taken, i.e., zero growth or a 11% growth, it is clear to me that the proposed development is unlikely to have any material effect on peak flow traffic conditions on the local highway network. [58]

148. I appreciate the concerns of the Council and local residents in regards to existing congestion on the highway network and also the effects of the proposed development may have on existing congestion. Based on the submitted evidence and also my observations during a number of visits to the relevant junctions during peak times, it was clear that whilst congestion occurs, it is very localised, and traffic can still move at a reasonable pace between the junctions i.e. traffic is not static for any significant length of time; the appellant's estimate for a journey through the local network of about 3-3.5 minutes was broadly in accordance with my observations. I also observed that even within the peak hour flows there was variation e.g. there was a steadier flow and less queueing upto about 8 am as the traffic lights were not called as frequently by children being escorted or walking to school.

149. The proposed development would have an impact on local congestion during peak hours, but this impact could not be deemed to be significant due to the limited number of additional vehicles as compared to the existing situation, and that existing queue times are relatively short in duration; the proposed development is therefore not likely to materially to add any existing congestion. Any slight harm in terms of congestion is mitigated by the proposed sustainable transport initiatives as discussed further below.

[34] Inquiry Doc 1 viii Mr M Thomas para 6.20

[35] Inquiry Doc 1 viii Mr M Thomas para 6.20

[36] Inquiry Doc 4 xviii

Sustainable Transport Initiatives

150. The Council's reason for refusal refers to the appellant's failure to demonstrate through a robust traffic assessment that the sustainable transport initiatives proposed are of an adequate standard to off-set the traffic impact of the development. However the Council's highway witness accepted at the Inquiry that there is nothing in local or national planning policy that requires such initiatives to off-set or cancel out *all* traffic impacts from development. [43]

151. The modelling referred to above assumes unfettered traffic growth without the effects of modal shift. Whilst the appellant argues that proving the effects of a modal shift is not necessary, nonetheless it is accepted that the proposal is likely to add to localised congestion, and that without the proposed sustainable initiatives, the situation for the car commuter whether existing or proposed will become worse. In addition, I agree with the appellant that the transport initiatives proposed as part of the scheme are in line with local and national planning policies aimed at promoting more sustainable modes of travel. [12, 41, 43]

152. The proposed sustainable transport initiatives include:

- A footway/cycleway link from the site to National Cycleway Network to the north of the site;
- Off-site improvements including active travel routes/safe routes to school;
- Provision within the site for a bus turning area;
- £300,000 to provide a half hourly bus service along Hendredenny Drive;
- £400 per dwelling towards a travel bond for a bus pass or cycle voucher; and,
- £50,000 Travel Plan fund for local schools and for Personalised Travel Planning (PTP) for residents. [124]

153. Provision for the footway/cycleway and the other off-site improvements such as the active travel routes comprise significant physical improvements that should encourage use for work/school and leisure purposes. The provision within the site for a bus turning area would significantly improve the existing facilities on Hendredenny Drive which, as highlighted by the Council's Transport Unit, currently suffers from a lack of such a facility. Concerns were raised by third parties about the infrequency of the current bus service for the Hendredenny area, however, the £300,000 would allow for a greater frequency of service at half hourly intervals. [105, 124]

154. The £400 per dwelling towards a travel bond for a bus pass or cycle voucher will assist those who choose a mode of transport other than the private motor car. I accept that in the case of the cycle voucher that this option may not be practicable for all, especially bearing in mind local topography, but it will appeal to some and offer another sustainable travelling option. [111, 113, 124]

155. The Council and other third parties questioned the usefulness of the Travel Plan fund for local schools and the use of PTP, however, the appellant highlighted that their discussions with local schools indicated their desire to see improved travel planning and less reliance on the private car for school journeys. The value of the Travel Plan

fund will ensure maximum exposure of local schools to initiatives such as SUSTRANS whose recent work with Active Journeys Wales achieved a 13% reduction in pupils being driven to school with corresponding increases in other modes. In addition, the use of PTP in Cardiff resulted in a 10% reduction in distances travelled by car for everyday trips. [104]

156. Notwithstanding the views of local residents, I do not consider the walking time from the site to Churchill/Energlyn railway station is unreasonable. I appreciate that not every train stops at this station and there may be occasions when trains are either full or will not allow room for cycles. Nonetheless the proximity of the station, which includes the provision of cycle parking spaces, provides the opportunity to travel by means other than the private car. [113]

157. The proposal lies in a sustainable transport location as it is in relatively close proximity to schools, shops, and other amenities, and could be served within a reasonable walking distance of public transport in form of buses and trains. In this context the proposed development would perform well against the principles of sustainable transportation as identified in PPW, and seeks to reduce the reliance on the private motor car. In this respect I have had regard to the decision relating to the Pandy Road development and my decision is consistent with the approach advocated by the Inspector i.e., 'it is not the role of the planning system to protect the convenience of the car user, but rather seek to encourage non-car use through sustainable travel measures'[37]. [44]

158. Whilst not cited in the Council's refusal reason, the appellant has drawn my attention to policy CW1 of the LDP which I also consider is relevant to the proposed development. Policy CW1 relates to sustainable transport, accessibility and social inclusion, and only permits development that is likely to generate a significant number of trips provided that it meets a number of criteria, which includes that 'walking and cycling are modes of travel which have been actively encouraged for short trips within the development and to nearby services and facilities, including public transport nodes through the provision of appropriate infrastructure'; the Council's highway witness accepted this aspect of the policy was satisfied in regards to the proposed development, in addition to the other criteria referred to in the policy. The Council also accept that criteria B (i) of policy CW3 of the LDP is also complied with in regards to the proposed development; the requirements of the policy are that new roads within the proposed development are designed to promote 'the interests of pedestrians, cyclists and public transport before that of the private car'. [44]

159. In addition, the LDP development strategy for the 'Southern Connections Corridor' in which the site is located states that proposed development shall promote sustainable development that reduces car borne trips. Policies SP3 & SP19 of the LDP adopt a broadly similar approach. [10]

160. In my view the impact of the proposed development on local congestion would be mitigated by the proposed sustainable transport initiatives. I am satisfied the proposed transport initiatives would be likely to encourage non-car use and contribute towards a more sustainable means of travel in line with the requirements of local and

[37] Inquiry Doc 1vi 1

national planning policies, and only likely to result in the proposed development adding less cars to the local highway network than otherwise would be the case.

161. It is clear for my site observations that traffic and pedestrian movement associated with the schools are the primary reason for localised congestion during peak times, however, as I have referred to above I do not consider the level of congestion at present or with the development in place would be significant, especially when any harm is mitigated by the proposed sustainable transport measures. The appellant, whilst not advocating any particular approach, suggests for example, that it is within the Council's power to use CIL contributions from the proposed development to instigate improvements to the St. Cenydd/A469 junction to make capacity improvements for the motorist; as that junction is listed on Council's Regulation 123 list, I see no reason why CIL funds could not be used for such works should the Council consider it necessary. [70,71]

162. Drawing the strands of the above together, I do not consider the proposed development would materially add to congestion at peak times on the local road network with particular reference to highway junctions in the Hendredenny area. In addition the appellant has demonstrated that the sustainable transport initiatives proposed are likely to encourage non-car use, contribute towards a more sustainable means of travel, and encourage a modal shift away from the private motor car. The proposed development would therefore promote the safe, effective and efficient use of the transportation network in line with policy CW3 criteria A of the LDP, and the promote sustainable patterns of development as indicated in policies SP3, SP19 & CW1 of the LDP, and national planning policy as contained within PPW and TAN 18. [9,10,12]

Whether the proposed development complies with national and local policy designed to protect the countryside and promote sustainable development

Settlement boundaries

163. Policy SP3 that relates to the LDP's 'Development Strategy', states that development proposals will promote sustainable development that will, amongst other criteria, use previously developed land within settlement limits. Policy SP5 which relates to settlement boundaries defines areas within which development would normally be allowed and, to prevent the coalescence of settlements and, to prevent inappropriate development in the countryside. Policy CW15 seeks to restrict development outside of identified settlement boundaries, unless it falls within a series of exceptions listed, none of which apply in this instance. [10,87]

164. The appellant accepts that the proposed development is in conflict with policies SP3, SP5 and CW15 by reason of being located outside of the settlement boundaries as defined in the LDP. [87]

165. Chapter 4 of PPW is concerned with planning for sustainability. I appreciate the site is located adjacent to an existing built up area, is relatively close to schools, shops, and other amenities, and could be served within a reasonable walking distance of public transport in form of a local bus route, nonetheless PPW stipulates that the countryside, in line with sustainability principles must be conserved. Therefore, whilst the proposed development is sustainable in a number of ways, due to its location

outside of the settlement boundaries it would not be a sustainable form of development in the context of the above cited policies in the LDP and PPW. On this basis I must conclude that the proposed development would not provide an appropriate site for housing having regard to the principles of sustainable development and planning policies in the LDP and PPW, as applied to the control of new development outside of settlement boundaries.

Green Wedge

166. The appeal site lies within the Penyrheol, Hendredenny and Abertridwr GW as defined in the LDP. The purpose of the GW at these locations is to prevent the coalescence of Caerphilly and specifically Hendredenny with Abertridwr. Policy SI1 of the LDP seeks to resist any proposal that would not maintain the open character of a GW and broadly reflects national guidance in PPW. It is common ground between the main parties that the proposed development would result in only negligible harm to the GW, and that its function and effectiveness would be maintained should the site be developed. The Council accept that the incursion of the development into the GW would not result in the coalescence of the two areas of Hendredenny and Abertridwr as a significant amount of land would remain; I agree. [72]

167. The proposal would not result in development getting any closer to Abertridwr as in broad terms it would align with existing residential development on the opposite side of the valley, however it would inevitably result in a loss of openness due to its physical and visual incursion into GW. The appellant accepts the proposal represents inappropriate development in a GW as set out in PPW. The proposal therefore clearly conflicts with local and national planning policies in regards to development in GW's. [74]

168. PPW states a presumption against inappropriate development, with substantial weight to be attached to any harmful impact which a development would have on a GW designation. It confirms that inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations would clearly outweigh the harm. In this respect both main parties agree the very exceptional circumstances that need to be considered is the lack of a 5 year land supply. I shall return to the weight to be given to the very exceptional circumstances in my overall conclusions. [75]

The effect of the proposed development on the character and appearance of the area with particular regard to its designation as a Special Landscape Area

Character

169. The appellant's original submission with the planning application included a Landscape and Visual Impact Assessment (LVIA) that was carried out in accordance with best practice[38].

[38] Guidelines for Landscape and Visual Impact Assessment (GLVIA), Third Edition, 2013, The Landscape Institute and the Institute of Environmental Management and Assessment.

170. The appeal site is located on the middle to lower slopes of the Aber valley and directly abuts the existing residential area of Hendredenny. In LANDMAP the overwhelming majority of the site falls within the Llanfabon Visual and Sensory Aspect Area, with a smaller section falling within the Abertridwr. The appeal site lies within an area that is designated as the Mynydd Eglwysilian SLA within the LDP. The LDP identifies that the primary landscape qualities and features of the SLA relate to all aspect areas, namely, cultural, landscape habitats, geological, visual and sensory, and historic landscapes. [80]

171. The Llanfabon landscape character area is described as having a rural and upland feel characterised by broad views across the valleys, and upto upland hills/outliers of Mynydd Eglwysilan and Meio that dominate inward views. The area has a mixture of rural field patterns, isolated settlements, farmsteads, urban edge, pylons and masts that give it an overall complex character; it is considered to be of moderate overall evaluation. Abertridwr landscape character area is described as an urban area in a valley setting of mainly housing along the B4263; it is considered to be of low overall evaluation.

172. Policy SP10 of the LDP states that the Council will protect, conserve, enhance and manage the natural heritage of the County Borough. Policy NH1 protects SLA's from development that would harm their distinctive features or characteristics. Policy CW4 states that proposals that effect locally designated heritage features will only be permitted, where they conserve and where appropriate enhance the distinctive or characteristic features of the SLA. [10].

173. In respect of the SLA's features and qualities as identified above, from my observations I have no reason to disagree with the appellant's conclusions that the proposed development would have a negligible effect on geological, historic and cultural aspects.

174. The proposed development would inevitably result in the loss of an area of pastoral grassland, however in landscape habitat terms the overwhelmingly majority of field boundaries with their trees and hedges would be retained as indicated on the submitted indicative masterplan. Some boundaries would be augmented with native species and an area would be set aside to provide for a marshy/wet grassland habitat. In addition it is also the intention to retain an oak tree within the site which has the potential to be used as a bat roost. Bearing these factors in mind I agree with the appellant's view that the proposal would have a moderate beneficial effect on landscape habitats. [81]

175. The Council considers the site to be a logical rounding off of Caerphilly as it fills in the gap between Hendredenny and the Cae Caradog development on the opposite side of the Aber Valley. Further the existing green corridor along the valley floor would be retained. The site abuts the existing built form to it southern and eastern boundaries and broadly reflects the land within that adjacent development.

176. The proposed development would be visible within the landscape from a number of locations as identified in the LVIA and from a number of other vantage points I observed during my various site visits. However, visibility does not necessarily result in harm to landscape character, and the local topography and existing landscaping would screen significant amounts of the development from view. I accept that

dwellings will be seen but from medium to distant vantage points, however views would be limited, and in the main be seen in the context of the existing built form of the wider Caerphilly urban area. The proposed development would appear in keeping with the mass, scale, form and character of the adjacent residential areas and would not be at odds with the LANDMAP visual and sensory characteristic for the area.

177. Clearly the proposal would introduce an additional built element into the landscape, but that additional built form would not materially alter the SLA's overall character, or its qualities or features given the proximity of adjacent development, and that the site will retain the majority of the existing landscaping and field boundaries, and will have within it visually open areas. Consequently the proposed development would not have any significant effects on the character of the SLA. [81,82,83]

Visual Impact

178. The site on its southern and northern boundaries lies adjacent to and broadly follows the land levels of adjacent development along Hendredenny Drive. The indicative masterplan submitted with the application along with the layout as detailed on the submitted Design and Access Statement indicates in broad terms a scheme comprising of two and three storey dwellings located at various levels across the site. There is no reason why in design terms the proposed dwellings could reflect built features in the locality such as the use of brick and render. The site would include infrastructure in the form of a wetland area to the north eastern boundary, a central public open space area, and the retention and augmentation of green corridors in the form of existing hedges lines and trees. [81]

179. There is no dispute that the proposal would be visible within the landscape. However, to my mind the issue is whether that visibility is likely to have a significant adverse effect. The LVIA refers to visual receptors as including those who live or travel in the area and users of local public rights of way. From a number of the viewpoints I observed the visual impact of the development would be of limited significance due to screening by local topography and existing hedges. Walkers using the nearby public right of way between Hendredenny and Ty Canol Farm to the west of the site, are likely to experience views of the site, however these views are unlikely to be sustained over long periods due to local topography and screening effects of existing vegetation, and as such their effect on visual amenity would be minor and not significant.

180. Further afield, I observed the proposed development would be visible from elevated sites to the north east near to Pen-y-Heol Las Farm on the opposite side of the valley. However, due to the intervening distances involved, and the fact that the proposal would be seen against a foreground of built development and adjacent to the existing urban edge, its effect on visual amenity would be minor and not significant. I accept the current views of the site as open countryside would be no longer apparent, however those views also include the existing built up areas directly adjacent to the site. The development of the site would have a visual relationship with the residential estates to the south and east and therefore would not appear at odds in visual terms with the general appearance or visual amenities of the wider area, nor fundamentally alter the landscape's overall character and appearance.

181. However, close public viewpoints do include the residential cul-de-sacs adjacent to the site. I accept that from a number of adjacent properties the development would be visible. However, based on the submitted evidence, the partial screening effects of existing and proposed landscaping, the setback distance of the proposed properties, the retention and augmentation of existing landscaped boundaries, and the relatively low level nature of the development, I do not consider those properties in close proximity, nor any other further afield would be unacceptably affected in visual terms.

182. Overall I conclude on this main issue, for the reasons given above, that the proposed development would not be detrimental to the character and appearance of the area, both in terms of landscape and visual impacts. As such the proposal would not materially harm the distinctive features and characteristics that make up the SLA, and would conserve the natural heritage of the County Borough. The proposed development would therefore not be in conflict with LDP policies SP10, NH1 & CW4 which seek to protect natural heritage. [10,11,12]

Other Considerations

183. The appeal site lies within a mineral safeguarding area for pennant sandstone. Policy SP8 of the LDP safeguards mineral resources from permanent development that would prevent their future working, whilst policy CW22 states that proposals for permanent development within identified mineral safeguarding areas will not be permitted unless certain criteria are met, one of which is that there is an overriding need for the development. I shall address the issue of overriding need below in my overall conclusions. [11]

184. It is common ground between the Council and the appellant that it is unlikely that a quarry would be granted planning permission on the site due to its location adjacent to a built up area; I agree. It is also common ground between the main parties that no interest has been shown in terms of mineral extraction near to the site, that the Council has a more than sufficient aggregates land bank, and that as sandstone covers the majority of the County Borough it would be difficult to find a suitable location for new housing outside of the safeguarding zone.

Other Matters

185. Most of the concerns raised by local residents or local groups and organisations have already been addressed under the main considerations, or the recommended conditions. Several of the more detailed concerns raised can properly be addressed when reserved matters applications are considered, including the precise location of proposed dwellings. [130-132]

186. Concerns have been raised in relation to the effect of the proposed development on the ecology of the area, however, the appellant's submitted ecological assessment concluded there were no ecological constraints related to the proposed development of the site; I have no reason to take a different view. I note that neither Natural Resources Wales, nor the Council's Countryside and Landscape Services raised any objections to the proposed development based on ecology interests, and a number of the proposed conditions specifically relate to protection or enhancement of ecology interests. [132]

187. The Council accepts that there is no evidence that local schools, medical facilities, sewers and water supply could not accommodate the development; I have no substantive evidence to take a contrary view. The site does not lie within a defined flood plain. [125]

188. Concerns were raised that the proposed development would be detrimental to highway safety, however, I note the Council's highway sections have not raised any objections in this regard; without substantive evidence to the contrary I see no reason to take a contrary view. [124]

189. Reference has been made to the 'Human Rights' of adjacent occupants being affected, with specific reference to Article 1 of the First Protocol of the European Convention on Human Rights which refers to the peaceful enjoyment of property, and Article 8 which bestows the right to respect for private and family life and for the home. In regard to the Articles cited reference is made to the detrimental impact of the scheme on adjacent residential occupiers in terms of privacy, enjoyment of their garden and property, and effect on light. Nonetheless as discussed above, I am satisfied based on the submitted evidence that if this development goes ahead, the degree of interference that would be caused to adjacent occupants would be insufficient to give rise to a violation of rights, with any effect of granting planning permission on adjacent properties not being disproportionate. [125]

Conditions and Obligations

190. In the event that Welsh Ministers decide to allow the appeal, I agree that the conditions set out in Annex A would be necessary and reasonable and would satisfy all the tests set out in Circular 16/14 , *The Use of Conditions for Development Management*. As discussed with the parties at the Inquiry, in the interests of precision, I have reworded slightly a number of conditions; in addition I consider that condition 15 as originally proposed[39] is neither necessary or reasonable (nor for that matter is the revision to this condition[40] as agreed with the parties and reworded, and indicated in Annex A), nonetheless the condition as reworded is included in Annex A should the Welsh Ministers deem it necessary. [121-123]

191. I consider that the obligations are necessary, are related to the proposed development, and related in scale and kind, and therefore meet the appropriate tests set out in Section 122(2) of the Community Infrastructure Levy Regulations 2010 and Circular 13/97. Accordingly the Section 106 Agreement should be afforded weight in the determination of the appeal. [133]

Overall conclusions

192. A decision on the appeal is required to made in accordance with the development plan unless material considerations indicate otherwise. The proposed development conflicts with national and local planning policies relating to development outside of development boundaries, however, PPW states that development in the countryside should be located within and *adjoining* those settlements where it can be best

[39] Inquiry Doc 4 vii

[40] Inquiry Doc 4 viii

accommodated in terms of infrastructure, access and habitat and landscape conservation; in these respects the proposed development performs well.

193. The proposed development also conflicts with national and local planning policies that seek to safeguard GW's. PPW states a presumption against inappropriate development, with substantial weight to be attached to any harmful impact which a development would have on a GW designation. It confirms that inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations would clearly outweigh the harm.

194. The Council cannot demonstrate a five year housing land supply. Whether it be 1.5, 2.0, or 2.2 years, there can be no question that the shortfall is significant. [25]

195. TAN 1 advises that where land supply is below the 5 year requirement 'the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with the development plan and national planning policies'. Clearly this is not the case in this instance, however, the extent of the shortfall weighs heavily in favour of development that can proceed without causing harm to its surroundings.

196. Whilst I accept that the proposed development does not accord with the development plan in so far as it relates to development outside defined settlement boundaries and GW's, nonetheless, the lack of 5 year housing land supply weighs heavily in favour of the proposed development.

197. I note the Council's 2014 Annual Monitoring Report[41] (AMR) stated that 'limited greenfield release be considered on sites that are acceptable in planning terms in order to address the lack of a year land supply in the short term'. The 2015 & 2016 AMR's again confirmed the continuing need to address the lack of a five year land supply, with the 2016 AMR stating that the Council will need to continue to address the shortfall through proactive action including considering proposals for new residential development on their planning merits on a site by site basis.

198. As agreed between the parties in the SoCG[42] there is no emerging development plan to address the shortfall; there is no mechanism to increase housing land supply in the short term and there does not appear to be any possibility of a development plan solution any time soon. The LDP housing requirement is in the region of a further 4,386 units to be delivered over the remainder of the plan period i.e. upto 2021. The proposed development would provide for 260 much needed dwellings of which 60 will be for affordable needs; the proposed development would more than double the amount of affordable housing previously permitted in the Caerphilly in the last 8 years. The LDP is clearly not delivering the required number of dwellings. The proposed development would add a significant number of dwellings which can be brought forward in the short term with the agreed shorter periods for submission of reserved matters and commencement of development to address the housing shortfall.

[41] Inquiry Doc 1 v 1

[42] Inquiry Doc 1 ix

199. Whilst the site is located within a mineral safeguarding zone it is unlikely to be granted planning permission due to its proximity to existing residential development. Policy CW22 of the LDP refers to only allowing development in such areas where there is an overriding need. [11]

200. The proposed development will make a significant contribution to housing land supply, including affordable dwellings. Whilst outside of the settlement boundary, nonetheless the site lies in a sustainable location in terms of access to services, amenities and public transport, and would not cause unacceptable harm to its surroundings. I have also found that it will not materially harm the distinctive features and characteristics that make up the SLA. I consider, there is an overriding need for this development and when the above factors are considered in their totality, they constitute the very exceptional circumstances necessary to outweigh the conflict with the national and local planning policies previously referred to.

201. I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the WBFG Act. In reaching this decision, I have taken into account the ways of working set out at section 5 of the WBFG Act and I consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

Recommendation

202. I therefore recommend that planning permission be granted subject to the conditions attached as Annex A to this report.

Declan Beggan

Inspector

APPEARANCES

FOR THE APPELLANT:

A Byass	of Counsel instructed by RPS Planning & Development Ltd

He called

A Lucas BSc (Hons) Dip TP MRTPI	Director RPS Planning & Development
M Thomas BSc (Hons) MSc FIHT, FCILT	Director Vectos
A Cook BA (Hons) MLD CMLI MIEMA CEnv MID	Landscape Architect Pegasus Group

FOR THE LOCAL PLANNING AUTHORITY:

M G Paul	of Counsel instructed by Caerphilly County Borough Council

He called

R Thomas B Eng (Hons) FIHE, CMILT, MCIHT, MTPS ASRSA	Highway Consultant WSP

THIRD PARTIES

L Whittle	Local County Councillor
H Davies	Local County Councillor
D Evans	Local resident
C Gomez	Local resident
R Williams	Local resident
J Davies	Local resident
S Hatton	Local resident
R Smith	Local resident
C Jorgenson	Local resident
S Gould	Local employer
S Keable	Local resident
E Colley	Local resident
B Macauley	Local resident

INQUIRY DOCUMENTS

1. Appellant's supporting documents:
   i. Grounds of appeal and a bundle of supporting documents
   ii. Core Documents Volume 1 CD1 – Original Application Documents
   iii. Core Documents Volume 2 CD2 – Additional Application Documents
   iv. Core Documents Volume 3 CD3.1-15
   v. Core Documents Volume 4 CD4.16-30
   vi. Core Documents Volume 4 CD5.31-40
   vii. Statement of Case
   viii. Proofs of Evidence from Mr M Thomas, Mr A Cook & Mr A Lucas
   ix. Statement of Common Ground
2. Council's supporting documents:
   i. Appeal questionnaire and bundle of supporting documents
   ii. Statement of Case
   iii. Proof of Evidence from Mr R Thomas
3. Appeal Representations:
   i. 100 letters of objection received
   ii. 1 letter of support and a letter from NRW
4. Documents submitted during the course of the Inquiry:
   i. Appeal notification letter and list of those notified received from the Council
   ii. Written opening statement of A Byass
   iii. Written opening statement of M G Paul
   iv. Copy of draft 106 legal agreement
   v. Highways Statement of Common Ground
   vi. E mail from E Davies of Redrow dated 21 March 2017
   vii. List of conditions the parties are in agreement over.
   viii. Additional condition submitted by the R Thomas relating to an Automatic Traffic Counter
   ix. Photographs submitted by appellant indicating cycle parking at Energlyn & Churchill and Aber railway stations

x. Written response by Council regarding matters raised by Inspector relating to the green barrier, effect of the development on the character and appearance of the area and whether the appeal site would provide a suitable site for housing.

xi. Information submitted regarding a new bike shelter at Hendredenny Park Primary School

xii. Note submitted by Council in regards to 5 year housing land supply dated 15 March 2017

xiii. Errata to proof of evidence of Andrew Lucas

xiv. Copy of letter of 23 February 2017 from Lesley Griffiths AM to Heads of Planning

xv. Response from appellant to the comments of Mr Brimble (third party)

xvi. Rebuttal response from appellant to Council's revised 5 year housing land supply note dated 15 March 2017

xvii. Section 106 legal agreement, signed and dated by both main parties

xviii. Updated TEMPRO statistics submitted by appellant

xix. Letter from Cllr. L Whittle

xx. Two Ordnance survey maps showing site in relation to green wedge

xxi. Traffic report submitted by Mr Gomez

xxii. Highways Statement of Common Ground

xxiii. Written closing statement of A Byass

xxiv. Written closing statement of MG Paul

ANNEX A – Recommended Conditions

1) Details of the details of appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any part of the development begins. The reserved matters shall follow the layout of development as indicated in the indicative masterplan.

2) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission.

3) The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

4) Prior to the commencement of works on site a phasing plan for the application site shall be submitted to and approved in writing by the Local Planning Authority. The phasing plan shall include details of:

a) Public open space, including any wet/dry grassland habitat required in accordance with condition 12

b) Location of Local Equipped Area of Play (LEAP), and mini Multi Use Games Area (MUGA) or kick about pod

c) Strategic foul and surface water drainage features and Sustainable Urban Drainage System (SUDS), if applicable.

The development shall be carried out in accordance with the approved phasing plan or in accordance with any revised phasing plan, which shall be submitted to and approved in writing by the Local Planning Authority.

5) No development shall take place until details of a scheme for the disposal of surface water and land drainage flows from the site has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

6) Prior to the first occupation of a dwelling within the phase in which the LEAP and mini MUGA or kick about pod are located, details of a scheme to provide such facilities shall be submitted to and approved in writing with the local planning authority. Development shall be carried out in accordance with the approved details.

7) No development shall take place until an intrusive site investigation has been carried out in accordance with a methodology submitted to and approved in writing by the local planning authority. The results of the site investigation shall be submitted to the local planning authority before any development begins. If any land instability issues are found during the investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development shall be submitted to and approved in writing by the local planning authority. Remedial measures shall be carried out prior to the first occupation of any associated residential building and in accordance with the approved details and retained in perpetuity.

If during the course of development, any unexpected land instability issues are found which were not identified in the site investigation referred to above, additional measures for their remediation in the form of a remediation scheme shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures which shall be retained in perpetuity.

8) The oak tree identified on plan EC02 attached to the ecological assessment dated May 2015 entitled 'Ecological Features and Survey Results', shall be retained and protected throughout the course of development in accordance with details to be submitted to and approved by the local planning authority prior to the commencement of development.

9) Prior to the commencement of development, a plan showing the location of trees to be retained within the development, together with details of the means for their protection, details of hedgerow enhancement planting and management including a species list and a timeframe for implementation, shall be submitted to the local planning authority for approval. Any subsequently approved details shall be implemented in full.

10) Prior to the implementation of any street lighting, a light mitigation strategy, including measures to ensure that street lighting reduces light spillage into foraging habitat for bats, shall be submitted to the local planning authority for approval. The lighting shall be installed in accordance with the approved strategy.

11) Prior to the occupation of the development hereby approved, a landscaping and management scheme shall be submitted to and approved in writing by the local planning authority. Areas identified for native hedgerows, woodland or wildflower planting shall include a mix of approved species of which at least 75% shall be of local provenance. The approved details shall be carried out in the first planting or seeding season following the completion of the development. Any trees or plants which within a period of 5 years form the completion of the development die or are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the local planning authority gives written consent to any variation. The management scheme shall include a programme of landscape maintenance over the 5 year scheme together with a mechanism for managing the landscape during and after the scheme period.

12) Prior to the commencement of development details of a scheme to provide a marshy/wet grassland habitat within the site, including its provision and maintenance shall be submitted to and approved in writing by the local planning authority. In the event such provision cannot be reasonably provided as agreed by the local planning authority, an area of species rich dry grassland shall be provided in accordance with details submitted to and approved in writing with the local planning authority.

13) Pursuant to any reserved matters submission, the layout details shall include off-highway collection areas for refuse, recycling, food and garden waste to be collected by vehicles operating a highway kerbside collection service. The approved collection areas shall be completed before the residential units to which they relate are occupied and thereafter they shall be maintained free of obstruction for the storage and collection of refuse, recycling, food and garden waste only.

14) The proposed means of access as indicated on drawing No. P.20 Fig. 4.1 in the submitted Transport Assessment dated May 2015, shall be laid out, constructed and maintained thereafter with visibility splays of 2.4 m by 43 m. No obstruction or planting when mature exceeding 0.9 m in height above the adjacent carriageway shall be placed or allowed to grow in the vision splay areas.

15) Prior to the commencement of development details shall be submitted and approved to the local planning authority indicating the location of an automatic traffic counter (ATC). Any subsequently approved details for the ATC shall be installed and maintained at the local planning authority's expense.

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

Llywodraeth Cymru
Welsh Government

Eich cyf/ Your ref: C3429 New Road, Rhosrobin
Ein cyf/ Our ref: qA1345967

Mr Guy Evans
Cassidy and Ashton
10 Hunters Walk
Canal Street
Chester
CH1 4EB

10 June 2019

Dear Mr Evans

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY WELSH TOWN PLANNING AND HOUSING TRUST LIMITED, MRS I DUTTON, MR J DUTTON, MR P DAVIES AND MR D GRIFFITHS IN CONJUCTION WITH LIBERTY PROPERTIES
OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT OF UP TO 189 DWELLINGS WITH ALL MATTERS RESERVED EXCEPT FOR ACCESS AT LAND EAST OF TAN Y BONT, MAIN ROAD, RHOSROBIN, WREXHAM
APPEAL REFERENCE: APP/HY955/A/17/3182282

1. Consideration has been given to the original and addendum reports of the Inspector, Kay Sheffield BA (Hons) DipTP MRTPI, who held Hearings for your client's appeal against Wrexham County Borough Council's ("the Council") refusal of outline planning application P/2016/0189. The application is for "residential development of up to 189 dwellings" on land east of Tan y Bont, Main Road, Rhosrobin, Wrexham.

2. In accordance with section 79 and paragraph 3(1) of Schedule 6 to the Town and Country Planning Act ("the 1990 Act"), the appeal was recovered for determination by the Welsh Ministers. The reason for the direction is that the proposal is for a residential development of more than 150 houses on more than 6 hectares of land. Under the provisions of the Government of Wales Act 2006, the power to determine applications under section 79 of the 1990 Act has been transferred to the Welsh Ministers. These functions are within the portfolio of the Minister for Housing and Local Government and have been exercised by me as Minister.

3. In exercising their functions as part of carrying out Sustainable Development in accordance with the Well-Being of Future Generations (Wales) Act 2015 ("the WFG Act"), section 2 of the Planning (Wales) Act 2015 requires the Welsh Ministers, as a

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

public body, to ensure the development and use of land contributes towards improving the economic, social, environmental and cultural well-being of Wales. In order to act in this manner, the Welsh Ministers have taken into account the ways of working set out in section 4 of 'SPSF1: Core Guidance, Shared Purpose: Shared Future – Statutory Guidance' on the WFG Act through examination of the appeal by way of a Hearing in accordance with the Town and Country Planning (Hearings Procedure) (Wales) Rules 2003.

4. The Inspector held a Hearing on 14 February 2018 and a site visit was carried out on the same date.

5. On 18 July 2018, the Cabinet Secretary for Energy, Planning and Rural Affairs wrote to all Heads of Planning in Wales to issue a 'Call for Evidence' to explore ways the planning system can assist in increasing the delivery of new homes in sustainable locations. As a result, paragraph 6.2 of Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies was dis-applied. It is now a matter for decision makers to determine the weight to be attributed to the need to increase housing land supply where a Local Planning Authority (LPA) has a shortfall in its housing land.

6. In accordance with the Town and Country Planning (Hearings Procedure) (Wales) 2003 Rules, on 31 July the First Minister issued a letter to all parties which took part in the appeal hearing giving them the opportunity to make representations or ask for the reopening of the hearing to take account of a new matter of fact.

7. A Planning Inspector, appointed by the Welsh Ministers reopened the Hearing on 21 February 2019.

8. The Inspector recommends the appeal is allowed and planning permission granted. Copies of the Inspector's original report and addendum report (IR) are enclosed. All references to paragraph numbers, unless otherwise stated, are to the addendum report.

Main Consideration

9. The main issue considered in the Inspector's addendum report is whether the lack of a five-year housing land supply is a consideration sufficient to outweigh any conflict with local and national planning policies (IR41). I agree with the Inspector that this is the main issue due to the absence of an adopted Local Development Plan (LDP).

10. In the Inspector's original report it was accepted that the proposal would constitute inappropriate development in the Green Barrier (original IR80-82) and that planning permission should not be granted for such development except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Barrier as stated in paragraph 3.70 of Planning Policy Wales (PPW) 10. However, in making the recommendation to allow the appeal, the Inspector took account of paragraph 6.2 of TAN 1 and afforded considerable weight to the need to increase housing land supply due to the absence of an adopted LDP, as part of the very exceptional circumstances in favour of the appeal (IR39).

11. The Inspector is of the view that, following the dis-application of paragraph 6.2 of TAN 1 it is now a matter for the decision maker to determine the weight which should be attributed to the need to increase housing land supply where a Council has a shortfall in housing land. However, as stated in paragraph 10 of the letter from the First Minister dated 31 July 2018, the Welsh Government considers the need to

increase housing land supply should not be given considerable weight. It disagrees with the weight afforded in the Inspector's original report to the need to increase housing land supply and with the reasoning that very exceptional circumstances exist to justify the proposed development within the Green Barrier (IR40).

12. I consider the primary consideration is that the Council has neither an up-to-date Unitary Development Plan (UDP) nor an adopted Local Development Plan (LDP). The Inspector states it is therefore considered to have zero housing land supply. The Inspector states that the requirement in Planning Policy Wales (PPW) 10 that the Council must ensure that sufficient land is genuinely available or will become available to provide and maintain a five-year supply of land for housing is not met (IR42). I agree with the Inspector and consider the absence of either an up to date Unitary Development Plan (UDP) or an adopted LDP is the crucial factor in this case.

13. The Council has submitted the Deposit Wrexham Local Development Plan 2013 – 2028 (LDP) for examination, at the time of the Hearing, consultation on focussed changes to it was ongoing and there was no firm programme for its examination (IR9). The Inspector is of the view the provision of a five-year housing land supply is a matter which will be addressed by the LDP. The Council considers that sufficient land is proposed for allocation in the plan to meet the identified need for housing and maintain a five-year supply over the plan period. Whether or not the LDP is sound is a matter for the Examining Inspector for the LDP and not this appeal. However, the Inspector states that, as the LDP has not yet been examined and is unlikely to be adopted until early 2020, limited weight can be applied to it. Furthermore, the Inspector is of the view that there are certain matters in respect of housing land supply which are material to the appeal (IR43).

14. The Council's housing completion figures confirm a consistent and significant under-supply which over the period 2013 to 2018 accounts for approximately 1380 units against a proposed average LDP requirement of 517 per annum. The evidence suggests the shortfall will increase over the next year at least. Although the Council is confident it can deliver the projected housing requirements, the Inspector states, if they are to be achieved, there will need to be a significant increase in the number of completions over the remaining 9 years of the plan period. The Council is aware that unless more land is brought forward for development prior to the adoption of the LDP, there is a risk that the housing requirements will not be met. The Inspector is of the view that it is evident that there is no immediate prospect of completions from proposed allocations in the LDP and suitable sites therefore need to be brought forward for development prior to the adoption of the LDP, if the housing trajectory is to be achieved (IR44).

15. The Inspector is of the view that although in the LDP the appeal site is in open countryside and part of a Green Wedge, it is surrounded on three sides by existing built development within the settlement limit of Wrexham Town and represents a logical extension to the settlement. In the event the examination of the LDP identified a need for additional housing land the Council agreed the appeal site was a strong candidate to satisfy that need (IR45).

16. The appeal scheme would contribute up to 189 dwellings, 25% of which would be affordable. It is in a sustainable location being well related to local services and facilities and accessible by sustainable means of transport. The proposal provides a realistic opportunity to accommodate residential growth in a sustainable location. In addition the evidence confirms that it is not a speculative development, but one which would be brought forward quickly and completed within four years. The Inspector

considers the proposal would therefore make an important contribution to housing supply (IR46).

17. The Inspector acknowledges the appeal site may not be allocated for development in the Deposit LDP, however, she states there is no certainty over the final outcome of the plan and the evidence supports an urgent need to increase housing land supply. Given the underlying evidence, the Inspector is of the view the appeal site would provide residential development on land which would satisfy the requirements of the Council's Preferred Strategy (IR47).

18. The Inspector states, given the current position in respect of the Council's housing land supply, the identified need to bring sites forward for development prior to the adoption of the LDP, if the housing trajectory is to be achieved, and there being no immediate prospect of completions from proposed allocations in the LDP, she is in agreement with the parties that considerable weight should continue to be attributed to the need to increase housing land supply in the determination of the appeal. Furthermore, the Inspector considers the site could be developed with the minimum of delay and would thus make a significant contribution to housing numbers at a time when a significant increase in completions is required. The Inspector is of the opinion that the housing land supply situation constitutes very exceptional circumstances which outweigh the harm the development would cause to the Green Barrier, despite the removal of paragraph 6.2 of TAN 1 (IR48). I agree with the Inspector that the proposal will make a contribution to housing numbers at a time when a increase in completions is required, particularly due to the absence of an adopted LDP.

19. Paragraphs 89 to 104 of the Inspector's original report detail further material considerations.

Historic Heritage

20. The Inspector notes the conservation of archaeological remains is a material consideration in determining an application. She also notes where nationally important archaeological remains and their settings are likely to be affected by development, there should be a presumption in favour of their physical protection in situ. The section of Wats Dyke which crosses the appeal site has been identified as one of the last unenclosed sections of the monument and, as confirmed by Cadw, the proposal would have a significant effect on its setting (Original IR89).

21. However, the Inspector is of the view the creation of a substantial landscape buffer to either side of the Dyke and the restriction of built development to the western side of the site would help protect the Scheduled Ancient Monument (SAM) in situ. Furthermore, she states the measures in the Scheduled Ancient Monument Management Plan (SAMMP) would improve the appearance and setting of the Dyke and secure its long term management. The Inspector considers these factors, together with the management of the wider landscape buffer, would help preserve the heritage asset in the longer term (Original IR90).

22. The Inspector notes it is generally accepted the effect of the development on the SAM would be successfully mitigated and compensated for via the SAMMP. The Inspector is of the view the implementation of the management plan would compensate for the damage which would be caused to the setting. The Inspector is also of the view the proposals present an opportunity to secure measures which would preserve it in the longer term, none of the measures is directly dependent on the development taking place (Original IR91-92).

23. The Inspector concludes on this matter the lack of housing land supply, together with the contribution the site would make to housing provision and its compliance with the Preferred Strategy carry significant weight in favour of the appeal. The works to ensure the long term preservation of the heritage asset are not directly dependent on the development and therefore do not add weight in favour of the proposal. Although, the Inspector also recognises that it is unlikely the benefits would come forward in the absence of the proposal (Original IR93).

24. It is noted that Paragraph 6.1.24 of PPW 10 states it will only be in exceptional circumstances that planning permission will be granted if development would result in a direct adverse impact on a scheduled monument. I am satisfied the proposal will not have a direct adverse impact on the scheduled monument in this case.

Landscape and Visual Effects

25. The Inspector notes the site has value as part of the Green Barrier and in preserving the setting of the SAM. Nonetheless, it is almost entirely surrounded by built development and the part which is adjacent to open countryside is bounded by the railway. Although the site is currently devoid of built development, the Inspector considers its edge of settlement location gives it a semi-urban character. It is also not considered to be a high quality landscape. The erection of houses on the western end of the site would extend the urban edge of Old Rhosrobin eastwards beyond Main Road. However, such an extension has already taken place on the northern boundary of the site and the proposal would not extend any further east than this existing development (Original IR94).

26. The Inspector is of the view the indicative layout and supporting evidence suggest a scheme appropriate to the local surroundings could be devised. There is no dispute the development would visually alter the site. Although the Council recognised the development would have a significant effect on the appearance of the site, it raised no objection to the proposal on grounds of landscape character or visual amenity. The Inspector has reached the same conclusion (Original IR95).

Loss of Agricultural Land

27. In previous Agricultural Land Classification (ALC) surveys about 75% of the site, including the land which would be built upon, was recorded as Grade 3a and therefore Best and Most Versatile (BMV) land. However, the submitted agricultural land classification report concluded that the site is likely to be Grade 3b land. Whilst the Council questioned the accuracy of the survey, as it claimed the correct guidelines had not been followed, the Inspector concluded that it did not provide any substantive evidence to support its claims. It is noted that the Inspector is in agreement with the Council that, although there may be conflict with Policy EC2 of the UDP, which only permits development on agricultural land of Grades 1, 2 and 3a, the dismissal of the appeal on these grounds is not justified. (Original IR96-97).

Highway Improvements

28. The development would result in increased traffic on the local highway network and the representations made by interested parties raised concerns that this would exacerbate existing traffic congestion problems. The Inspector is satisfied that the highway improvements associated with the scheme would benefit the wider community as well as residents of the site (Original IR98).

Other Similar Proposals

29. The Inspector considers there are significant differences between the other decisions on similar residential developments raised in evidence and the appeal, which must be determined on its own merits (Original IR99-101).

Concerns Raised by Local Residents

30. In addition to the matters already addressed, interested parties also raised concerns regarding the effect on local wildlife, noise, air quality, the number of affordable housing units and the ability of local services to cope with an increase in population which the proposal would bring about (Original IR102).

31. In respect of wildlife, the Inspector is satisfied from her inspection of the site, consideration of the technical reports and responses from statutory consultees that the site could be developed without adverse impact on statutorily protected species (Original IR103).

32. The Inspector is satisfied that matters of noise and air quality and flooding were addressed in the various reports which accompanied the application. The Inspector confirms the number of affordable units proposed is in compliance with the Council's policy. With regards to local services, there would be a need for additional educational facilities as a result of the development, financial provision for which is addressed in the Unilateral Undertaking. The Inspector is satisfied that there is no definitive evidence of any capacity issues with regard to local health practices or the local health board (Original IR104).

33. In the light of the evidence the Inspector confirms the overall conclusions reached in her original report remain unchanged and the Inspector continues to recommend that the appeal be allowed, subject to the conditions as set out in the Schedule to the original report.

34. In reaching her recommendation the Inspector has taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. The Inspector considers this decision is in accordance with the Act's sustainable development principle, through its contribution towards the Welsh Ministers' well-being objective of "supporting safe, cohesive and resilient communities."

Conditions and Unilateral Undertaking

35. I have considered the conditions set out at the Annex to the Inspector's report and, subject to minor changes, agree they are necessary and reasonable and meet the tests in Welsh Government Circular 016/2014, "The Use of Planning Conditions for Development Management".

36. I am satisfied the obligations in the UU, dated 6 February 2018, meet the appropriate tests in Section 122(2) of the Community Infrastructure Levy Regulations 2010 and Circular 13/97, "Planning Obligations". As such I have given weight to the UU in the determination of this appeal (IR108).

FORMAL DECISION

37. It is recognised that the appeal site lies outside the defined settlement boundary and the proposal does comprise inappropriate development within the Green Barrier. PPW 10 states inappropriate development should not be granted planning

permission except in very exceptional circumstances where other considerations clearly outweigh the harm, which such development would do to the green wedge.

38. It is considered the appeal site, whilst located outside the settlement boundary, is in a sustainable location in terms of access to services, amenities and public transport. The Inspector has not been presented with evidence of any capacity issues with regards to the local health services and the Unilateral Undertaking makes provision for a financial contribution for additional primary school places.

39. It is acknowledged that the application is made in outline, however, the indicative layout and submitted details, with the imposition of conditions to provide control over detailed design considerations, is capable of delivering a scheme which addresses the national sustainable placemaking outcomes. The scheme makes provision for a pedestrian and cycle way across the site, which would connect with existing highway infrastructure and other settlements, access to open space and equipped children's play areas. This would meet the National Sustainable Placemaking Outcome to 'Facilitate Accessible and Healthy Environments' (PPW 10, Figure 4, page 20).

40. It is considered the proposed development of up to 189 dwellings, of which 25% would comprise affordable units, would make a contribution towards housing land supply in the area, which has not been adequately addressed due to the absence of an up to date UDP (1996 to 2011) or an adopted LDP. Whilst the development would comprise inappropriate development in a green wedge, I am satisfied, in this case, when all the above factors are taken into account, in their totality, they constitute the very exceptional circumstances necessary to outweigh any harm to the green wedge. I am also satisfied there are no other matters which weigh against the appeal.

41. In exercise of the power referred to in paragraph 2 of this decision letter, I hereby allow this appeal and grant planning permission for the "outline application for residential development of up to 189 dwellings with all matters reserved except for access" on Land East of Tan y Bont, Main Road, Rhosrobin, Wrexham (Ref: P/2016/0189) subject to the conditions in the schedule below and the accompanying signed Unilateral Agreement.

42. In reaching this decision, I have considered the duty to carry out sustainable development under section 2 of the Planning (Wales) Act 2015. The decision made accords with the sustainable development principle set out in the WFG Act 2015 and the well-being objectives of the Welsh Ministers in that it contributes to the objective to 'build resilient communities, culture and language' and contributes to 'driving sustainable growth'.

43. A copy of this letter has been sent to Wrexham County Borough Council and to those persons and organisations who appeared at the Hearing.

Yours sincerely



Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

Schedule of Conditions

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

2. Any application for approval of the reserved matters shall be made to the local planning authority not later than two years from the date of this permission.

3. The development shall begin either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

4. This planning permission provides for a maximum of 189 dwellings.

5. The access into the site shall be laid out in accordance with drawing No. 074-01/GA-02 prior to the occupation of any dwelling erected on the site under the terms of this planning permission.

6. Construction work shall not begin until a scheme for protecting the proposed dwellings from noise from the A483 trunk road has been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before any dwelling on the site is occupied. The work shall be carried out in accordance with the approved details.

7. No development shall take place until a timetable for the implementation of the measures specified in the Total Heritage Scheduled Ancient Monument Management Plan reference: ROS/16/002 and dated January 2017 has been submitted to and approved in writing by the local planning authority. Thereafter the measures set out in the Management Plan shall be implemented in accordance with the approved timetable.

8. No development shall commence until a scheme for the disposal of surface water has been submitted to and agreed in writing by the local planning authority. The scheme shall:

    i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of receiving ground water and/or surface waters;
    ii) specify the responsibilities of each party for the implementation of the Sustainable Urban Drainage Scheme, together with a timetable for that implementation; and
    iii) provide a timescale for implementation, management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

    The scheme shall be implemented in accordance with the approved details.

9. No development shall commence until a scheme for the provision of foul sewerage infrastructure has been submitted to and agreed in writing by the local planning authority. The scheme shall include details of and be informed by a Hydraulic

Modelling Assessment. No dwelling hereby permitted shall be occupied until the foul sewerage infrastructure has been provided in full and in accordance with the scheme as approved.

10. No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. The Construction Method Statement shall provide for:

    i) the parking of vehicles of site operatives and visitors;
    ii) loading and unloading of plant and materials;
    iii) storage of plant and materials used in constructing the development;
    iv) wheel washing facilities;
    v) measures to control the emission of dust and dirt from construction works;
    vi) measures to prevent damage to Wat's Dyke Scheduled Ancient Monument during the construction period;
    vii) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
    viii) hours of working.

11. No development shall commence until a detailed Arboricultural Method Statement has been submitted to and agreed in writing by the local planning authority. The development shall only take place in strict accordance with the Arboricultural Method Statement which shall include:

    i) a specification for tree protective fencing and ground protection measures in accordance with British Standard 5837:2012;
    ii) a Tree Protection plan showing the location of the trees to be removed and retained with their crown spreads, Root Protection Areas, Construction Exclusion Zones and location of protective fencing and ground protection measures accurately plotted;
    iii) a full specification for any access, driveway, path, underground services or wall foundations within retained tree Root Protection Areas or Construction Exclusion Zones, including any related sections and method for avoiding damage to retained trees;
    iv) details of general arboricultural matters including proposed practices with regards to cement mixing, material storage and fires;
    v) details of the frequency of supervisory visits and procedures for notifying the findings of such visits to the local planning authority;
    vi) details of all proposed tree works, including felling and pruning.

12. No development shall commence until a scheme detailing the provision of a footway/cycleway link across the site from Main Road to the junction of Plas Acton Road with Blue Bell Lane and a timetable for its completion has been submitted to and agreed in writing by the local planning authority. The footway/cycleway link shall be completed in accordance with the approved details.

13. Notwithstanding the requirements of condition 1, the submission of the reserved matters shall include a scheme for all areas of open space and greenspace to be provided as part of the development, including public amenity space and equipped children's play areas together with a timetable for their provision. The development shall be implemented in accordance with the approved details.

14. No development shall take place until a long term Landscape Management Plan for the identified areas of public open space and maintained land (as referenced on the

indicative masterplan/development framework drawing number Ref: C3429-PO1C) has been submitted to and approved in writing by the local planning authority. The management plan shall provide: details and measures to ensure the long term protection of the open land; the timing of the implementation of the plan; management responsibilities; maintenance schedules and procedures for the replacement of failed planting for all landscaped areas other than private gardens. The approved scheme shall be implemented prior to the occupation of any of the properties hereby approved.

15. No development shall take place until a programme of archaeological works has been submitted to and approved in writing by the local planning authority. The programme shall include a written scheme of investigation and a timetable for the investigation. The works shall be undertaken in accordance with the approved programme. A written report recording any archaeological works undertaken on the site shall be submitted to the local planning authority within three months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing by the local planning authority.

16. No development shall take place until a scheme detailing the provision of a traffic controlled junction at the Llay New Road junction with Plas Acton Road has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the occupation of the first dwelling hereby approved.

17. Notwithstanding the requirements of condition 1, full details of the timings and phasing of the development shall be submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the details as approved.

18. The development shall be carried out in accordance with the recommendations contained in Section 7 of the Ecological Assessment 2016 (TEP Report Ref: 4731.01.001).

Notification of initiation of development and display of notice

You must comply with your duties in section 71ZB (notification of initiation of development and display of notice: Wales) of the Town and Country Planning Act 1990. The duties include the following:

Notice of initiation of development

Before beginning any development to which this planning permission relates, notice must be given to the local planning authority in the form set out in Schedule 5A to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details which must be given to the local planning authority to comply with this duty.

Display of notice

The person carrying out development to which this planning permission relates must display at or near the place where the development is being carried out, at all times when it is being carried out, a notice of this planning permission in the form set out in Schedule 5B to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details the person carrying out development must display to comply with this duty.

The person carrying out development must ensure the notice is:
(a) firmly affixed and displayed in a prominent place at or near the place where the development is being carried out;
(b) legible and easily visible to the public without having to enter the site; and
(c) printed on durable material. The person carrying out development should take reasonable steps to protect the notice (against it being removed, obscured or defaced) and, if need be, replace it.

The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Adroddiad

Gwrandawiad a gynhaliwyd ar 14/02/18
Ymweliad â safle a wnaed ar 14/02/18

gan Kay Sheffield BA(Hons) DipTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 29.03.2018

Report

Hearing Held on 14/02/18
Site visit made on 14/02/18

by Kay Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 29.03.2018

TOWN AND COUNTRY PLANNING ACT 1990

Section 78

Appeal by Welsh Town Planning & Housing Trust Ltd, Mrs I Dutton, Mr J Dutton, Mr P Davies and Mr D Griffiths in conjunction with Liberty Properties

Residential development of up to 189 dwellings

Land east of Tan y Bont, Main Road, Rhosrobin, Wrexham

Cyf ffeil/File ref: APP/H6955/A/17/3182282

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File Ref: APP/H6955/A/17/3182282

Site address: Land east of Tan y Bont, Main Road, Rhosrobin, Wrexham

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Welsh Town Planning & Housing Trust Ltd, Mrs I Dutton, Mr J Dutton, Mr P Davies and Mr D Griffiths in conjunction with Liberty Properties against the decision of Wrexham County Borough Council.
- The application Ref P/2016/0189, dated 19/02/2016, was refused by notice dated 06/03/2017.
- The development proposed is residential development of up to 189 dwellings.

Summary of Recommendation: The appeal be allowed

Preliminary and Procedural Matters

1. In exercise of the powers under section 79 paragraph 3(1) of Schedule 6 of the Town and Country Planning Act the Welsh Ministers have directed that the appeal is to be determined by themselves. The reason for the direction is that the proposal is for a residential development of more than 150 houses on more than 6 hectares of land.

2. The planning application was made in outline with all matters reserved for subsequent approval with the exception of access, the detail of which falls to be considered as part of the appeal.

3. The Environmental Statement (ES) which accompanied the planning application has been confirmed as containing the level of information in Parts I and II of Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and being complete for the purposes of those Regulations.

The Site and its Surroundings

4. The site comprises approximately 15.78 hectares of agricultural land located on the north western edge of Wrexham. It is well related to Wrexham and a number of local service centres including New Rhosrobin and Pandy. Land uses in the surrounding area include residential, commercial and agricultural.

5. At present the land is principally in use as permanent pasture and grassland, with areas of scrub. Access into the site is from the B5425, Main Road, which forms the south western boundary. The north west and south east boundaries adjoin the Shrewsbury to Chester railway line and the A483 trunk road respectively. The north east boundary is formed by Plas Acton Road. Wat's Dyke, a Scheduled Ancient Monument (SAM)[1] crosses the site in a north–south direction and survives as an embankment for a significant part of its length. A public footpath follows the length of the Dyke from Plas Acton Road and then turns along the boundary with the A483 before terminating on Main Road.

Planning Policy

Local Planning Policy

6. The relevant development plan is the Wrexham Unitary Development Plan 1996 - 2011 (UDP) adopted in February 2005. Although the site adjoins the settlement limit of Wrexham defined in the UDP, it lies in open countryside and in the Green Barrier. The policies of the UDP cited by the Council in refusing permission are PS1 and EC1. The main policies also made reference to in evidence are Policies H5, GDP1 and EC2.

[1] DE151 Wat's Dyke: Section west of Ty Gwyn

7. Policy PS1 is a strategic policy which directs new development for housing, to within defined settlement limits.

8. Within Green Barriers, Policy EC1 of the UDP only allows development if it is for "*agriculture, forestry, essential facilities for outdoor sport and recreation, cemeteries and other uses of land which maintain the openness of the Green Barrier and do not conflict with the purpose of including land within it*". According to the explanation of the policy the purposes of a Green Barrier include: to prevent the coalescence of urban areas and villages with other settlements; to assist in safeguarding the countryside from encroachment; to protect the setting of urban areas and villages; and to assist in urban regeneration by encouraging the recycling of derelict and other urban land.

9. Policy H5 only permits new dwellings in the open countryside where: the proposals accord with Policies H3, H4 and H8 of the UDP; or the proposals comprise infilling subject to Policy GDP1; or an essential need to house a full time agricultural or forestry key worker can be established. Policies H3, H4 and H8 relate to the conversion of buildings; the sub-division of dwellings; and exception sites for affordable housing, none of which are applicable to the appeal. Policy GDP1 states that all new development should satisfy a set of criteria. It is an extensive list which includes matters of location, layout, design and appearance.

10. Policy EC2 only permits development on agricultural land of grades 1, 2 or 3a "*if it does not lead to the irreversible loss of that land.*"

Emerging Local Planning Policy

11. It is anticipated that the Deposit version of the Wrexham Local Development Plan (LDP) will be published in April 2018 with submission for examination before the end of the year. Notwithstanding this the Council's Preferred Strategy recognises that future housing requirements will not be met without the release of greenfield sites. It is also recognised that some of these greenfield sites may also currently be within the Green Barrier.

12. According to Planning Policy Wales (PPW) the weight to be attached to an emerging LDP when determining planning applications will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption[2]. Certainty regarding the content of the plan will only be achieved when the Examining Inspector delivers the binding report. Thus in considering what weight to give to the emerging LDP in respect of the appeal, it is necessary to consider the underlying evidence.

National Planning Policy

13. In PPW the designation of Green Barriers is consistent with Green Wedges. PPW advises that inappropriate development should not be permitted within Green Wedges. The construction of new buildings within Green Wedges is inappropriate development unless it is for one of a list of specified purposes[3]. These purposes include: justified rural enterprise needs; essential facilities for outdoor sport and recreation, cemeteries and other uses of land which maintain openness and do not conflict with the purposes of including land within the Green Wedge; limited

[2] PPW paragraph 2.14.1
[3] PPW paragraph 4.8.16

extension, alteration or replacement of existing dwellings; limited infilling and affordable housing for local needs; or small scale diversification within farms.

14. PPW also requires local planning authorities to ensure that sufficient land is genuinely available or will become available to provide a five year supply of land for housing.[4] Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies (JHLAS) advises that where a local planning authority does not have an adopted LDP or where an adopted UDP is outside of the plan period, it will not be able to produce a JHLAS and therefore will not be able to demonstrate whether or not it has a five year supply of land for housing. Where a local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications, provided that the development would otherwise comply with development plan and national planning policies.[5]

15. Grades 1, 2 and 3a agricultural land are classed in PPW[6] as Best and Most Versatile (BMV) land which should be conserved as a finite resource for the future and due to its special importance considerable weight should be given to protecting such land from development. BMV land should only be developed if there is an overriding need for the development and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs agricultural considerations.

16. Although the Provisional 1:250,000 Series Agricultural Land Classification (ALC) Map for Wales was withdrawn on 27 November 2017 and replaced by the Predictive ALC Map (Wales) neither party was able to confirm if the grading of the site had changed. Nevertheless, this map does not replace the need for Agricultural Land Classification site surveys.

Planning History

17. Outline planning permission[7] was sought in 2014 for up to 400 dwellings on the appeal site. However during the course of the application the number of units was reduced to a maximum of 338. The application was refused by the Council on grounds of location outside the settlement boundary and within the Green Barrier, inadequate means of access and harm to Wat's Dyke SAM.

18. Other proposals for residential development in the area include land opposite St Peter's Close, off Llay New Road, Rhosrobin[8] and land to the rear of Briarswood, Main Road, Rhosrobin[9]. The former adjoins the railway line on the north western boundary of the appeal site and the latter is on the western side of Main Road a short distance to the north of the site[10]. Both proposals were refused planning permission by the Council and subsequently dismissed on appeal. Both schemes were considered to be inappropriate development within the Green Barrier, a matter which was not outweighed by the lack of housing land supply.

[4] PPW paragraph 9.2.3
[5] TAN 1 paragraph 6.2
[6] PPW paragraph 4.10.1
[7] Application Ref P/2014/0876
[8] Appeal Ref: APP/H6955/A/14/2229480
[9] Appeal ref: APP/H6955/A/17/3166936
[10] Location of sites is shown in Section 3 of the Appellants' final comments

The Proposals

19. The development proposed is the erection of a maximum of 189 dwellings of which 47 (25%) would be provided as affordable housing. Whilst the appeal site covers about 15.78 hectares, the built development would be limited to the south western part of the site covering an area of approximately 6.31 hectares. The reminder of the land would remain open, providing a landscape buffer to either side of Wat's Dyke.

20. The indicative building parameters and typical street sections which formed an addendum to the Design and Access Statement propose dwellings of 2 and 2.5 storeys in height with an approximate density of 30 units per hectare. The general form of the development would be comparable to existing residential developments in the area. The access into the site from Main Road would be sited opposite Top Farm Road and would be a roundabout junction. Off-site works include the introduction of traffic lights in order to upgrade the B5425 and Plas Acton Road junction.

21. A full list of plans and documents submitted as part of the application and during the course of its determination is set out in the Appellants' Grounds of Appeal.

Other Agreed Facts

22. Section 4 of the Appellants' Hearing statement sets out the matters not considered to be in dispute. At the Hearing the Council confirmed that it was in general agreement with the contents of Section 4 which are summarised below.

23. As demonstrated by the indicative layout plan the site would accommodate the proposed development, with due regard to the living conditions of occupiers of adjacent dwellings, provision of open space and adequate parking, in accord with UDP Policies CLF5 and T8. The site could be developed without prejudice to the amenity of occupiers of properties close to the site by way of loss of light, privacy or by being visually overbearing.

24. The application was supported by a Transport Assessment and Interim Travel Plan together with supplemental information. The Council, as Highways Authority, has raised no objection subject to the imposition of conditions should permission be granted. The proposed highway works would mitigate the impact of traffic generated by the proposal and provide a benefit to a road network which is currently operating above practical capacity. The proposal would comply with Policies GDP1, GDP2, T8 and CLF6 of the UDP.

25. In the absence of any evidence that the development would severely prejudice the effective delivery of local healthcare services the concerns raised do not present a valid reason for refusing permission. The Council as Education Authority raised no objection to the development subject to a contribution towards primary education, to be controlled through the Unilateral Undertaking, in accord with UDP Policy GDP2

26. Subject to the submission of details of the foul and surface water drainage systems statutory consultees have raised no objection in this respect and the proposal would accord with Policies GDP1 (g) and (i) and GPD2 of the UDP.

27. The development would result in the loss of agricultural land. The survey undertaken by the Welsh Office in 1993 assessed 75% of the site as Grade 3a and the remainder Grade 3b. The Council had concerns regarding the reliability of the independent assessment submitted as part of the application which found the whole of the site to be Grade 3b.

28. Although about 50% of the site is subject to a Protection of Mineral Resources designation it would not be possible to work any exploitable mineral reserves under the site without severely compromising the amenity of nearby residents and causing significant disruption to local transport infrastructure. Furthermore there would be a significant element of risk to Wat's Dyke and harm to its setting. It is therefore highly unlikely that any mineral extraction works would take place within the site and the development would accord with Policy MW9 of the UDP.

29. An ecological assessment was submitted as part of the planning application. The site is not the subject of any Biodiversity Conservation designations and no objections to the development on grounds of ecology were raised by Natural Resources Wales, subject to the imposition of appropriate conditions. The development would accord with Policies GDP1(h) and EC6 of the UDP.

30. On the basis of an Air Quality Assessment submitted with the application the Council's Public Protection Team raised no objection. The development would be in accord with Policy GDP1(f) of the UDP.

31. The Council's Public Protection Team also appraised the Environmental Noise Assessment submitted with the application and recommended the imposition of conditions. Indicative details of an acoustic barrier to the A483 satisfied the queries raised by Welsh Government. The development would accord with Policy GDP1(f).

32. Whilst Cadw confirmed that the development would have a significant impact upon the setting of the SAM it considered that this impact could be mitigated and compensated for via the Scheduled Ancient Monument Management Plan (SAMMP). The measures proposed in the management plan together with the retention of the considerable landscape buffer would facilitate the improvement of the appearance and setting of the Dyke and its long term management. The proposal also presents an opportunity to enhance the local awareness of the Dyke through interpretative material such as information boards.

33. The area in which the site is located is not a language sensitive ward and, as such, there is no requirement for a Welsh Language and Community Impact Statement. The development would comply with Policy GDP1 (j).

The Case for the Council
(Hearing Statement)

The material points are:

34. Outline planning permission was refused for a maximum of 338 dwellings on the site in 2015. The appeal proposal seeks to overcome the reasons for refusal by the reduction in the number of dwellings to a maximum of 189 and a corresponding reduction in the built up area of the site, the submission of a SAMMP in respect of Wat's Dyke and vehicular access from Main Road only.

35. As well as being in conflict with Policy PS1 of the UDP, the proposal would not accord with any of the circumstances set out in Policy H5. In addition to lying outside of the settlement boundary and within the Green Barrier, the proposal would lead to an irreversible loss of agricultural land. Approximately 75% of the site has an ALC of Grade 3a with the remainder 3b.

36. The UDP period expired in 2011 and the Council is therefore unable to demonstrate a five year housing land supply. The LDP will make provision for approximately 8525 homes (including 10% contingency) to meet the housing needs of the County

Borough over the period 2013-2028. Based on an estimated deliverable supply of 2027 units, a windfall allowance of 2145 and 980 completions over the period 2013-2017, land for approximately 3373 homes is required. It will be necessary to continue to bring forward deliverable sites for development in order to demonstrate a five year housing land supply when the LDP is adopted.

37. The Council accepted that the need to significantly increase the supply of available housing land and the contribution the proposed development would make to the supply in Wrexham weighed heavily in favour of the appeal. It also recognised that future housing requirements would not be met without the release of greenfield sites.

38. In the light of the current situation in respect of housing land supply, the Council considered that Policy PS1 is outdated and therefore should be afforded less weight in the determination of planning applications. However, it does not automatically follow that all proposals to develop sites located outside of settlement limits should be granted planning permission, particularly if those sites are afforded greater protection by other policies of the UDP.

39. The proposed development does not fall within any of the categories of new development specified in PPW as being suitable within Green Wedges. The proposal would therefore be inappropriate development within the Green Barrier.

40. The existing Green Barriers are being reviewed as part of the LDP process and not all land currently designated Green Barrier will necessarily be given the same protection when the LDP is adopted. In respect of the Green Barrier within which the appeal site lies, nowhere is there more than about 0.3km between neighbouring settlements[11]. This close proximity means the relative openness of the Green Barrier is important.

41. The Strategic Green Wedge Review considered that the openness of the Green Wedge[12] "*would not be maintained to the same extent should it be covered by a general open countryside policy. The number of candidate sites in the area also demonstrates development pressure in the area. The designation therefore serves the function of preventing coalescence in an area of development pressure. The designation is set along defensible boundaries, serving to manage the urban form in this location and separating settlements in close proximity to each other. It also serves to safeguard the countryside from encroachment. Overall it is considered that there is justification for the retention of the green wedge designation in this location*".

42. The conclusions of the Strategic Green Wedge Review are subject to the caveats that consideration must be given to ensuring that a sufficient range of land is made available and that amendments to the Green Barrier may be needed should sites be deemed suitable for allocation for development in the deposit LDP. Although the release of greenfield sites outside of settlements will be required in order to provide the land needed to meet the housing requirements, the release of sites within the current Green Barrier surrounding Old and New Rhosrobin and Pandy should be one taken as part of the LDP process and not via individual planning applications.

43. The importance of the site in the context of the Green Barrier in which the site lies requires careful consideration. The eastern side of Main Road is noticeably less well developed than the western side of the road and the appeal site provides a very clear visual break between Wrexham and Old Rhosrobin. Although the A483 and the

[11] Wrexham Town, Rhosrobin, Gwersyllt, and Bradley
[12] Green Barriers will be referred to Green Wedges in the LDP

railway line bound the site and would continue to provide a continued degree of separation, the development would result in there being no clear distinction between Wrexham and Old Rhosrobin and the two settlements would be viewed as part of the same built up area. The appeal site provides a very clear buffer of undeveloped land between Rhosrobin and Pandy. The development would represent a significant intrusion into the Green Barrier separating Old Rhosrobin and Pandy, particularly when viewed from the A483.

44. In dismissing the appeal on land opposite St Peter's Close, north of the appeal site, the Inspector referred to the Green Barrier as a "*wide arc*" which "*serves to constrain the urban villages of Old and New Rhosrobin and Pandy*". The Inspector considered that the development would result in the distinction between the villages being lost. It seems clear from this decision and that on Briarswood that the shortage of available land for housing will rarely justify granting permission in Green Barriers.

45. The area to the north west of Wrexham is facing considerable development pressure which emphasises the fragility and vulnerability of the Green Barrier in this location. Whilst the contribution the development would make towards housing supply would be a significant benefit, the proposal would substantially and detrimentally impact upon the openness of the Green Barrier and result in the coalescence of Wrexham and Old Rhosrobin as well as significantly eroding the existing gap between Old Rhosrobin and Pandy. In this instance the Council does not consider that the housing land supply issues constitute very exceptional circumstances sufficient to set aside the objections regarding the Green Barrier.

46. Although the submitted agricultural land classification report concluded that the site is likely to be Grade 3b land, it did not follow the correct guidelines. In previous surveys about 75% of the site, including the land which would be built upon, was recorded as Grade 3a and therefore BMV land. However, the site is physically separated from any other agricultural land by roads, a railway line and built development making it difficult to use the land as part of a larger agricultural holding. It is also in three separate ownerships and therefore not necessarily available to be farmed as a single unit. Given these constraints the conflict with Policy EC2 of the UDP would not be a valid reason for refusal in this instance.

47. Unlike many sections of Wat's Dyke in the local area, the open fields of the appeal site give the SAM a semi-rural setting. The considerable landscaped buffer proposed to either side of the Dyke and the measures set out in the submitted SAMMP to improve the appearance and the setting of the SAM and provide for its management would aid its long term preservation.

48. Although the development would have a significant impact upon the setting of the SAM, Cadw accepted that the impact would be mitigated and compensated for by the SAMMP. The development also presents an opportunity to enhance local awareness of the Dyke through interpretative materials. As the SAM is not currently the subject of any proactive management scheme the proposals present an opportunity to secure measures which would help preserve it in the longer term. However, none of the measures proposed as part of the SAMMP is directly dependent on the development taking place and there is no reason why the landowners could not implement the proposed measures irrespective of whether planning permission is granted.

49. The mitigation should not be viewed in the context of enabling development and there is no case put forward that the proposals are the minimum development necessary to secure the future of the SAM. Furthermore the harm to the openness of the Green

Barrier and the considerable erosion of the distinct identities of Wrexham and Old Rhosrobin decisively outweigh the benefits of the works proposed in the SAMMP.

50. The appeal decisions referenced by the Appellants do not suggest a strong precedent for allowing the appeal. Whilst the decisions confirmed the significant weight that should be afforded to the Council's current lack of a five year housing land supply and the recognised need for housing, the sites at Home Farm, Llay and the former Hafod Tileries are not within a Green Barrier. These sites are therefore not subject to the same policy constraints as the appeal site or the appeal decisions referenced by the Council. It is accepted that the sites at Boozy Fields, Gwersyllt and south of Chestnut Court, Summerhill lie within the Green Barrier. However, the fact that the Council accepted development in the Green Barrier does not set a precedent for the release of further sites, which must be treated on their merits.

51. The appeal site lies outside of a settlement limit and within a Green Barrier. The development would result in the coalescence of Wrexham and Old Rhosrobin and cause significant harm to the openness of the Green Barrier separating Old Rhosrobin and Pandy. The development would therefore be contrary to Policies PS1 and EC1 of the UDP. On this basis the appeal should be dismissed.

52. The Council confirmed to the Hearing that, in respect of the candidate sites which comprise the appeal site, the constraints identified in the Strategic Green Wedge Review related to Wat's Dyke SAM and highway matters. Whilst the Council acknowledged that the appeal scheme successfully addressed these matters, it confirmed that the site would be unlikely to be allocated in the LDP as the identified need for housing land could be satisfied by the key strategic sites.

The Case for the Appellants
(Grounds of Appeal, Hearing Statements, Final Comments and Closing Statement)

The material points are:

53. The appeal site is bordered by residential development on three sides and the remaining boundary comprises a railway line. The site does not encroach into open countryside. The development is sustainably located. It is well related to the main conurbation of Wrexham and is easily accessible to a number of local service centres.

54. The UDP is out of date and PPW, TANs and relevant circulars represent material considerations that ought to be accorded great weight. The LDP has not reached deposit stage, submission for examination is not anticipated until late 2018 and as a consequence the LDP can be afforded little weight.

55. In the absence of an up-to-date UDP and an adopted LDP the Council is considered to have zero housing land supply. The last assessment of housing land supply indicated it had fallen to 3.1 years. The LDP enables an assessment of current housing land supply which is calculated to be approximately 1.14 years, a shortfall of some 3558 dwellings. Whilst this figure differs from the Council's identified shortfall of 3378 dwellings, the reason for which was explored during the Hearing, there is still a significant shortfall in housing land supply and, consistent with TAN 1, the need to increase housing supply should be given 'considerable weight' when dealing with planning applications.

56. Due to the lack of brownfield capacity to accommodate projected household growth the Council recognises that the need for new residential development requires the use of greenfield sites. The Preferred Strategy acknowledges that Green Barrier sites will

be required for development and the Council is considering promoting the release of two Key Strategic Sites[13]. These sites would give rise to a number of issues such that delivery could only be regarded in the longer term after overcoming a number of identified constraints. In contrast the appeal site would be immediately available.

57. The Council's assessment of the three candidate sites which comprise the appeal site found that they all complied with the Preferred Strategy. The assessment also found that candidate site WR13CS, which generally aligns with the area of the appeal site which would be built upon, "*may have the potential to contribute to meeting future growth demands within the County Borough*". Constraints which the assessment considered were unlikely to be overcome were identified in respect of candidate sites WR04CS and WR06CS, which generally form the part of the site which would remain open. Whilst the constraints are not identified in the assessment it is most likely that they related to the impact on the SAM.

58. The area of the site proposed for residential development is in a sustainable location and represents a logical extension to Wrexham. The development would be infill as it is currently surrounded on three sides by existing residential development. It is also bound by the A483, the B5425, the railway line and Wat's Dyke. The development would be well related to local services and facilities, accessible by sustainable means of transport. It therefore provides a realistic opportunity to accommodate residential growth in a sustainable location that could be provided in a short timeframe.

59. PPW requires local planning authorities to ensure that sufficient land is genuinely available to provide a 5 year supply of land for housing. This issue materially impacts on the weight that can be given to the policies in the UDP. In particular Policy PS1 was predicated upon a basis of population projections and household allocations at the time of its adoption and in anticipation that the Plan would expire in 2011. The settlement boundary is no longer "fit for purpose" in circumstances where the Council acknowledges that the need for housing is such that the settlement boundaries are in need of substantial changes to enable necessary development to take place.

60. The Green Barrier is not a permanent designation and the Strategic Green Wedge Review serves to highlight that there are insufficient housing sites available for development outside the Green Barrier. The area proposed to be built upon generally corresponds with candidate site WR13CS which would represent a logical extension to Wrexham being currently surrounded on three sides by existing residential development. Furthermore the Review states that "*overall development of the site would appear to be a logical rounding off of the urban form*".

61. Detailed evidence has been submitted which addresses the contribution made by the site to the effectiveness of the Green Barrier. By reference to the purposes of Green Barriers the detailed analysis in the Landscape Hearing Statement has found the wider Green Barrier in the local area to be disparate and disjointed, interspersed with regular housing and transport corridors. Its landscape value is mostly moderate/minor. Given the amount of existing residential development, it has a low susceptibility to change. Compared to the remainder of the Green Barrier the site has less landscape and visual quality due to the adjacent A483 dual carriageway. The portion of the appeal site proposed for development contributes little to the purposes of including land within the Green Barrier.

[13] KSS1: Lower Berse Farm, Ruthin Road, Wrexham and KSS2: Land east of Cefn Road, Wrexham.

62. Wat's Dyke SAM is not currently under any management and is in a generally poor state of preservation. Cadw has described the section of the SAM which crosses the appeal site as "*..presently one of the last unenclosed sections of the monument*"[14]. The submitted SAMMP would protect and enhance the SAM within the appeal site. This would provide a significant benefit in respect of heritage issues. The positive measures to protect and enhance the SAM include the removal of low value trees and the crown lifting of those to remain; scrub clearance; removal of redundant fencing, repair of fencing to remain and agreement of any new fencing; control of rabbits; removal of dumped/redundant material; repair of eroded areas and long term active management and monitoring of the monument.

63. The message which emerges from the range of planning determinations and appeals referred to by both parties is one that requires the decision maker to consider the individual merits of the case. However, it is not without significance that in respect of the sites at Gwersyllt and Summerhill, the Council recognised that the lack of a 5 year land supply represented a "very special circumstance" that justified development.

64. The proposal represents sustainable development and there are very exceptional circumstances that justify the grant of planning permission. The Council is unable to demonstrate a 5 year supply of deliverable and viable housing land. The best evidence of the supply is that it currently represents only 1.14 years supply and the shortage of dwellings is in the order of 3500 homes. This issue should be given considerable weight in the determination of the appeal. The development proposal would make a significant contribution to market and affordable housing. The site is deliverable in the short term and can contribute to meeting needs expeditiously.

65. The Development Plan is not up-to-date. The policies of the settlement boundaries and the designation of the Green Barrier were predicated on a Plan that was time limited to 2011. The evidence underpinning the UDP is considerably out-of-date and the Council recognises in the emerging LDP the need for radical amendments to settlement boundaries, development of greenfield sites and review of the Green Barrier to accommodate residential development.

66. The proposed development of a portion of the appeal site would not significantly harm the purposes of including land in the Green Barrier and in particular would not result in or contribute to the coalescence of Wrexham and Old Rhosrobin. Nor would the development cause significant harm to the openness of the Green Barrier separating Old Rhosrobin and Pandy. On the contrary, the proposed development, in securing the future openness of the portion of the site that would preserve and enhance the setting of the SAM, would contribute to a more robust and functionally appropriate Green Barrier.

67. The proposal would protect the character and appearance of the area and enhance the land designations. It would preserve and enhance the setting of the SAM. Wider benefits include: the highway works at the junction of the B5425 with Plas Acton Road which would benefit other road users by providing additional capacity at a junction already operating at capacity; the accessibility of the site by sustainable modes of transport without the need to use private vehicles would contribute to sustainable communities; the provision of open space which would be in excess of that required for policy compliance; and the provision of affordable housing, representing 25% of the schemes total capacity.

[14] Cadw letter dated 16/04/2016

Representations Made by Interested Parties
(Blue folder)

68. The Planning Inspectorate received eight responses to the Council's letter regarding the appeal. These included letters from the Council's Service Manager Environment, Cadw and Gwersyllt Community Council. The remainder were from local residents. In addition to a representative from Rhosddu Community Council the Hearing was also attended by a local resident.

69. Based on the submitted traffic information the Council's Service Manager Environment recommended that any permission should include conditions requiring access into the site via a roundabout junction on Main Road; a traffic signal controlled junction on the B5425 with Plas Acton Road; a footway/cycleway across the site linking Main Road with Plas Acton Road; details of the internal access roads; and the submission of a Construction Traffic Management Plan (CTMP).

70. Cadw confirmed that the development would cause significant damage to the setting of Wat's Dyke. However it considered that the implementation of the SAMMP, the contents of which it has agreed, would mitigate and compensate for the damage that would be caused to the setting of the SAM to an acceptable level. Subject to a condition being attached to any planning permission granted ensuring that the SAMMP would be implemented Cadw raised no objection to the development.

71. Gwersyllt Community Council maintained its objection on the grounds that the location of the site outside the settlement and within the Green Barrier was contrary to policies which seek to protect open countryside and safeguard the character of villages. It considered that other proposals for new development in the area were putting the community under great pressure, contrary to the spirit of the Wales Spatial Plan which promotes the building of sustainable communities whilst retaining their character and distinctiveness. The proposal was considered to be premature as the LDP is still under preparation and given the size of the development and the significant impact it would have on nearby settlements any decision should be taken in the context of an approved development plan. Attention was drawn to the appeal decision in respect of a neighbouring site within the Green Barrier which had been dismissed and which it considered set a precedent.

72. In addition to the matters reported above, concerns were also raised regarding the effect of the proposals on wildlife including protected bats, Great Crested newts and grass snakes; air quality; flooding; insufficient number of affordable housing units; and the effect on local services including insufficient capacity at local schools and doctors' surgeries.

Conditions and Obligations
(Council's Hearing Statement Appendix 7, Appellants' E-mail of 08/02/2018 (Blue folder) and Hearing Document 6)

73. The suggested conditions submitted by the Council and the additional conditions put forward by the Appellants were discussed at the Hearing. There was agreement in respect of the conditions suggested by the Council with the exception of suggested condition 10 regarding the Construction Method Statement and whether the requirement to prescribe the routing and access of construction vehicles would be enforceable. As no demolition works are proposed reference to them in suggested condition 11 was considered unnecessary. Suggested conditions 2 and 3 include a shorter time limit than that usually imposed in respect of the submission of reserved matters and commencement of the development.

74. The Appellants submitted for consideration amended wording of suggested condition 14 relating to a Landscape Management Plan and a further two conditions which required the phasing of the development and a programme of archaeological works. After some discussion the parties were agreed that although it was a relatively large development, in view of the time scale, it would be unlikely that construction would be phased and that a condition on phasing may not be necessary. There was general agreement on the other conditions. There was also agreement that a condition would be required to secure the highway improvement works at the junction of the B5425 with Plas Acton Road.

75. The Appellants submitted a Unilateral Undertaking under S106 of the Town and Country Planning Act 1990. It covers the arrangements for the provision and management of public open space within the development; the provision of 25% of the units as affordable housing and the terms under which these units would be occupied; the need for a commuted sum payment towards additional educational facilities within the Council's area required as a consequence of the development, the method for its calculation and timing of its payment; and the details of the management of the undeveloped areas of the site as a Conservation Management Area. The Council confirmed that it found the contents to be acceptable. Each of the provisions of the Undertaking is required to be met in accordance with identified phases of the development.

Conclusions

The numbers in square brackets indicate the relevant paragraphs of the report.

76. The main issues in respect of this case are
- whether the proposal would be inappropriate development within the Green Barrier; and if so,
- whether the harm to the Green Barrier by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Inappropriate Development

77. Although surrounded almost entirely by the defined settlement limit of Wrexham, the appeal site lies within open countryside and is in the Green Barrier. The proposal would therefore be contrary to Policy PS1 of the UDP which directs new housing development to within defined settlement limits. However, given the age of the UDP and the inability of the Council to demonstrate a five year supply of housing land, Policy PS1 attracts less than full weight in this case. [4, 6, 7, 35, 38, 53, 59]

78. Whilst new dwellings in the countryside are allowed in certain circumstances by Policy H5 of the UDP, the proposed development does not satisfy the requirements of this policy. [6, 9, 35, 71]

79. Policy EC1 of the UDP is only permissive of development for agriculture, forestry, essential facilities for outdoor sport and recreation, cemeteries and other uses of land which maintain the openness of the Green Barrier and do not conflict with the purpose of including land within it. The purposes of the Green Barrier as set out in the explanation of Policy EC1 which are relevant to the appeal include: to prevent the coalescence of urban areas and villages with other settlements; to assist in safeguarding the countryside from encroachment; and to protect the setting of urban areas and villages. Policy EC1 reflects PPW which states that the construction of new buildings in a Green Belt or locally designated Green Wedge is inappropriate development unless it would be for certain purposes. Given the scale and nature of

the proposal, the appeal scheme would not satisfy the purposes listed in Policy EC1 and PPW. [8, 13, 39, 60, 61, 65, 66]

80. It is accepted that the site is almost completely surrounded by built development. However it is land in open countryside, it adjoins other land in the Green Barrier and provides the characteristic openness that would be expected in a Green Barrier. The retention of a substantial part of the site free from development would help maintain a visual link with the open countryside and Green Barrier to the north and prevent coalescence with Pandy. Nevertheless, the proposal would result in a significant reduction in openness in this location. [5, 19, 43, 45, 58, 66]

81. At present the appeal site provides a visual break in what is otherwise a continuous frontage of built development along Main Road. The development of Top Farm Road closed the gap on the western side of Main Road and the proposed development would complete the coalescence of Old Rhosrobin and Wrexham on the eastern side of the road. Although the gap is not large, it is sufficient to provide the visual separation of Old Rhosrobin and Wrexham. [5, 20, 43, 45, 66]

82. Given the circumstances of the site and the nature of the proposed development, the appeal scheme would not satisfy any of the purposes identified in PPW. The proposals would therefore constitute inappropriate development in the Green Barrier, contrary to Policy EC1 of the UDP and PPW and substantial weight is attached to this harm to the Green Barrier. Limited weight against the appeal is also attributed by the conflict with Policy PS1 of the UDP. [7, 8, 13, 39, 61, 66]

Other Considerations and Whether Very Exceptional Circumstances Exist

Housing Land Supply

83. In the absence of an up-to-date UDP and an adopted LDP the Council is considered to have zero housing land supply. In such circumstances the need to increase supply should be given considerable weight when dealing with planning applications, provided that the development would otherwise comply with development plan and national planning policies. [6, 11, 12, 14, 36, 54, 55]

84. The evidence base for the LDP indicates a need for 8525 new homes between 2013 and 2028. Taking into account existing deliverable housing land supply, land is required for approximately 3373 homes. Whilst the figures cited by the parties differ, the base figures having been taken from different years, there was no dispute regarding the need to significantly increase the supply of land for housing, which carries considerable weight in support of the development. [36, 37, 55, 64]

85. The appeal scheme would contribute up to 189 dwellings, 25% of which would be affordable. In addition the Appellants have indicated that the scheme would be brought forward quickly and the suggested conditions to shorten the time period for the submission of reserved matters and commencement of the development would help ensure this took place. These factors provide considerable weight in favour of the appeal. [19, 64, 73]

Emerging Local Development Plan

86. The Council recognised that its future housing requirements will not be met without the release of greenfield sites and it acknowledged that some sites currently within the Green Barrier will be required to be developed. The area to the north of Wrexham is experiencing high pressure for residential development and whilst the release of land to satisfy such demand should be a matter for the local plan, this is an ongoing

process and there is no certainty over the final outcome. It is noted that, at present, the appeal site is unlikely to be allocated in the LDP, preference being given to two Key Strategic sites, despite the potential for their delivery to be longer term than the appeal site. [11, 40, 41, 42, 45, 52, 56, 60, 65, 71]

87. However, in its assessment of candidate sites the Council found that the land which comprises the appeal site complied with the Preferred Strategy. The assessment also found the area of the appeal site which would be built upon may have the potential to contribute to meeting future growth demands. Although the assessment considered there were constraints which were unlikely to be overcome, the Council confirmed to the Hearing that these had been addressed as part of the development. [52, 57]

88. The appeal site, being surrounded on three sides by built development, represents a logical extension to the settlement. It is in a sustainable location being well related to local services and facilities and accessible by sustainable means of transport. The proposal provides a realistic opportunity to accommodate residential growth in a sustainable location that can be provided in a short timeframe. The appeal site may not be currently favoured for allocation by the Council in the emerging LDP. However, there is no certainty over the final outcome of the plan and given the underlying evidence the appeal site would provide residential development on land which would satisfy the requirements of the Council's Preferred Strategy. [12, 45, 58, 71]

Historic Heritage

89. The conservation of archaeological remains is a material consideration in determining an application and where nationally important archaeological remains and their settings are likely to be affected by development there should be a presumption in favour of their physical protection in situ. It is only in exceptional circumstances that permission should be granted if development would result in an adverse impact on a scheduled monument or has a significantly damaging effect on its setting. The section of Wats Dyke which crosses the appeal site has been identified as one of the last unenclosed sections of the monument and as confirmed by Cadw the proposal would have a significant effect on its setting. [5, 32, 70]

90. However, the creation of a substantial landscape buffer to either side of the Dyke and the restriction of built development to the western side of the site would help protect the SAM in situ. Furthermore, the measures in the SAMMP would improve the appearance and setting of the Dyke and secure its long term management. These factors, together with the management of the wider landscape buffer, would help preserve the heritage asset in the longer term. [5, 32, 47, 48, 52, 62, 70]

91. It is generally accepted the effect of the development on the SAM would be successfully mitigated and compensated for via the SAMMP. Therefore, although the development would have a significant effect on the setting of the heritage asset, the implementation of the management plan would compensate for the damage that would be caused to the setting to a level which is acceptable. [32, 48, 62]

92. Whilst the SAM is not subject to any proactive management scheme at present and the proposals present an opportunity to secure measures that would preserve it in the longer term, none of the measures is directly dependent on the development taking place. [48, 49, 62, 67]

93. The lack of housing land supply together with the contribution the site would make to housing provision and its compliance with the Preferred Strategy carry significant weight in favour of the appeal. The works to ensure the long term preservation of the

heritage asset are not directly dependent on the development and therefore do not add weight in favour of the proposal although it is recognised that it is unlikely that the benefits would come forward in the absence of the proposal. Notwithstanding this I find that the other considerations in this case clearly outweigh the identified harm to the Green Barrier and the very exceptional circumstances necessary to justify the development exist. [45]

Other Matters

Landscape and visual effects

94. The site has value as part of the Green Barrier and in preserving the setting of the SAM. Nonetheless it is almost entirely surrounded by built development and the part which is adjacent to open countryside is bounded by the railway. Although the site is currently devoid of built development, its edge of settlement location gives it a semi-urban character. It is also not considered to be a high quality landscape. The erection of houses on the western end of the site would extend the urban edge of Old Rhosrobin eastwards beyond Main Road. However, such an extension has already taken place on the northern boundary of the site and the proposal would not extend any further east than this existing development. [45, 47, 53, 61]

95. As this is an outline application the specific details of siting, layout, design and landscaping are not available. However the indicative layout and supporting evidence suggest that a scheme appropriate to the local surroundings could be devised. There is no dispute that the development would visually alter the site. Although the Council recognised that the development would have a significant effect on the appearance of the site, it raised no objection to the proposal on grounds of landscape character or visual amenity. I have reached the same conclusion. [20, 61, 67]

Loss of agricultural land

96. In previous ALC surveys about 75% of the site, including the land which would be built upon, was recorded as Grade 3a and therefore BMV land. However, the submitted agricultural land classification report concluded that the site is likely to be Grade 3b land. Whilst the Council questioned the accuracy of the survey as it claimed the correct guidelines had not been followed, it did not provide any substantive evidence to support its claims. [27, 35, 46]

97. Since the site is physically separated from any other agricultural land by roads, a railway line and built development it would be difficult to use the land as part of a larger agricultural holding. The site is also currently in three separate ownerships and therefore it would not necessarily be available to be farmed as a single unit. Given these constraints I am in agreement with the Council that although there may be conflict with Policy EC2 of the UDP which only permits development on agricultural land of Grades 1, 2 and 3a, the dismissal of the appeal on these grounds is not justified. [5, 10, 15, 43, 46, 58]

Highway improvements

98. The development would result in increased traffic on the local highway network and the representations made by interested parties raised concerns that this would exacerbate existing traffic congestion problems. However the proposed scheme would introduce a roundabout at the access into the site which would help maintain traffic flow. Furthermore the proposed introduction of traffic lights at the junction of the B5425 with Plas Acton Road would provide additional capacity at a junction which

is already operating at capacity. It is also proposed to introduce a pedestrian and cycle way across the site which would provide a link with Pandy. These highway improvements would benefit the wider community as well as residents of the site. [20, 24, 67, 69, 74]

Other similar proposals

99. The parties drew attention to various decisions on other proposals for residential development. The sites at Home Farm and the former Hafod Tileries are not within a Green Barrier and are therefore not subject to the same policy constraints as the appeal site. The sites at Gwersyllt and Summerhill are within the Green Barrier and in granting permission the Council recognised that the lack of a 5 year land supply represented a very special circumstance that justified development. However, these developments are significantly smaller than the appeal proposal and neither result in the coalescence of settlements. [18, 50, 63]

100. The appeals into the developments on land opposite St Peter's Close, and to the rear of Briarswood were both dismissed on grounds of inappropriate development in the Green Barrier and very exceptional circumstances did not exist to clearly outweigh the harm. In dismissing the St Peter's Close appeal the Inspector saw the Green Barrier as a wide arc which constrained the urban villages of Old and New Rhosrobin and Pandy and he considered that the development would result in the distinction between the villages being lost. There are significant differences between this case and the appeal proposal in that the latter would only result in the coalescence of Wrexham and Old Rhosrobin on Main Road. It would not affect New Rhosrobin and the part of the site which would remain undeveloped would prevent coalescence with Pandy and retain a visual link with the Green Barrier to the north west. [18, 44, 50, 71]

101. I therefore consider that there are significant differences between the other similar developments raised in evidence and the appeal, which must be determined on its merits. [18, 44, 50, 63]

Concerns raised by local residents

102. In addition to the matters already addressed, interested parties also raised concerns regarding the effect on local wildlife, noise, air quality, the number of affordable housing units and the ability of local services to cope with an increase in population which the proposal would bring about. [72]

103. In respect of wildlife, I am satisfied from my inspection of the site, consideration of the technical reports and responses from statutory consultees that the site could be developed without adverse impact on statutorily protected species. Whilst the conditions suggested by the parties cover most of the mitigation recommended in the Ecological Assessment, I am not satisfied that appropriate provision is made for pre-construction surveys for protected species and timing of construction works to avoid disturbance of nesting birds. Whilst there is no evidence of protected species on the site, it has the potential to support badgers and bats and the matter therefore needs to be addressed by way of a suitably worded condition. [29]

104. Matters of noise and air quality and flooding were addressed in the various reports which accompanied the application. The evidence suggests that the concerns raised would be addressed by appropriate conditions. The number of affordable units proposed is in compliance with the Council's policy. With regards to local services, there would be a need for additional educational facilities as a result of the development, financial provision for which is addressed in the Unilateral Undertaking.

There is no definitive evidence of any capacity issues with regard to local health practices or the local health board. [25, 26, 30, 31]

Conditions and Unilateral Undertaking

105. I have had regard to the guidance in Circular 016/2014 on The Use of Planning Conditions for Development Management in assessing whether or not the suggested conditions should be imposed if the Ministers determine that outline planning permission should be granted. A schedule of recommended conditions that comply with the guidance in Circular 016/2014 together with reasons is set out in the schedule to this report. [73, 74, 105]

106. In respect of the issues raised by the parties, I agree that it would be difficult to enforce any prescribed route construction vehicles would take to the site. I have removed reference to demolition works in condition 11. Whilst the parties did not consider that a phasing condition was necessary, I am aware that the timing of the various provisions made in the Unilateral Undertaking is governed by the phasing of the development. I consider that a phasing condition is required in order to ensure the requirements of the Unilateral Undertaking are met. [73, 74]

107. The amended wording of condition 14 includes for the submission of details and measures to ensure the long term protection of the part of the site to remain devoid of built development. The SAMMP only relates to the heritage asset and the majority of the works to it will require SAM consent. Control of the works to the wider part of the site to remain open would be facilitated by the amended wording of condition 14. Although provision of the access and other highway works within the site are covered by the suggested conditions, the improvement of the junction of the B5425 with Plas Acton Road is not and an additional condition is therefore necessary. For the reasons already given a condition is required in respect of a pre-construction survey of the site for protected species. [74, 104]

108. I am satisfied that the Unilateral Undertaking is necessary to make the development acceptable in planning terms; is directly related to the development; and is fairly and reasonably related in scale and kind to the development. As a result it satisfies The Community Infrastructure Levy Regulations 2010, as amended, together with Circular 13/97 Planning Obligations. [75]

Planning Balance and Recommendation

109. Although the proposal would be inappropriate development within the Green Barrier, very exceptional circumstances have been found to exist which clearly outweigh the harm, in accord with Policies PS1 and EC1 of the UDP. I have not found any other matters which weigh against the appeal. For these reasons, and having had regard to all other matters raised, I recommend that the appeal be allowed, subject to the conditions as set out in the Schedule to the report.

110. In reaching my recommendation 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 objective of supporting safe, cohesive and resilient communities.

Kay Sheffield

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

John Barrett	Counsel for the Appellants
Guy Evans BSc(Hons) MSc MRTPI	Director of Cassidy + Ashton Group
Karl Hulka	Of Total Heritage
Stuart Ryder	Of Ryder Landscape Consultants
Phillip Morris BSc FRICS	Of Liberty Properties

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Phillips BSc(Hons) MSc MRTPI	Lead Officer Planning Control
Mared Rees BSc(Hons) MSc MRTPI	Planning Officer

INTERESTED PERSONS:

Ann Grey	Local Resident
Julie Smith	Community Councillor

DOCUMENTS

Documents submitted to the Hearing

1 Council's letter of 9/01/2018 regarding the arrangements for the Hearing

2 Signed Unilateral Undertaking

3 Policy EC 1 of the UDP omitted from the questionnaire

4 Extract from Proposals Map of UDP

5 Closing statement on behalf of the Appellants.

Document submitted after the Hearing

6 Additional conditions agreed by the parties

Schedule of Conditions

1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

   Reason: To comply with the provisions of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012

2) Any application for approval of the reserved matters shall be made to the local planning authority not later than two years from the date of this permission.

   Reason: In view of the need to increase the supply of housing in the County Borough, it is reasonable to require the reserved matters to be submitted for approval within two years of the date of the outline planning permission being granted in order to encourage the development to be brought forward at the earliest possible date.

3) The development shall begin either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

   Reason: In view of the need to increase the supply of housing in the County Borough, it is reasonable to reduce the normal 5 year date for commencement in order to encourage the development to be brought forward at the earliest possible date.

4) This planning permission provides for a maximum of 189 dwellings

   Reason: To define the scope of the planning permission.

5) The access into the site shall be laid out in accordance with drawing No. 074-01/GA-02 prior to the occupation of any dwelling erected on the site under the terms of this planning permission.

   Reason: In order to provide a safe means of access.

6) Construction work shall not begin until a scheme for protecting the proposed dwellings from noise from the A483 trunk road has been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before any dwelling on the site is occupied.

   Reason: To ensure that the residential amenity of future occupiers of the development is protected from vehicular traffic noise.

7) No development shall take place until a timetable for the implementation of the measures specified in the Total Heritage Scheduled Ancient Monument Management Plan reference: ROS/16/002 and dated January 2017 has been submitted to and approved in writing by the local planning authority. Thereafter the measures set out in the Management Plan shall be implemented in accordance with the approved timetable.

   Reason: In the interests of the protection of Wat's Dyke Scheduled Ancient Monument.

8) No development shall commence until a scheme for the disposal of surface water has been submitted to and agreed in writing by the local planning authority. The scheme shall:

   i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and

the measures taken to prevent pollution of receiving ground water and/or surface waters;

ii) specify the responsibilities of each party for the implementation of the Sustainable Urban Drainage Scheme, together with a timetable for that implementation; and

iii) provide a timescale for implementation, management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The scheme shall be implemented in accordance with the approved details.

Reason: To ensure that effective drainage of the development in the interests of minimising the risk of surface water flooding within the development and the locality and to ensure no adverse impact occurs to the environment or the existing public sewerage system.

9) No development shall commence until a scheme for the provision of foul sewerage infrastructure has been submitted to and agreed in writing by the local planning authority. The scheme shall include details of and be informed by a Hydraulic Modelling Assessment. No dwelling hereby permitted shall be occupied until the foul sewerage infrastructure has been provided in full and in accordance with the scheme as approved.

Reason: To protect the integrity of the public sewerage system and the health and safety of existing residents and ensure no detriment to the environment.

10) No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. The Construction Method Statement shall provide for:

i) the parking of vehicles of site operatives and visitors;

ii) loading and unloading of plant and materials;

iii) storage of plant and materials used in constructing the development;

iv) wheel washing facilities;

v) measures to control the emission of dust and dirt from construction works;

vi) measures to prevent damage to Wat's Dyke Scheduled Ancient Monument during the construction period;

vii) a scheme for recycling/disposing of waste resulting from demolition and construction works; and

viii) hours of working;

Reason: To protect occupiers of nearby dwellings and Wat's Dyke from potentially adverse effects during the construction period and to ensure that mud is not tracked onto Main Road in the interests of highway safety.

11) No development shall commence until a detailed Arboricultural Method Statement has been submitted to and agreed in writing by the local planning authority. The development shall only take place in strict accordance with the Arboricultural Method Statement which shall include:

i) a specification for tree protective fencing and ground protection measures in accordance with British Standard 5837:2012;

ii) a Tree Protection plan showing the location of the trees to be removed and retained with their crown spreads, Root Protection Areas, Construction Exclusion

Zones and location of protective fencing and ground protection measures accurately plotted;

iii) a full specification for any access, driveway, path, underground services or wall foundations within retained tree Root Protection Areas or Construction Exclusion Zones, including any related sections and method for avoiding damage to retained trees;

iv) details of general arboricultural matters including proposed practices with regards to cement mixing, material storage and fires;

v) details of the frequency of supervisory visits and procedures for notifying the findings of such visits to the local planning authority;

vi) details of all proposed tree works, including felling and pruning.

Reason: To ensure that trees and hedges of amenity value are protected during construction works.

12) No development shall commence until a scheme detailing the provision of a footway/cycleway link across the site from Main Road to the junction of Plas Acton Road with Blue Bell Lane and a timetable for its completion has been submitted to and agreed in writing by the local planning authority. The footway/cycleway link shall be completed in accordance with the approved details.

Reason: To provide pedestrian and cycling links to and across the site in order to promote accessibility and sustainable travel choices.

13) Notwithstanding the requirements of condition 1, the submission of the reserved matters shall include a scheme for all areas of open space and greenspace to be provided as part of the development, including public amenity space and equipped children's play areas together with a timetable for their provision. The development shall be implemented in accordance with the approved details.

Reason: To ensure that adequate open space and recreation facilities are provided in accordance with Policy CLF5 of the UDP and in the interests of the character and appearance of the development.

14) No development shall take place until a long term Landscape Management Plan for the identified areas of public open space and maintained land (as referenced on the indicative masterplan/development framework drawing number Ref: C3429-PO1C) has been submitted to and approved in writing by the local planning authority. The management plan shall provide: details and measures to ensure the long term protection of the open land; the timing of the implementation of the plan; management responsibilities; maintenance schedules and procedures for the replacement of failed planting for all landscaped areas other than private gardens. The approved scheme shall be implemented prior to the occupation of any of the properties hereby approved.

Reason: To ensure landscaped and open spaces are managed in a manner that ensures their visual and recreational value is maintained.

15) No development shall take place until a programme of archaeological works has been submitted to and approved in writing by the local planning authority. The programme shall include a written scheme of investigation and a timetable for the investigation. The works shall be undertaken in accordance with the approved programme. A written report recording any archaeological works undertaken on the site shall be submitted to the local planning authority within three months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing by the local planning authority.

Reason: To enable the recording of any items of historical or archaeological interest, in accordance with the requirements of Planning Policy Wales and the Development Plan.

16) No development shall take place until a scheme detailing the provision of a traffic controlled junction at the Llay New Road junction with Plas Acton Road has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the occupation of the first dwelling hereby approved.

Reason: In the interests of highway safety.

17) Notwithstanding the requirements of condition 1, full details of the timings and phasing of the development shall be submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the details as approved.

Reason: To ensure the development contributes to the housing land supply in an appropriate manner and to ensure compatibility with schedules contained within the Unilateral Undertaking.

18) The development shall be carried out in accordance with the recommendations contained in Section 7 of the Ecological Assessment 2016 (TEP Report Ref: 4731.01.001).

Reason: In the interests of protected species and other wildlife.

The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Adroddiad Atodol

Gwrandawiad wedi ail-agor ar 12/02/2019

gan Kay Sheffield BA(Hons) DipTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 12.03.2019

Addendum Report

Hearing re-opened on 12/02/2019

by Kay Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 12.03.2019

TOWN AND COUNTRY PLANNING ACT 1990

Section 78

Appeal by Welsh Town Planning & Housing Trust Ltd, Mrs I Dutton, Mr J Dutton, Mr P Davies and Mr D Griffiths in conjunction with Liberty Properties

Residential development of up to 189 dwellings

Land east of Tan y Bont, Main Road, Rhosrobin, Wrexham

Cyf ffeil/File ref: APP/H6955/A/17/3182282

File Ref: APP/H6955/A/17/3182282

Site address: Land east of Tan y Bont, Main Road, Rhosrobin, Wrexham

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Welsh Town Planning & Housing Trust Ltd, Mrs I Dutton, Mr J Dutton, Mr P Davies and Mr D Griffiths in conjunction with Liberty Properties against the decision of Wrexham County Borough Council.
- The application Ref P/2016/0189, dated 19/02/2016, was refused by notice dated 06/03/2017.
- The development proposed is residential development of up to 189 dwellings.

Summary of Recommendation: The appeal be allowed

Preliminary and Procedural Matters

1. Subsequent to the submission of my original report the Welsh Government (WG) announced a wide-ranging review into the delivery of housing through the planning system[1]. In addition to issuing a call for evidence to address the issue, the dis-application of paragraph 6.2 of Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies was announced. For the purposes of Rule 13(4)(b) of the Town and Country Planning (Hearings Procedure) (Wales) Rules 2013 this is considered to be a new matter of fact.

2. Since housing land supply was material to my consideration of the appeal the dis-application of paragraph 6.2 of TAN 1 constitutes new evidence that should be considered prior to a decision being made. Therefore, in accordance with Rule 13(6)(a), further evidence was invited in respect of the disapplication of paragraph 6.2 of TAN 1. At the re-opened Hearing the discussion was limited to the implications of the dis-application of paragraph 6.2 of TAN 1 on the parties' cases. No other matters were discussed and therefore this addendum report should be read in conjunction with my previous report.

3. Planning Policy Wales (PPW) edition 10 was published on 5 December 2018 and it replaced edition 9 with immediate effect. Regard has therefore been given to edition 10 in this addendum report.

Planning Policy

National Planning Policy

4. 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.[2]

5. According to PPW 10[3] the supply of land to meet the housing requirement proposed in a development plan must be deliverable. To achieve this, development plans must include a supply of land which delivers the identified housing requirement figure and makes a locally appropriate additional flexibility allowance for sites not coming forward during the plan period. The ability to deliver requirements must be demonstrated through a housing trajectory which illustrates the expected rate of housing delivery and the maintenance of a five-year supply of housing land over the plan period.[4]

[1] Letter from Cabinet Secretary for Energy, Planning and Rural Affairs dated 18 July 2018
[2] PPW 10 paragraph 1.17
[3] PPW 10 paragraph 4.2.10
[4] PPW 10 paragraph 4.2.15

6. Local Planning Authorities (LPA) are required to ensure that sufficient land is genuinely available or will become available to provide and maintain a five-year supply of land for housing judged against the general objectives, scale and location of development required in the development plan. This means that sites must be free, or readily freed, from planning, physical and ownership constraints and be economically viable, in order to support the creation of sustainable communities.[5]

7. The WG's announcement of a review into the delivery of housing through the planning system was in response to the current housing land supply position and to the under delivery of Local Development Plan housing requirements. In calling for evidence to address the issue, the letter[6] emphasised the overarching principles that should apply and be addressed through the evidence submitted, namely: planning decisions must be based on an up-to-date development plan; housing requirements should be based on evidence and all sites identified to meet the requirement must demonstrate they are deliverable; and monitoring arrangements must reinforce the plan-led approach to development management.

8. The letter notes that speculative applications for housing on sites not allocated in Local Development Plans are generating uncertainty for communities to the detriment of the plan-led system. Therefore in support of the review and to alleviate some of the immediate pressures on LPA it was decided to dis-apply paragraph 6.2 of TAN 1 thus removing the paragraph which refers to attaching "considerable" weight to the lack of a five-year housing land supply as a material consideration in determining planning applications for housing. As a result of the dis-application of paragraph 6.2 of TAN 1 it is for the decision maker to determine the weight which should be attributed to the need to increase housing land supply where an LPA has a shortfall in housing land.

Local Planning Policy

9. The relevant development plan remains the Wrexham Unitary Development Plan 1996-2011 (UDP). Although the Council has submitted the Deposit Wrexham Local Development Plan 2013 – 2028 (LDP) for examination, at the time of the Hearing, consultation on focussed changes to it was ongoing and there was no firm programme for its examination. Whilst the Council anticipated that at the very earliest the LDP would be adopted by the end of 2019, it conceded that adoption would more likely be in early 2020. Nevertheless, the evidence to support the policies in an emerging LDP can be used as a material consideration when making decisions.

10. In making development management decisions, the weight which can be attached to an emerging LDP does not simply increase as the plan progresses towards adoption. Certainty regarding its content will only be achieved when the Examining Inspector delivers the binding report following the Examination in Public. However, the Development Management Manual states that in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, there is a need to consider carefully the underlying evidence and background to the policies.[7]

11. The appeal site is not allocated for development in the LDP. It lies within open countryside and forms part of the Green Wedge. Policy SP2 of the LDP directs new development to the defined settlement limits and employment areas identified on the Proposals Map. The explanation of the policy confirms that all development located

[5] PPW 10 paragraph 4.2.15
[6] Letter from Cabinet Secretary for Energy, Planning and Rural Affairs dated 18 July 2018
[7] Development Management Manual Section 9.4.8

outside of any defined settlement limit or employment area as shown on the Proposals Map is classed as development in the open countryside and will be strictly controlled and limited in accordance with national planning policy. The appeal site lies within the Green Wedge between Bradley, Rhosrobin, Gwersyllt, Broughton and Wrexham as identified in Policy SP7 of the LDP. Within areas designated as Green Wedge the policy only permits development that accords with national planning policy.

The Case for the Council
(Supplemental Statement and verbal contributions made to the Hearing)

The material points are:

12. Despite the dis-application of paragraph 6.2 of TAN 1, in Wrexham the need to increase housing land supply should continue to be afforded considerable weight in the determination of relevant applications and appeals on the grounds that: the UDP plan period expired in 2011; and in the LDP there is a need to allocate 3376 units in order to meet the identified housing requirement of 8525 units. Nevertheless, the Council remains of the opinion that the appeal should be dismissed.

13. As part of the LDP process a review of the Green Barriers allocated in the UDP has been undertaken. The purpose of the Wrexham Strategic Green Wedge Review, October 2017 (the Review)[8] was to ensure that the Green Wedge allocations in the LDP are based on a sound formal assessment and a sufficient range of land would be available for development. Whilst the housing allocations proposed in the LDP include sites that are currently designated Green Barrier in the UDP, the Review concluded that the appeal site should continue to be afforded protection by way of a Green Wedge designation.

14. Whilst the LDP has not reached a stage where the plan as a whole can be afforded significant weight, the Review is robust and justifies the retention of the appeal site as a Green Wedge. Furthermore, the Council is content that it can deliver the projected housing requirements via the sites proposed for allocation in the LDP. These comprise two key strategic sites on land at Lower Berse Farm (KSS1) and east of Cefn Road (KSS2) together with 17 non-strategic sites, one of which is land at Llay New Road, Rhosrobin (site 17), a short distance to the north of the appeal site.

15. In order to meet the LDP housing requirement, an average completion rate of 517 is required per annum over the whole of the plan period. The Council reported that the delivery of new houses has been consistently and significantly below this figure, completions on average having been 241 per annum. Whilst the Council anticipated that the deficit would be made up over the plan period, it recognised that if the LDP housing requirements are to be achieved there will need to be a significant increase in the number of completions over the remaining plan period. However, other than the site at Home Farm, Llay (site 10) where delivery is due to start in 2019/20, there is no immediate prospect of completions from proposed allocations in the LDP. It was envisaged that a recent outline application for 600 units on the strategic site KSS2 would not be implemented until the end of 2022 whereas in the housing trajectory[9] completions on this site were anticipated as early as 2020/21. Contributions from KSS1 are not forecasted to begin until 2026/27 with most of the completions taking place after the end of the plan.

[8] The contents of the Wrexham Strategic Green Wedge Review, October 2017 remain the same as the February 2016 version in respect of the appeal site.
[9] Document 2

16. The housing projections rely on housing being delivered on allocated sites over the plan period and the Council accepted that unless more land is brought forward for development prior to the adoption of the LDP, there is a risk that the housing requirements will not be met. This means that suitable sites, potentially including those proposed for allocation in the LDP, will need to be brought forward quickly for development prior to the adoption of the LDP if the housing trajectory for the period up to 2021 is to be achieved[10].

17. The Council accepted that there are several sites which, for various reasons, were not proposed for allocation in the LDP. However, as in the case of the appeal site, constraints which had originally played a part in their exclusion from the plan had been overcome. The Council would need to enter the LDP Examination with a contingency list and it was considered that the appeal site was a strong candidate if further land had to be brought forward in order to satisfy the need for housing as part of the LDP.

18. Notwithstanding this, the appeal site lies outside of a settlement limit and within a Green Barrier. The development would result in the coalescence of Wrexham and Old Rhosrobin and would cause significant harm to the openness of the Green Barrier separating Old Rhosrobin and Pandy. The development is therefore contrary to Policies PS1 and EC1 of the UDP. Furthermore, the site is proposed to be afforded the same level of protection in the LDP. The Council therefore respectfully reiterates its request that the appeal be dismissed.

The Case for the Appellants
(Supplemental Statement and verbal contributions to the Hearing)

The material points are:

19. Notwithstanding the dis-application of paragraph 6.2 of TAN 1 the need to increase housing land supply is still afforded considerable weight by the decision makers where there is a significant need for new housing in a Council's administrative area. This very real need must be met now. The need for housing and the maintenance of a five-year housing land supply is emphasised in PPW. Accordingly, the Council's current identified housing requirement is a material consideration in its own right, which must be met through sites that are available and deliverable now and so forms part of the very exceptional circumstances that exist.

20. The rationale for the dis-application of paragraph 6.2 appears to be related to the receipt of speculative housing proposals that generate uncertainty, to the detriment of the plan led planning system. In the case of the appeal this rationale does not gain any traction for the following reasons:
    a) The appeal proposal addressed the compliance with the development plan and the application of other material considerations;
    b) The UDP is considerably out of date. It was adopted in 2005 and addressed development needs ending in 2011;
    c) The appeal proposal is being brought forward because development plans are failing to maintain a five-year supply. It therefore supports development plans in delivering much needed development in sustainable locations for Councils such as Wrexham which are clearly in difficulty. To suggest that the response to the housing shortage is to prevent further planning applications being made is counterintuitive.

[10] Document 1, pages 56 & 57

21. Section 5 of the Well-Being of Future Generations (Wales) Act, 2015 (WBFG Act) establishes the sustainable development principle and places on public bodies an obligation to take into account "*the importance of balancing short term needs with the need to safeguard the ability to meet long term needs, especially where things done to meet short term needs may have detrimental long-term effect*". The WG's response to the housing shortage with a message which is being construed as a vehicle for preventing residential development appears to be inconsistent with straightforward sustainable development principles.

22. The WBFG Act requires public bodies to consider the long-term impact of their decisions, to work better with people, communities and each other, and seek to prevent persistent problems such as poverty, health inequalities and climate change. Its aim is to make sure public bodies in Wales are working towards the same purpose: achieving all seven well-being goals, not just one or two.

23. The National Housing Strategy, 2010 established a series of actions to bring about investment in housing. The actions aimed to: meet peoples' need for a home; bring about positive economic impacts through jobs and training opportunities; improve peoples' health and well-being; and benefit the environment. Housing delivery tackles poverty and inequality, opening new opportunities for people.

24. The importance of housing delivery is consolidated in the second priority area in the document National Strategy Prosperity for All, September 2017. It places a good quality, affordable home as the bedrock of living well. Moreover, it notes that delivering housing that secures this opportunity brings a wide range of benefits to health, learning and prosperity. On this basis the delivery of a choice of quality housing to meet identified need is inextricably linked to the collective ability of public bodies in Wales to work effectively in delivering the seven well-being goals of the WBFG Act.

25. Key points in respect of the appeal are:
    a) It remains one where section 38(6) of the Planning and Compulsory Purchase Act 2004 applies;
    b) A material consideration is a question of law not policy;
    c) The decision to dis-apply paragraph 6.2 of TAN 1 does not and cannot render the need for housing an immaterial consideration. The weight to be given to housing need is for the decision maker;
    d) It remains that each case has to be considered on its merits with contribution to housing need being undoubtedly material.

26. In the light of the following great weight should be applied in this case to the need to increase housing land supply:
    a) The Council has a zero supply of housing land;
    b) There is a significant need for additional land to be brought forward for housing;
    c) Whereas the delivery of housing facilitates very real social consequences and household formation, a shortage of supply increases house prices thereby worsening affordability, resulting in concealed households and reducing the ability of people to access housing. It is important to acknowledge the immediate economic benefits associated with construction and the direct association with employment policy, with housing required to facilitate the creation of jobs;
    d) The failure of housing supply to keep up with rising demand has wide social and economic implications. There is an ever increasing number of households on local authority housing registers and significant levels of overcrowding in private and social housing stock. Poor housing impacts directly on residents' health and educational attainments, while difficulties in accessing affordable housing can limit

the ability of people to move to find work. The need to increase the supply of housing and tackle affordability issues is a key housing policy issue;

e) A moratorium would be in place preventing delivery of market and affordable housing;

f) There is a very real need to address the Council's requirement for affordable housing. The delivery of market housing is the only effective vehicle for the delivery of this for the foreseeable future;

g) The absence of a continuing supply of housing land has significant consequences in relation to people finding homes and is in direct opposition to the thrust of national guidance, which is that everyone should have the opportunity of a wider choice of housing. Housing land supply is not just related to a mathematical equation, it is about ensuring land comes forward early enough to meet real needs;

h) The lack of housebuilding within the Council's area over many years has resulted in a crisis that needs addressing and the bringing forward of applications through the development management process is an appropriate and flexible response.

27. The Council acknowledges the need to increase housing land supply remains an important material consideration despite the dis-application of paragraph 6.2 of TAN 1. This is due to the Council's zero housing land supply and an identified housing need as set out in the LDP. As evidenced in recent reports to Committee, Officers believe that considerable weight should be given to the need to increase housing land supply.

28. Policy SP2 of the LDP directs new development to the defined settlement limits identified on the Proposals Map with most of the development being directed to Wrexham Town. The appeal site bears similarities with two sites proposed for allocation, namely Mold Road/A483 (site 1) and Llay New Road (site 17) both of which are currently designated Green Barrier.[11] The latter is separated from the appeal site by the built development on its northern boundary. The appeal site is more aligned to Wrexham Town than the Llay New Road site. The inclusion of the appeal site within an extended settlement boundary for Wrexham Town would not prejudice but strengthen the established principles of the delineation of the settlement boundary. It would also strengthen the separation of Rhosrobin and Pandy.

29. Previous submissions highlighted flaws in the Review in this locality and supported consideration of the appeal site for allocation in preference to the Llay New Road site or, when considered against the standpoint that the proposed housing provision figures are too low and need to be increased, as an allocation in its own right.

30. Areas designated as Green Wedges in Policy SP7 of the LDP have been identified through the Review. In terms of its landscape character, the current Green Barrier between Bradley, Rhosrobin and east of Gwersyllt is disparate and disjointed, interspersed with regular housing and transport corridors. The appeal site has a lesser landscape and visual quality compared to the remainder of the Green Barrier given the adverse landscape and visual effects of the adjacent A483 dual carriageway. It should be considered as a priority for development over and above the other allocations proposed in the locality.

31. As recently reported by the Council[12], it is evident from the sites selected for allocation in the Deposit LDP the housing requirements up to 2028 can only be met by the substantial release of greenfield sites. Of the 19 sites proposed for allocation, 14 comprise land located outside of existing UDP settlement limits and 10 are within the

[11] Document 2
[12] Document 1 page 59

Green Barrier. Taken together, around 90% of the housing delivered via allocated sites will be on land outside the existing UDP settlement limits and 80% would be on land within the existing Green Barrier. It is therefore clear that both the UDP settlement limits and the Green Barriers present a significant constraint to delivering the required supply of land for housing.

32. The Council has also recently reported that there is a need to ensure a consistent supply of housing is brought forward prior to the adoption of the LDP; otherwise there is a risk that the housing requirements will not be met. The housing trajectory indicates that the completions on allocated sites will not satisfy the annual housing requirement of 517 units until 2021/22. Even if planning permission is granted on allocated sites prior to the adoption of the LDP, there is a long lead-in time to secure the necessary permissions, complete legal obligations, discharge conditions and start preliminary works on site.

33. An outline application for planning permission for a residential development of 137 units on land proposed as an allocation in the LDP[13] was recently refused by the Council on the grounds that it would be inappropriate to accept that, prior to its examination, the housing requirement identified in the LDP outweighed the UDP. The housing trajectory indicates completions on this site from 2020/21. Although an outline application for 600 units on KSS2 is currently before the Council, it is considered unlikely that any properties would be completed until 2022 at the earliest. The housing trajectory anticipates delivery of 140 units on this site by the end of 2021/22.[14]

34. Housing completions over the period 2013 to 2018 have averaged 241 units per annum. This figure is consistently and significantly below the 517 units per annum required to satisfy the housing need identified in the LDP. The accumulated shortfall to date is approximately 1380 units. The Appellants consider that the LDP requirement is incapable of being met in the remaining 9 years of the plan period unless there is a significant increase in the number of completions.

35. In contrast it is evidenced in correspondence with major housebuilders[15] that a reserved matters application could be submitted within approximately 3 months of an outline permission being granted and a start on site could be made within 3 months of these matters being approved. It is also anticipated that the first units would be ready for occupation within 18 months of the grant of outline permission and the site would be built out within 4 years. This time period could be reduced by up to 1.5 years if a second housebuilder was involved. Furthermore, given that the previously identified constraints on the land have been overcome by the appeal proposals, the site could be supported for inclusion in the LDP.

36. In conclusion, regardless of the dis-application of paragraph 6.2 of TAN 1, the Appellants are of the opinion that the decision maker can apply considerable weight to the very real and current need to increase housing land supply and apply the planning balance to the policies and circumstances as they currently exist.

Representations by Interested Parties

37. The Planning Inspectorate received correspondence from various parties in response to the call for new evidence. However, some have been disregarded as the

[13] Application Ref: P/2018/0560
[14] Document 2, page 48
[15] Document 5

representations did not solely relate to the dis-application of paragraph 6.2 of TAN 1. Of the remainder, Gwersyllt Community Council commented that as housing land supply will be met through the LDP and the appeal site is not allocated the appeal should be dismissed. Local residents considered that the development was a speculative proposal and given that the aim of the dis-application of paragraph 6.2 was to alleviate some of the pressures on planning authorities when dealing with such applications, the appeal should be dismissed.

Conditions and Obligations

38. The parties were agreed that the suggested conditions previously submitted and considered in my original report remain relevant. The same opinions were voiced regarding the Unilateral Undertaking. I have reached the same conclusions.

Conclusions

The numbers in square brackets indicate the relevant paragraphs of the report.

39. In my original report I accepted that the proposal would constitute inappropriate development in the Green Barrier and that planning permission should not be granted for such development except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Barrier. However, in making my recommendation to allow the appeal, I took account of paragraph 6.2 of TAN 1 and afforded considerable weight to the need to increase housing land supply as part of the very exceptional circumstances in favour of the appeal. [1-2, 19]

40. Following the dis-application of paragraph 6.2 of TAN 1 it is now a matter for the decision maker to determine the weight which should be attributed to the need to increase housing land supply where a Council has a shortfall in housing land. Notwithstanding this, WG considers the need to increase housing land supply should not be given considerable weight. It disagrees with the weight afforded in my report to the need to increase housing land supply and with the reasoning that very exceptional circumstances exist to justify the proposed development within the Green Barrier.[16] [1-2, 8, 19, 25]

41. The main issue considered in this addendum report is therefore whether the lack of a five-year housing land supply is a consideration sufficient to outweigh any conflict with local and national planning policies. [2, 7]

42. The Council has neither an up-to-date UDP nor an adopted LDP. It is therefore considered to have zero housing land supply. The requirement in PPW 10 that the Council must ensure that sufficient land is genuinely available or will become available to provide and maintain a five-year supply of land for housing is not met. [5-7, 26]

43. The provision of a five-year housing land supply is a matter which will be addressed by the LDP. The Council considers that sufficient land is proposed for allocation in the plan to meet the identified need for housing and maintain a five-year supply over the plan period. Whether or not the LDP is sound is a matter for the Examining Inspector and not this appeal. However, as the LDP has not yet been examined and is unlikely to be adopted until early 2020, limited weight can be applied to it. Furthermore, there are certain matters in respect of housing land supply which are material to the appeal. [5, 9-10, 26, 37]

[16] Letter from First Minister for Wales dated 31 July 2018

44. The Council's housing completion figures confirm a consistent and significant under-supply which over the period 2013 to 2018 accounts for approximately 1380 units against an average LDP requirement of 517 per annum. The evidence suggests that the shortfall will increase over the next year at least. Although the Council is confident that it can deliver the projected housing requirements, if they are to be achieved there will need to be a significant increase in the number of completions over the remaining 9 years of the plan period. The Council is aware that unless more land is brought forward for development prior to the adoption of the LDP, there is a risk that the housing requirements will not be met. It is evident that there is no immediate prospect of completions from proposed allocations in the LDP. Suitable sites therefore need to be brought forward for development prior to the adoption of the LDP if the housing trajectory is to be achieved. [6-7, 14-16, 20, 26-27, 31-33]

45. Although in the LDP the appeal site is in open countryside and part of a Green Wedge, it is surrounded on three sides by existing built development within the settlement limit of Wrexham Town and represents a logical extension to the settlement. In the event that the examination of the LDP identified a need for additional housing land the Council agreed that the appeal site was a strong candidate to satisfy that need. [6, 11, 13-14, 17-18, 26-33, 37]

46. The appeal scheme would contribute up to 189 dwellings, 25% of which would be affordable. It is in a sustainable location being well related to local services and facilities and accessible by sustainable means of transport. The proposal provides a realistic opportunity to accommodate residential growth in a sustainable location. In addition the evidence confirms that it is not a speculative development, but one which would be brought forward quickly and completed within four years. The proposals would therefore make an important contribution to housing supply. [4, 6-7,11, 20-24, 26, 28-30, 35, 37]

47. The appeal site may not be allocated for development in the Deposit LDP. However, there is no certainty over the final outcome of the plan and the evidence supports an urgent need to increase housing land supply. Given the underlying evidence, the appeal site would provide residential development on land which would satisfy the requirements of the Council's Preferred Strategy. [25-26, 32-33]

48. Given the current position in respect of the Council's housing land supply, the identified need to bring sites forward for development prior to the adoption of the LDP if the housing trajectory is to be achieved, and there being no immediate prospect of completions from proposed allocations in the LDP, I am in agreement with the parties that considerable weight should continue to be attributed to the need to increase housing land supply in the determination of the appeal. Furthermore, the site could be developed with the minimum of delay and would thus make a significant contribution to housing numbers at a time when a significant increase in completions is required. I remain of the opinion that the housing land supply situation constitutes very exceptional circumstances which outweigh the harm the development would cause to the Green Barrier. [12, 27, 32-36]

Recommendation

49. In the light of the evidence before me I confirm that the overall conclusions I reached in my original report remain unchanged and I continue to recommend that the appeal be allowed, subject to the conditions as set out in the Schedule to the original report.

50. In reaching my recommendation 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 objective of supporting safe, cohesive and resilient communities.

Kay Sheffield

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

John Barrett	Counsel for the Appellants
Guy Evans BSc(Hons) MSc MRTPI	Director of Cassidy + Ashton Group
Phillip Morris BSc FRICS	Of Liberty Properties

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Phillips BSc(Hons) MSc MRTPI	Lead Officer Planning Control

INTERESTED PERSONS:

Ann Grey	Local Resident
Susan Cross	Local Resident
Liam Rondell	Press

DOCUMENTS

1 Officer's Report in respect of Application Ref P/2018/0560, 7 January 2019

2 Wrexham Local Development Plan Housing Supply and Delivery, January 2018

3 Policies SPSP2 and SP7 of the Deposit Wrexham Local Development Plan

4 Extract from Proposals Map of Deposit Wrexham Local Development Plan

5 Letters from major housebuilders

The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 10/10/19

gan Richard E. Jenkins BA (Hons) MSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 18.11.2019

Appeal Decision

Site visit made on 10/10/19

by Richard E. Jenkins BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 18.11.2019

Appeal Ref: APP/H6955/A/19/3233167

Site address: Woodlands Farm, Dodds Lane, Gwersyllt, Wrexham, LL11 4NS

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 Wales and West Housing Association against the decision of Wrexham County Borough Council.
- The application Ref: P/2018/0997, dated 23 November 2018, was refused by notice dated 1 April 2019.
- The development proposed is the erection of 23No. affordable residential units with associated parking, landscaping and ancillary works.

Decision

1. The appeal is allowed and planning permission is granted for the erection of 23No. affordable residential units with associated parking, landscaping and ancillary works at Woodlands Farm, Dodds Lane, Gwersyllt, Wrexham, LL11 4NS in accordance with the terms of the application Ref: P/2018/0997, dated 23 November 2018, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. I have taken the site address from the Council's Notice of Decision as it represents a more accurate address than that outlined on the planning Application Form. As this is broadly consistent with that outlined on the Appeal Form, I am satisfied that there is no prejudice in this respect.

3. The appellant has submitted a revised Unilateral Undertaking, under Section 106 of the Act[1]. The operative provisions of that document require compliance with obligations relating to: *public open space provision; the provision of affordable housing; and the provision of a Habitat Management Area*. I am satisfied that the Unilateral Undertaking is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development proposed. It satisfies the statutory and policy tests. I shall therefore attribute it due weight in the determination of this appeal.

[1] Signed and dated 8 November 2019

4. The Council's second Reason for Refusal states that: "*Inadequate mitigation proposals have been put forward in respect of Great Crested Newts. The development will therefore adversely impact upon the favourable conservation status of that species and therefore conflict with Policy EC6 of the adopted Wrexham Unitary Development Plan 1996- 2011 (Adopted 2005) (UDP)*".[2] Nevertheless, in its Statement of Case, the Local Planning Authority (LPA) noted that the appellant had since been in discussions with both Natural Resources Wales (NRW) and the Council's ecologist regarding revised mitigation proposals. Indeed, the Council has since confirmed that, in light of such negotiations, and having regard to the provisions of the submitted unilateral undertaking, the second Reason for Refusal has been addressed, subject to the imposition of suitably worded planning conditions. I have no reason to come to a different conclusion on such a matter and shall, therefore, confine my reasoning to the principal matters of dispute.

Main Issues

5. These are: whether the principle of development is acceptable, having particular regard to the planning policy framework; the effect of the proposed development upon the character and appearance of the area; the effect of the proposed development upon the purposes and openness of the Green Barrier and whether any such harm would be clearly outweighed by very exceptional circumstances; and finally whether the development would result in the unacceptable loss of BMV agricultural land.

Reasons

6. The appeal relates to approximately 1.5 hectares of land located to the north of Dodds Lane on the eastern periphery of Gwersyllt near Wrexham. The site is currently vacant, although it was used for agricultural purposes prior to the appellant's purchase in 2015. The site is bordered by trees and hedgerows and incorporates a hardstanding to the south of the site. The hardstanding was formerly occupied by the buildings of Woodlands Farm which have since been demolished for reasons associated with safety and antisocial behaviour.

7. The appeal proposal seeks full planning permission for the erection of 23No. affordable dwellings, associated parking, landscaping and ancillary works. The site would be developed in an elongated manner and would be dissected by a new vehicular access road that would extend from the existing access onto Dodds Lane. The dwellings would be located on the western side of the proposed access road, backing onto the existing residential dwellings located along Pen-Y-Llyn. The proposed dwellings would therefore have a south-easterly aspect onto the access road, with areas of open space and landscaping on the eastern flank of the proposed estate road.

Principle of Development, Character and Appearance and Green Barrier

8. Despite being time-expired, the adopted Wrexham Unitary Development Plan 1996-2011 (Adopted 2005) (UDP) remains the development plan for the area and the appeal site lies outside of the settlement limits identified within that document. The development would therefore represent development in the countryside for the purposes of planning policy.

9. Policy PS1 of the adopted UDP directs development for housing to areas within defined settlement limits. Policy H5 comprises a criteria-based policy that expands on the principles of Policy PS1, setting out the circumstances where new dwellings in the

[2] As set out in its Notice of Decision, dated 1 April 2019

countryside would be permitted. Nevertheless, it is common ground that the development proposed in this case does not satisfy the requirements of those policies and I have no reason to come to a different conclusion on this matter. Policy H8 of the adopted UDP allows for affordable housing outside of settlement limits in exceptional circumstances where a proven need can be demonstrated. However, as criterion (a) of that policy restricts such development to no more than 5 dwellings, the appeal proposal would also conflict with the provisions of that policy. It therefore follows that the principle of development would be in conflict with the adopted development plan and, in particular, Policies PS1, H5 and H8.

10. The development would immediately adjoin the existing residential development at Pen-Y-Llyn. Nevertheless, there is little doubt that the appeal proposal would represent a physical incursion into a countryside setting. Indeed, by reason of its scale and nature, the development would inevitably result in the urbanisation of the site and injuriously alter the prevailing rural characteristics of the immediate surroundings. The development would therefore cause harm to the character and appearance of the countryside and conflict with Policies PS1 and GDP1(a) of the adopted UDP which generally seek to protect the countryside and character of the site. It would also conflict with Policy PS2 which states that "*development must not materially detrimentally affect the countryside… or the quality of the natural environment*".

11. The site lies within a Green Barrier designation defined by the adopted UDP. That designation is akin to the Green Wedge policy tool referred within Planning Policy Wales (PPW)[3]. Policy EC1 of the adopted UDP states that development proposals within Green Barriers will only be granted planning permission if they are for agriculture, forestry, essential facilities for outdoor sport and recreation, cemeteries and other uses of land which maintain the openness of the Green Barrier and do not conflict with the purpose of including land within it. The development proposed in this case would without doubt comprise 'inappropriate development' within the Green Barrier for the purposes of PPW. Moreover, the development would also fail to fall within the types of development permissible by Policy EC1 of the adopted UDP.

12. PPW states that, when considering applications for planning permission within such designations, a presumption against inappropriate development will apply and that substantial weight should be attached to any harmful impact which a development would have on the purposes of the designation. By encroaching into an area of open countryside, and thereby reducing the area of undeveloped land between Gwersyllt and New Rhosrobin, the development would run counter to the purposes of the Green Barrier which seeks to: i) prevent the coalescence of urban areas and villages with other settlements; ii) assist in safeguarding the countryside from encroachment; iii) protect the setting of urban areas and villages; and iv) assist in urban regeneration by encouraging the recycling of derelict and other urban land. There is also little doubt that, given the scale and nature of the development, there would be a material loss of openness at the appeal site.

13. The appeal proposal therefore conflicts with Policy EC1 of the UDP and, in accordance with the advice contained within national policy, such harmful impacts merit substantial weight in the planning balance. Nevertheless, PPW states that inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the designation. Therefore, in order to fully conclude on the Green Barrier policy, it is necessary to consider whether the

[3] Edition 10, 2018

arguments advanced in favour of the proposed development amount to 'very exceptional circumstances' that clearly outweigh the identified harm.

14. Given the age of the adopted UDP, and in particular the fact that it is time-expired, there is little doubt in my mind that it attracts less than full weight in the determination of the appeal. Furthermore, in accordance with national policy, the absence of an up-to-date development plan renders the LPA without a five year land supply for housing[4]. PPW requires LPAs to ensure that sufficient land is genuinely available to provide a five year supply of land for housing[5]. As such, and notwithstanding the disapplication of paragraph 6.2 of Technical Advice Note 1: *Joint Housing Land Availability Studies* (JHLAS) (TAN1) and the on-going consultation regarding the wider application of that document, I consider the need to increase the supply to weigh significantly in favour of the appeal.

15. I have fully considered the fact that the emerging Wrexham Local Development Plan (LDP) has been submitted to the Welsh Ministers for Examination and note the Council's contention that the LDP will satisfy the identified housing needs. In this respect, I note the fact that the submitted version of the LDP does not propose a materially different policy context for the appeal site given its inclusion within a Green Wedge designation. Nevertheless, whilst the weight to be attributed to an emerging LDP depends on the stage it has reached, it does not simply increase as the plan progresses. I have not seen anything to indicate that the submitted LDP is to be found sound or indeed that it will be adopted in the immediate future. I therefore consider that the weight to be attributed to such emerging policy should be limited.

16. There is little doubt that the site is located within a broadly sustainable location, accessible to a number of key facilities and services including: Gwersyllt Community Primary School; Ysgol Bryn Alyn Secondary School; Gwersyllt railway station; Gwersyllt Parish Church; and retail facilities. Employment opportunities are also available at the nearby Mold Road Industrial Estate and Rhosddu Industrial Estate. I consider such factors to add weight to the appeal proposal.

17. I have already referred above to the loss of openness should the appeal succeed. Nevertheless, the development would adjoin the built form and, in this respect, I consider that it would represent a logical extension to the village. Moreover, whilst the loss of openness and conflict with the Green Barrier carries substantial weight in the planning balance, I consider that such harmful impacts would be kept to a practical minimum by reason of the proposed design. Indeed, the elongated layout, with the built development confined to the western side of the proposed access road, would ensure that the development would be seen within the context of the existing built form at Gwersyllt. The development would also lie to the north of Dodds Lane, with the nearest form of development at New Rhosrobin lying to the south. Therefore, whilst the appeal proposal would result in the narrowing of the gap between the two settlements, I am satisfied that a physical and visual gap would be retained and their distinctive characteristics preserved.

18. In addition to such matters, I consider the fact that the appeal relates to an application submitted by a housing association for a 100% affordable housing scheme to weigh substantially in favour of the development. Indeed, the evidence indicates that there is a significant need for affordable housing within the area and it would appear that the scheme is deliverable, with the site already in the ownership of a

[4] TAN1, Paragraph 8.2 (2015)
[5] PPW, Edition 10, Paragraph 4.2.15 (2018)

Registered Social Landlord (RSL) and Social Housing Grant funding available within the Delivery Program for the next three years.

19. I note the concerns set out in the LPA's Statement of Case which states that the submitted Unilateral Undertaking "…*fails to provide a precise definition of affordable housing, such as social rent, intermediate rent and intermediate shared equity, the likely tenure mix and who will qualify for occupation of the site*". However, I am satisfied that the covenants contained within the undertaking are broadly consistent with national policy, with a clause to ensure that the development would be retained as affordable housing in perpetuity. I note the concerns raised about the exact tenure mix and eligibility for occupation. However, I am satisfied that such concerns could be adequately addressed through the imposition of a suitably worded planning condition, meaning that full weight can be afforded to such positive benefits of the scheme.

20. Based on the foregoing, I consider the fact that the adopted development plan is time expired, the inability of the Council to demonstrate a five year housing land supply, and the sustainable location to weigh substantially in favour of the development. Indeed, when considered alongside the fact that the development would represent a scheme for 100% affordable housing that would make a significant contribution towards meeting local needs, I consider that the matters in favour of the development comprise the very exceptional circumstances required to clearly outweigh both the harm to the Green Barrier and its wider countryside status.

Loss of Agricultural Land

21. It is common ground that the appeal site incorporates best and most versatile (BMV) agricultural land and there is no doubt that such a resource would be lost to the development. The development would therefore conflict with the general aims of Policy EC2 of the adopted UDP which states that development on BMV agricultural land will be permitted if it does not lead to the irreversible loss of that land. Nevertheless, whilst PPW states that such land should be conserved as a finite resource for the future, it also states that such land should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations.

22. I have already set out above the overriding need for housing within the area and the substantial benefits that the development proposed in this case would deliver. In addition, the evidence in this case highlights the fact that a significant proportion of the housing sites identified within the emerging LDP will be delivered on greenfield land and that the housing requirements for the County Borough, including both market and affordable housing requirements, cannot be met without the loss of BMV agricultural land. Indeed, of the 14 sites proposed for allocation in the submitted version of the LDP that currently lie outside of the adopted UDP settlement limits, all contain at least some BMV agricultural land.

23. In light of the foregoing, and bearing in mind the fact that the appeal site would only result in a modest loss of BMV agricultural land, I concur with the view of the LPA's Case Officer that such matters do not represent a sound reason for withholding planning permission. Indeed, I consider the overriding need for development, and the foregoing positive benefits of the scheme, to outweigh such agricultural considerations. Therefore, whilst the proposed development would run counter to Policy EC2 of the adopted UDP, material considerations, including the sequential approach advocated by PPW, indicate that such conflict is justified in this instance.

Other Matters

24. I have considered all other matters raised, including those submitted by interested parties. However, subject to suitably worded planning conditions being imposed, I am satisfied that the development would not represent a material threat to pedestrian or highway safety. Similarly, matters relating to land contamination and drainage can be conditioned, whilst ecological matters can be jointly addressed through the use of planning conditions and the submitted Unilateral Undertaking. The Unilateral Undertaking also makes satisfactorily provisions for the issue of public open space. I do not, therefore, consider there to be any other matters that weigh materially against the proposal.

Overall Conclusions

25. Based on the foregoing analysis, I have found that the development would run counter to adopted development plan policies designed to protect the countryside. I have also found that the development would be contrary to the purposes of the Green Barrier. However, the harm to the Green Barrier and the wider countryside and landscape setting would be clearly outweighed by the very exceptional circumstances described above. Furthermore, whilst the development would result in the loss of BMV agricultural land, such harm and associated policy conflict would be justified in light of the provisions of PPW and the particular circumstances of this case. For these reasons, and having considered all matters raised, I conclude that the appeal should be allowed, subject to the imposition of suitably worded conditions.

26. In coming to this conclusion, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

27. I have considered the suggested conditions and, having had regard to the advice in Welsh Government Circular 16/2014: *The Use of Planning Conditions for Development Management* (October 2014), have adjusted their wording in the interest of clarity and precision. Reasons for the imposition of each of the conditions are set out in the schedule of conditions attached to this Decision. Given the immediate need for housing, and bearing in mind the advanced stage of the emerging LDP, I agree with the Council that a shorter time commencement period is justified in this case. The Council has suggested a commencement period of two years. However, having regard to the fact that Social Housing Grant funding is available within the Delivery Program for the next three years, I consider a three year period to be reasonable.

28. Whilst not suggested by the Council, I have imposed a condition relating to the provision of affordable housing. As set out above, whilst I am satisfied that the Unilateral Undertaking meets the statutory and policy tests, the Council has raised concerns about the precise definition of affordable housing, the proposed tenure mix and eligibility criteria. Condition No.3 imposed in the attached schedule would address such matters and ensure that the development would comprise 100% affordable housing in accordance with the definition in Technical Advice Note 2: *Planning and Affordable Housing* (TAN2). I am satisfied that there is no prejudice in this respect, not least because it merely ensures that the development would be consistent with the

terms of the application. Finally, I have not imposed the LPA's suggested Condition No.14, as it would be satisfactorily addressed by Condition No.5, below.

Richard E. Jenkins

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall be commenced before the expiry of three years from the date of this permission.

   Reason: To comply with Section 91(3) of the Town and Country Planning Act, 1990.

2) The development shall be carried out in strict accordance with the following plans: i) 070 Revision P; ii) 110 Revision G; iii) 111 Revision B; iv) 120 Revision F; v) 122 Revision B; vi) 160 Revision B; vii) 161 Revision B; viii) 162 Revision B; ix) 163 Revision B; x) 170 Revision C; xi) 171 Revision B; xii) 175 Revision B; xiii) 176 Revision B; xiv) 200 Revision B; xv) 201 Revision A; and xvi) 202 Revision A.

   Reason: To comply with section 71ZA (2) of the Town and Country Planning Act 1990.

3) No development shall commence until a scheme for the provision of the affordable housing has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of Technical Advice Note 2: *Planning and Affordable Housing* (TAN2) or any future guidance that replaces it. The scheme shall include:

   i) the tenure mix and location on the site of the affordable housing provision to be made which shall consist of not less than 100% of the housing units hereby approved;

   ii) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

4) No development shall commence until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in strict accordance with the Method Statement as is approved. The Method Statement shall include the following:

   a) A specification for tree protection fencing and ground protection measures that comply with British Standard 5837:2012;

   b) A Tree Protection Plan showing the location of the trees to be removed and retained with their crown spreads, Root Protection Areas, Construction Exclusion Zones, and location of protective fencing and ground protection measures accurately plotted;

   c) A full specification for any access, driveway, path, underground services or wall foundations within retained tree Root Protection Areas or Construction Exclusion Zone, including any related sections and method for avoiding damage to retained trees;

   d) Details of general arboricultural matters including proposed practices with regards to cement mixing, material storage and fires;

   e) Details of the frequency of supervisory visits and procedures for notifying the findings of such visits to the Local Planning Authority;

   f) Method for protecting retained trees during demolition works;

g) Details of all proposed tree works, including felling and pruning.

Reason: To ensure the amenity afforded by the trees within the site is continued into the future in accordance with Policies GDP1, PS2 and EC4 of the Wrexham Unitary Development Plan.

5) No development shall commence until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in strict accordance with the details as approved. Those details shall include:

a) a timetable for its implementation, and

b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

Reason: To ensure that effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system in accordance with Policies GDP1 and EC13 of the Wrexham Unitary Development Plan.

6) No development shall commence until a phased site investigation of the nature and extent of contamination has been carried out and submitted to and approved in writing by the Local Planning Authority. If any contamination is found during the site investigation, no part of the development shall commence until a scheme specifying the measures that will be taken to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The site shall thereafter be remediated in accordance with the approved scheme. If, during the course of development, any contamination is found that has not been identified in the site investigation, no further development shall take place on those parts of the site where that contamination has been found until an additional scheme of remediation has been submitted to and approved in writing by the Local Planning Authority for those parts of the site. The relevant parts of the site shall thereafter be remediated in accordance with the additional scheme of remediation.

Reason: In the interests of the amenities of the future occupants of the buildings in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

7) Each part of the site subject to the remediation under the scheme(s) approved as part of Condition No.06 shall not be occupied/used until a Validation Report has been completed in respect of that part of the site and submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenities of the future occupants of the buildings in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

8) No development shall commence until a scheme of Reasonable Avoidance Measures (RAMs) in respect of Great Crested Newts has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the scheme as approved.

Reason: In order to protect statutory protected species in accordance with policy EC6 of the Wrexham Unitary Development Plan.

9) No development shall commence until the following have been submitted to and approved in writing by the Local Planning Authority:

a) A detailed plan of mitigation area for Great Crested Newts;

b) An Ecological Method Statement including a timetable for the implementation of the habitat mitigation measures;

c) A long term Management and Monitoring Plan for the mitigation area; and

d) A Biosecurity Risk Assessment.

Great Crested Newt mitigation shall thereafter be provided and thereafter permanently retained and managed in strict accordance with the details as approved

Reason: In order to protect statutory protected species in accordance with policy EC6 of the Wrexham Unitary Development Plan.

10) Prior to the construction of the dwellings hereby approved, details and/ or samples of all external facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan.

11) Within three months of commencement of development, full details of a hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. Hard landscaping works shall be implemented in full prior to the first occupation of the dwellings hereby granted planning permission. Soft landscaping shall be carried out in the first planting season (November to March) or seeding season (April to September) following the first occupation of the dwellings.

Reason: To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan.

12) Prior to first use of the development hereby approved the vehicular access shall provide visibility splays of 2.4 metres x 33 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction in excess of 1 metre in height above the level of the nearside edge of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.

Reason: To ensure that adequate visibility is provided at the proposed point of access to the highway in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

13) Nothing shall be planted, allowed to grow or erected to a height greater than 0.5 metres in height above the level of the nearside edge of the adjoining highway for a distance of 2.4 metres measured back from the adjoining highway along the entire site frontage of plot 7. The splays shall be provided prior to first use of the development and shall thereafter be permanently retained clear of any such obstruction.

Reason: To ensure that adequate visibility is provided at the proposed point of access to the highway in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

14) The vehicular parking and turning areas for each plot as shown on approved drawing(s) No 070 Revision P shall be fully laid out, surfaced and drained prior to the first occupation of that plot. These areas shall thereafter be permanently retained and kept free of any obstruction, and made available solely for the parking and turning of motor vehicles at all times.

Reason: To ensure that adequate visibility is provided at the proposed point of access to the highway in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref qA1399761

Mr Justin Paul
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14 February 2020

Dear Mr Paul

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY MR ROGER BELLIS OF BELLIS BROS LTD & TRUSTEES OF THE BELLIS FAMILY TRUST. RESIDENTIAL DEVELOPMENT OF TWO PARCELS OF LAND (FOR UP TO 61NO. DWELLINGS: NORTHERN PARCEL AND UP TO 71NO. DWELLINGS: SOUTHERN PARCEL); EXTENSION TO COMMUNITY PARKING FACILITY (IN ASSOCIATION WITH THE NORTHERN PARCEL) WITH ASSOCIATED MEANS OF ACCESS AND ALL OTHER MATTERS RESERVED, INDICATIVE PROVISION MADE FOR PEDESTRIAN CROSSING, PEDESTRIAN LINKAGES, PUBLIC OPEN SPACE, LANDSCAPING AND AFFORDABLE HOUSING. LAND TO THE NORTH AND SOUTH OF LANE FARM, ROSSETT ROAD, TREVALYN, ROSSETT, WREXHAM.
APPEAL REFERENCE: 3231048

1. Consideration has been given to the report of the Inspector, Richard Jenkins BA (Hons) MSc MRTPI, regarding your client's planning appeal.

2. In accordance with section 79 and paragraph 3(1) of Schedule 6 to the Town and Country Planning Act 1990 ("the 1990 Act"), the appeal was recovered for determination by the Welsh Ministers. Under the provisions of the Government of Wales Act 2006 the power to determine applications under section 79 of the 1990 Act has been transferred to the Welsh Ministers, these functions have been exercised by me as Minister for Housing and Local Government.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

3. In exercising these functions, as part of carrying out Sustainable Development in accordance with the Well-being of Future Generations Act ("the FG Act"), section 2 of the Planning (Wales) Act 2015 requires the Welsh Ministers, as a public body, to ensure the development and use of land contributes towards improving the economic, social, environmental and cultural well-being of Wales. In order to act in this manner, the Welsh Ministers have taken into account the ways of working set out in section 4 of "SPSF1: Core Guidance, Shared Purpose: Shared Future – Statutory Guidance on the Future Generations Act 2015" through examination of the appeal by way of written representations in accordance with the Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017.

4. The Inspector recommends the appeal be allowed, subject to conditions. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, relate to the IR.

Main considerations

5. I agree with the Inspector (IR 66), the main considerations are:

- Whether the principle of development is compliant with the planning policy framework;
- The effect of the proposed development upon the character and appearance of the area, having particular regard to its siting within an SLA;
- The effect of the proposed development upon the purposes and openness of the Green Barrier and whether any such harm would be clearly outweighed by very exceptional circumstances; and
- Whether the development would result in unacceptable loss of Best and Most Versatile (BMV) agricultural land.

Principle of development, character and appearance of the Green Barrier

6. The adopted UDP, the Wrexham Unitary Development Plan 1996-2011, remains the adopted development plan for the area despite being time-expired (IR 67).

7. As the proposal is located outside the defined settlement limits in the UDP, the Inspector considers the scheme fails to accord with UDP policies PS1 and H5. Policy PS1 directs new housing development to defined settlement limits. Policy H5 is a criteria based policy which expands on the principles of policy PS1 (IR 68).

8. Although the development would immediately adjoin existing residential development, it would comprise a significant physical incursion into the countryside and the designated Special Landscape Area (SLA). Therefore, the Inspector considers the proposal would conflict with policy PS2 which seeks to protect the countryside and also policy EC5, which gives priority to the conservation and enhancement of the landscape within Special Landscape Areas (IR 69).

9. The site lies within a Green Barrier and policy EC1 of the UDP states development proposals within Green Barriers will only be granted permission if they are for agriculture, forestry, essential facilities for outdoor sport and recreation, cemeteries and other uses of land which maintain the openness of the Green Barrier and do not conflict with the purpose of including land within it. The Inspector states, given the scale of development proposed, it would comprise "inappropriate development" in the Green Barrier as defined in Planning Policy Wales (PPW) and would fail to fall within any of the development types set out in policy EC1 of the UDP (IR 70).

10. PPW is clear, when considering applications for planning permission in such designations, a presumption against inappropriate development will apply and substantial weight should be attached to any harmful impact which a development would have on the purposes of the designation. It also states that inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the designation (IR 71).

11. By encroaching into an area of open countryside and reducing the area of undeveloped land between Rossett and Trevalyn, the development would be contrary to the purposes of the Green Barrier. The openness of the site would be materially reduced (IR 72).

12. The development conflicts with policy EC1 of the UDP and such harmful impacts merit substantial weight in the planning balance. However, in order to conclude fully on the impact on the Green Barrier designation, it is necessary to consider whether the arguments in favour of the proposed development amount to "very exceptional circumstances" which clearly outweigh the identified harm (IR 73).

13. The Inspector considers, given the age of the adopted UDP and the fact it is time expired, there is little doubt it attracts less than full weight in the determination of the appeal. Also, the absence of an up-to-date development plan renders the LPA without a five year land supply for housing. In light of such factors, the Inspector considers the need to increase the supply of housing weighs significantly in favour of the proposal (IR 74).

14. The Inspector refers to the Welsh Government's Development Management Manual when stating that the weight to be attributed to an emerging LDP will depend on the stage it has reached, recognising that it does not simply increase as the plan progresses. The Inspector notes, in considering what weight to give to the specific policies of an emerging LDP, it is necessary to consider carefully the underlying evidence and background to the policies, noting that national planning policy and the evidence used to support policies in an emerging LDP can be material (IR 75).

15. The Inspector states, in this respect, it is important the submitted version of the LDP identifies a need to significantly increase the supply of housing within the area. The Inspector considers it is also relevant to note, despite the soundness of the plan not yet being determined by the appointed Inspectors, the Council accepts such housing need can only be satisfied through the development of undeveloped sites. This is reflected through the LDP strategy and the housing allocations identified in the emerging LDP (IR 76).

16. The Inspector considers of particular relevance in the determination of this appeal is the fact that the emerging LDP identifies the appeal site as within the settlement limits for Rossett and as a housing allocation. Whilst the emerging LDP proposes the retention of a strategic Green Wedge between Rossett and Trevalyn, the appeal site would be omitted from that designation and the SLA designation. The Inspector considers such factors weigh significantly in favour of the development, not least because it represents a concession from the LPA that the site ultimately represents a suitable and sequentially preferable housing site despite the inevitable impact such a development would have on the landscape character and openness of the site (IR 77).

17. When considering policy in PPW on Green Belt/Wedge designations, the Inspector considers it is notable that the appeal site is located adjacent to the built form of Rossett and, therefore represents a logical extension to the settlement (IR 78).

18. A Green Wedge designation in the emerging LDP would be retained between Rossett and Trevalyn. The Inspector considers the appeal site is a broadly sustainable option, well-located to a number of facilities and services. The evidence also indicates the development is deliverable and would provide a number of benefits, including affordable housing. Although the number of affordable homes would be less than the percentage requirements of the affordable housing policy in the emerging LDP, the Inspector states the contribution of 33no. affordable homes would be consistent with the 25% affordable housing requirement set by the adopted UDP and merits substantial weight in the planning balance (IR 79).

19. On this issue the Inspector concludes that the time-expired UDP, the lack of housing land supply and the consistency of the appeal proposals with the emerging LDP, combined with the sustainable location and positive benefits of the scheme, weigh substantially in favour of the development. In balancing these matters, the Inspector considers they comprise the very exceptional circumstances required to clearly outweigh the harm to the Green Barrier and its wider countryside/landscape status (IR 80).

Loss of Agricultural Land

20. The Inspector notes, whilst there is dispute over the Agricultural Land Classification (ALC) of the appeal site, the development would result in the loss of agricultural land, a significant proportion of which comprises Best and Most Versatile Land (BMV) (IR 81).

21. Due to loss of BMV land, the development would clearly conflict with Policy EC2 of the UDP which states that development on BMV will only be permitted if it does not lead to the irreversible loss of that land. Whilst PPW states such land is the best and most versatile, and should be conserved as a finite resource for the future, it also states that it should only be developed if there is an overriding need for the development and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations (IR 82).

22. The Inspector considers the development provides substantial benefits, including the overriding need for development within the site. The Inspector considers the substantial evidence base indicates the housing requirements cannot be met without the loss of BMV. All the emerging LDP housing allocations located outside the settlement limits of the UDP contain some BMV. The Inspector also considers the evidence indicates Rossett is largely surrounded by BMV land and, given the proportions of BMV on the appeal site, the site is sequentially preferable to other sites within the area (IR 83).

23. The Inspector's conclusion on this issue is, although the development would conflict with Policy EC2 of the UDP, material considerations, including the sequential approach advocated by PPW, indicate such conflict is justified in this instance (IR 84).

Other Material Considerations

24. Whilst the Inspector has no doubt the development would result in increased traffic on the local highway network, concerns in respect of highway safety remain uncorroborated by robust evidence. The Council raised initial concerns, regarding the intermittent pedestrian footway on Holt Road. However, since submitting the

application, the appellant has submitted proposals to convert a section of highway verge along the southern side of Holt Road to a pedestrian footway. The Inspector considers this would represent a significant improvement in terms of pedestrian safety and, therefore, concurs with the Highways Agency that dismissal of the appeal on highway safety grounds is no longer justified and the scheme would not conflict with policy GDP1(d) of the adopted UDP. Policy GDP1(d) aims to secure safe and convenient pedestrian and vehicular access from new development (IR 85-86).

25. The Inspector considers representations regarding overdevelopment are largely unsubstantiated by evidence and given the scale of development and the site's sustainability credentials, it represents a logical extension to the settlement (IR 87).

26. In terms of local services, concerns were expressed regarding local health services, in particular Alyn Family Doctors Surgery. However, the local health board does not object to the principle of development and no evidence has been submitted detailing the specific healthcare infrastructure which would be required to mitigate effects of the development. Therefore, no financial contributions have been sought in this respect and the Inspector considers refusal of planning permission on such grounds alone would not be reasonable (IR 88).

27. The development is outside the C1 and C2 flood zones. Matters of surface water drainage can be controlled by condition and water supply has not been raised as an insurmountable constraint by the supplier (IR 89).

28. NRW has no objections to the scheme, matters of landscaping are reserved for subsequent determination and no objections have been submitted by the relevant statutory body in respect of archaeological interests (IR 90).

29. The Inspector notes residential amenity matters can be addressed through detailed design, whilst disturbance through construction would be temporary and could be minimised by condition. Loss of views over a countryside setting in third party ownership is not protected by the planning system (IR 91).

30. The Inspector has considered submissions relating to alternative sites, noting there is no requirement for prospective developers to demonstrate a particular site is more suitable than others. The other planning decisions highlighted to the Inspector did not have the same set of circumstances and, therefore, did not weigh heavily in considering the appeal (IR 92-93).

Conditions and Unilateral Undertaking

31. The suggested conditions submitted by the parties have been adjusted by the Inspector in the interests of clarity and precision. The condition agreed by the parties to secure a shorter commencement period has been amended by the Inspector to the standard period for outline planning applications on the grounds no cogent arguments for a shorter time period were presented (IR 94). However, I note the Council's committee report states the significant need to bring forward housing land justifies the shorter time period. I am satisfied with this reasoning and note the appellant agrees with the conditions suggested by the Council. Otherwise, I am content the suggested conditions meet the relevant test in Circular 16/2014: The Use of Planning Conditions for Development Management.

32. The Inspector is satisfied the Unilateral Undertaking (UU), which would secure financial contributions towards education, ensure management of on-site public open space and deliver affordable housing as required, meets the relevant policy and

statutory requirements (IR 94-95). The Inspector also notes the Council confirmed it also considers the UU meets the necessary statutory and policy requirements (IR 65).

Planning Balance and Overall Conclusions

33. The Inspector finds the development would be contrary to adopted development plan policies designed to protect the countryside and wider landscape designations. The development would also be contrary to the purposes of the Green Barrier. However, the Inspector considers harm to the Green Barrier and the wider countryside and landscape setting would be clearly outweighed by the very exceptional circumstances described above. Also, whilst the development would result in the loss of BMV agricultural land, such harm and associated policy conflict would be justified in light of the provisions of PPW and the particular circumstances of the case. For these reasons, having considered all matters raised, including the substantial number of submissions made by interested parties, the Inspector recommends the appeal be allowed subject to conditions. In coming to this conclusion, the Inspector has considered the statutory duties in the Well-being of Future Generations (Wales) Act 2015 (IR 96-97).

Conclusion

34. I note the appeal site is located in the countryside, outside the defined settlement boundary limits. The proposed scheme does not comply with criteria-based UDP policy H5, regarding housing in the countryside. The proposal also comprises inappropriate development within a Green Barrier, a designation consistent with the green wedge policy set out in paragraph 3.70 of PPW 10. PPW 10 states inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the green wedge.

35. The Inspector notes, in accordance with Technical Advice Note 1: Joint Housing Land Availability Studies (TAN 1), as the local planning authority does not have an adopted Local Development Plan (LDP) or UDP, it effectively is considered not to have a 5-year housing land supply. The Inspector considers, in light of these factors, the need to increase housing supply weighs significantly in favour of the proposal.

36. I agree that the local planning authority does not have a 5-year housing land supply. However, I also note, on 18 July 2018, the Welsh Ministers issued a statement which disapplied paragraph 6.2 of TAN 1. As a result of this disapplication, it is a matter for decision makers to determine the weight to be attributed to the need to increase housing supply where a LPA has a shortfall in housing need. I address this issue in my overall conclusions and decision.

37. The Inspector notes the local planning authority has submitted its LDP for examination and refers to the Welsh Government's Development Management Manual (DMM) which states the weight to be attached to an emerging draft LDP will in general depend on the stage it has reached but does not simply increase as the plan progresses towards adoption. The DMM further states that certainty regarding the content of the plan will only be achieved when the Inspector delivers the binding report. In considering what weight to give to the specific policies in an emerging LDP, the underlying evidence and background to the policies should be carefully considered.

38. I am satisfied the underlying evidence for the emerging LDP demonstrates a need for housing development on undeveloped sites and I attach weight to this matter. The Council has identified the appeal site, in the emerging LDP, as a housing allocation

within the settlement limits of Rossett and omitted from any green wedge or landscape designation.

39. I note that 25% of the proposed residential development would comprise affordable units, which would be secured by the Section 106 UU. This is a level of affordable housing which accords with Policy H7 of the UDP and Wrexham County Borough Council's Local Planning Guidance Note 8.

40. I am satisfied with the Inspector's consideration of the loss of agricultural land and other material considerations, addressed in paragraphs 81-93 of the IR. Regarding biodiversity, I note NRW raises no objections on ecology grounds and I am satisfied the development meets the expectations of PPW on this issue.

Overall Conclusion and Decision

41. Whilst the site is located outside the time expired UDP settlement policy boundary, I am satisfied it is in a sustainable location, on the edge of the existing settlement of Rossett, within walking distance of a range of services and facilities within the settlement. Opportunities to make use of public transport facilities are available with bus stops within walking distance of the site and additional bus stop provision would be secured by planning condition. The local health board does not object to the principle of development and the Inspector notes detailed evidence was not submitted to identify any specific healthcare infrastructure which should be secured to mitigate the impact of the scheme. A financial contribution towards additional primary and secondary school places would be secured through the Section 106 UU. Public open space within the development would also be secured through the UU and planning conditions would secure additional pedestrian footway links through the site.

42. Given the above considerations and acknowledging the appeal scheme is submitted in outline, the indicative masterplan showing pedestrian linkages and cycleways demonstrates a scheme can be delivered on site which addresses the national sustainable placemaking outcomes.

43. The LDP strategy and evidence base identifies a need for new housing on undeveloped sites and I am satisfied the appeal site is in a sustainable location and the scheme accords with the placemaking principles set out in PPW. The Council has identified the appeal site, in the emerging LDP, as a housing allocation within the settlement limits of Rossett and omitted from any green wedge or landscape designation. I accept the proposed development would make a contribution towards addressing housing land supply in the area and would provide much needed affordable housing.

44. Whilst the development would comprise inappropriate development in a green wedge, I am satisfied, in this case, when all the above factors are taken into account in their totality, they constitute the very exceptional circumstances necessary to outweigh any harm to the green barrier. These factors also outweigh any harm to the wider countryside and landscape setting. I am satisfied there are no other factors which weigh against the appeal.

45. Subject to the comments in paragraphs 34-44 above, I accept the Inspector's recommendation and reasoning. In exercise of the power referred to in paragraph 2 of this decision letter, I hereby allow this appeal and grant planning permission for planning application reference P2018/0560, appeal reference 3231048, subject to the conditions in the Annex attached to this letter. I confirm I have given weight to the UU in the determination of this appeal.

46. In reaching this decision, I have considered the duty to carry out sustainable development under section 2 of the Planning (Wales) Act 2015. The decision made accords with the sustainable development principle set out in the FG Act and the well-being objectives of the Welsh Ministers in that it contributes to the objective to "build resilient communities, culture and language" and contributes to "driving sustainable growth".

47. A copy of this letter has been sent to Wrexham County Borough Council.

Yours sincerely



Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

Annex - Schedule of Planning Conditions relating to appeal reference 3231048

1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") for each phase of development shall be submitted to and approved in writing by the Local Planning Authority before any development begins in that phase. The development shall be carried out as approved.

   Reason: *To comply with the provisions of the Town and Country Planning* (Development Management Procedure) (Wales) Order 2012.

2) The first reserved matters application shall include a plan showing the first phase of development and location of all subsequent phases of development (hereinafter called "the Phasing Plan"). The Phasing Plan shall include the percentage of affordable housing within each phase, which across the phases shall consist of no less than 25% of the total number of dwellings to be built on the site. All subsequent reserved matters applications shall be submitted in accordance with the Phasing Plan as approved.

   Reason: *In the interests of a co-ordinated approach to the development of the site.*

3) Any application for approval of the reserved matters shall be made to the Local Planning Authority not later than two years from the date of this permission.

   Reason: *To comply with Section 92 of the Town and Country Planning Act, 1990 and secure timely commencement of development to address housing supply.*

4) The development shall begin either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

   Reason: *To comply with Section 92 of the Town and Country Planning Act, 1990 and secure timely commencement of development to address housing supply.*

5) The development shall be carried out in accordance with the following approved plans and documents: Drawing No. Plnc-100-37-RLP-01; and Drawing No. Plnc 100-37-SMPA-01 in respect of vehicular and pedestrian access.

   Reason: *To define the scope of the planning permission and in the interest of pedestrian and highway safety – UDP Policy GDP1(d)*

6) No development shall commence in any phase until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority for that particular phase of development. No development or other operations within that phase shall take place except in strict accordance with the approved Method Statement. The Method Statement shall include:

   1. A specification for tree protection fencing and ground protection measures that comply with British Standard 5837:2012;
   2. A Tree Protection Plan showing the location of the trees to be removed and retained with their crown spreads, root protection areas, construction exclusion

zones, and location of protective fencing and ground protection measures accurately plotted;
3. A full specification for any access, driveway, path (to include paths required by Condition Nos.8 and 9), underground services or wall foundations within retained tree root protection areas or construction exclusion zones, including any related sections and method for avoiding damage to retained trees;
4. Details of general arboricultural matters including proposed practices with regards to cement mixing, material storage and fires;
5. Details of the frequency of supervisory visits and procedures for notifying the findings of such visits to the Local Planning Authority;
6. Method for protecting retained trees during demolition works;
7. Details of all proposed tree works, including felling and pruning.

Reason: *To ensure the work is carried out to accepted arboricultural practices for the long term wellbeing of trees within/adjacent to the site – UDP Policy EC4.*

7) Development shall not commence until a scheme for the comprehensive and integrated drainage of the site indicating provision for foul water, surface water and land drainage has been submitted to and approved in writing by the Local Planning Authority. In accordance with the submitted Flood Consequence Assessment & Drainage Strategy, any scheme must demonstrate compliance with the latest Sustainable Drainage Systems (SuDS) Standards for Wales. Where a SuDS scheme is to be implemented, the submitted details shall:

1. Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of receiving ground water and/or surface waters;
2. Specify the responsibilities of each party for the implementation of the SuDS scheme, together with a timetable for that implementation; and,
3. Provide a timescale for implementation, management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall thereafter be carried out in strict accordance with the approved scheme.

Reason: *To ensure the propose management of surface water in order to avoid on or off-site flooding - UDP Policy GDP1(i).*

8) Development shall not commence on the land to the north of Rossett Road until a scheme detailing the following has been submitted to and approved in writing by the Local Planning Authority:

1. Speed limit amendments along Rossett Road;
2. Pedestrian footway links to Holt Road, Darland View, Trevalyn Hall View and Darland High School;
3. Provision of a pedestrian footway along the south side of Holt Road;
4. Bus stop provision; and
5. Street lighting along the Rossett Road frontage of the site.

No dwelling shall be occupied on that part of the site until the approved scheme has been implemented in full.

Reason: *To secure safe and convenient means of pedestrian access to the site in the interests of promoting sustainable transport choices – UDP Policy GDP1(d) and (e).*

9) Development shall not commence on the land to the south of Rossett Road until a scheme detailing the following has been submitted to and approved in writing by the Local Planning Authority:

1. Speed limit amendments along Rossett Road;
2. Pedestrian footway links to Holt Road and Trevalyn Way,
3. Provision of a pedestrian footway along the south side of Holt Road
4. Bus stop provision
5. Street lighting along the Rossett Road frontage of the site

No dwelling shall be occupied on that part of the site until the approved scheme has been implemented in full.

Reason: *To secure safe and convenient means of pedestrian access to the site in the interests of promoting sustainable transport choices – UDP Policy GDP1(d) and (e).*

10) No development shall commence in a phase until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority in respect of that particular phase of development. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

1. the parking of vehicles of site operatives and visitors;
2. loading and unloading of plant and materials;
3. storage of plant and materials used in constructing the development;
4. an earthwork balance in respect of materials arising from excavations carried out on site, including measures to ensure those materials are re-used on-site;
5. hours of working.

Reason: *In the interests of minimising disruption arising from the development as well as securing a sustainable use of materials excavated during construction - UDP Policy GDP1(f).*

11) Prior to their first use the vehicular accesses shall provide visibility splays of 2.4 metres x 56 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction in excess of 1 metre in height above the level of the nearside edge of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.

Reason: *To ensure that adequate visibility is provided at the proposed point of access to the - UDP Policy GDP1.*

12) The Reserved Matters shall include details of a 3 metre wide combined footway and cycleway that shall be provided along the full length of both frontages of the site with

Rossett Road. The combined footways and cycleways shall be provided in accordance with the approved details prior to the first occupation of the dwellings in the respective phase of the development that they are situated within.

Reason: *To secure safe and convenient means of pedestrian access to the site in the interests of promoting sustainable transport choices – UDP Policy GDP1(d) and (e).*

13) The Reserved Matters shall include an area or areas of public open space to be provided within each phase, together with a scheme that includes the following details:

1. the siting, size, layout and appearance of formal play equipped play areas;
2. hard and soft landscaping of the open space area(s);
3. the timing of the construction and landscaping of the open space area(s);

Public open space shall be provided on site within each phase in accordance with the approved scheme and permanently retained thereafter.

Reason: *In the interests of the appearance of the development and the standard of amenity afforded to future occupiers - UDP Policies GDP1(a) and CLF5.*

14) No dwellings in a phase shall be occupied until a Final Travel Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan(s) shall include measures to encourage occupiers of the development to walk, cycle and to use local facilities and public transport.

Reason: *To assist future occupiers of the development to make sustainable transport choices – UDP Policy GDP1(e).*

15) No street lighting shall be installed on any part of the site until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details that demonstrate how the street lighting has been sited and designed so as to minimise the potential impact upon bat species. Street lighting shall thereafter only be installed in accordance with the scheme as approved.

Reason: *To ensure the development takes place without harming statutory protected species – UDP Policy EC6.*

16) This development hereby permitted shall be limited to a maximum of 132 dwellings.

Reason: *To define the scope of the planning permission.*

Notification of initiation of development and display of notice

You must comply with your duties in section 71ZB (notification of initiation of development and display of notice: Wales) of the Town and Country Planning Act 1990. The duties include the following:

Notice of initiation of development

Before beginning any development to which this planning permission relates, notice must be given to the local planning authority in the form set out in Schedule 5A to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or in a form

substantially to the like effect. The form sets out the details which must be given to the local planning authority to comply with this duty.

Display of notice

The person carrying out development to which this planning permission relates must display at or near the place where the development is being carried out, at all times when it is being carried out, a notice of this planning permission in the form set out in Schedule 5B to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details the person carrying out development must display to comply with this duty.

The person carrying out development must ensure the notice is:
(a) firmly affixed and displayed in a prominent place at or near the place where the development is being carried out;
(b) legible and easily visible to the public without having to enter the site; and
(c) printed on durable material. The person carrying out development should take reasonable steps to protect the notice (against it being removed, obscured or defaced) and, if need be, replace it.

The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Adroddiad	Report
Ymweliad â safle a wnaed ar 10/10/19	Site visit made on 10/10/19
gan Richard E. Jenkins BA (Hons) MSc MRTPI	by Richard E. Jenkins BA (Hons) MSc MRTPI
Arolygydd a benodir gan Weinidogion Cymru	an Inspector appointed by the Welsh Ministers
Dyddiad: 14.11.2019	Date: 14.11.2019

TOWN AND COUNTRY PLANNING ACT 1990

Section 78

Appeal by Mr Roger Bellis of Bellis Bros Ltd & Trustees of the Bellis Family Trust

Residential development of two parcels of land (for up to 61 no. dwellings: Northern Parcel and up to 71 no. dwellings: Southern Parcel); extension to community parking facility (in association with the Northern Parcel) with associated means of access and all other matters reserved, but indicative provision made for pedestrian crossing, pedestrian linkages, public open space, landscaping and affordable housing.

Land to the North and South of Lane Farm,

Rossett Road, Trevalyn, Rossett,

Wrexham,

LL12 0DS

Cyf ffeil/File ref: APP/H6955/A/19/3231048

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Glossary of Terms/Abbreviations

ALC - Agricultural Land Classification

BMV - Best and Most Versatile

DAS – Design and Access Statement

DMM – Development Management Manual

Ha - Hectares

JHLAS - Joint Housing Land Availability Studies

LDP - Local Development Plan

LPA – Local Planning Authority

LVIA – Landscape and Visual Impact Assessment

NRW – Natural Resources Wales

PPW - Planning Policy Wales

SA – Sustainability Appraisal

SEA – Strategic Environmental Assessment

SLA – Special Landscape Area

SoCG – Statement of Common Ground

TAN - Technical Advice Note

UDP - Unitary Development Plan

File Ref: APP/H6955/A/19/3231048

Site address: Land to the North and South of Lane Farm, Rossett Road, Trevalyn, Rossett, Wrexham, LL12 0DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Roger Bellis of Bellis Bros Ltd & Trustees of the Bellis Family Trust against the decision of Wrexham County Borough Council.
- The application Ref: P2018/0560, dated 5 July 2018, was refused by notice dated 7 January 2019.
- The development proposed is: Residential development of two parcels of land (for up to 61 No. dwellings: Northern Parcel and up to 71 no. dwellings: Southern Parcel); extension to community parking facility (in association with the Northern Parcel) with associated means of access and all other matters reserved, but indicative provision made for pedestrian crossing, pedestrian linkages, public open space, landscaping and affordable housing.

Summary of Recommendation: That the appeal be allowed subject to conditions

Preliminary and Procedural Matters

1. In exercise of the powers under Section 78 and paragraph 3(1) of Schedule 6 of the Town and Country Planning Act 1990, the Welsh Ministers have directed that the appeal is to be determined by themselves. The reason for this direction is that the proposal is for residential development on more than six acres of land.

2. The application was submitted in outline, with only access to be determined at this stage. All other matters are reserved for subsequent approval. The site address, as set out above, has been taken from the Council's Notice of Decision. As this is broadly consistent with that outlined on the Planning Application Form, there is no prejudice in this respect. The main parties have confirmed in writing that they are satisfied with the use of this address, despite other documents referring to subtly different details.

3. The application was refused by Wrexham County Borough Council, contrary to the recommendation of its professional officers. An application for costs has been made by the appellant against the Council. That application is the subject of a separate Report.

The Site and Surroundings

4. The appeal site is located adjacent to Lane Farm which is situated along Rossett Road (B5012) in Rossett, Wrexham. The site comprises two separate field parcels that amount to approximately 6.20 hectares (ha) of agricultural land. The field parcels are dissected by Rossett Road and are referred to within the evidence as the 'northern' and 'southern' sites. The northern site comprises approximately 2.8 ha and is irregularly shaped. It is contained to the north-west by the existing residential properties located along Waverley Crescent and Trevalyn Hall View and enclosed to the north-east by the playing fields of Darland High School. The southern field is of a more regular shape and comprises approximately 3.4 ha of land. That parcel of land is contained by Rossett Road to the north, Harwood Lane to the south and residential properties to the west. The north eastern corner of the southern field abuts the existing property at Lane Farm and a public right of way runs along its eastern boundary. Both fields have open aspects across the wider agricultural landscape setting to the east.

5. The historic village of Rossett is located approximately 8 kilometres north-east of Wrexham town centre and the appeal site is well located relative to Rossett village

centre, with local schools, shops and bus routes all within a reasonable walking distance.

Planning Policy

Adopted Development Plan

6. Despite being time-expired, the development plan for the area is the Wrexham Unitary Development Plan 1996- 2011 (Adopted 2005) (UDP). The site lies outside of the settlement limits of Rossett, as defined by the UDP, and is also located within a Green Barrier and Special Landscape Area (SLA). The site also contains Best and Most Versatile (BMV) agricultural land. The policies cited by the Council in its Notice of Decision are UDP Policies PS1, EC1, EC2, EC5, H5 and GDP1(d).

7. Policy PS1 of the adopted UDP represents a strategic policy that directs development for housing to within defined settlement limits. Policy H5 expands on Policy PS1 by stating that, outside defined settlement limits, new dwellings will only be permitted where: a) proposals accord with Policies H3, H4, and H8; or b) proposals comprise infilling subject to Policy GDP1; or c) an essential need to house a full time agricultural or forestry key worker can be established. Policies H3, H4 and H8 relate to the conversion of buildings, the subdivision of dwellings and affordable housing exception sites respectively, none of which are applicable to the appeal proposal. Policy GDP1 requires all new development to satisfy relevant criteria, including matters relating to location, layout, design and appearance.

8. Policy EC1 states that, within Green Barriers, development will only be granted planning permission if it is for agriculture, forestry, essential facilities for outdoor sport and recreation, cemeteries and other uses of land which maintain the openness of the Green Barrier and do not conflict with the purposes of including land within it. The reasoned justification to that same policy states that the purposes of a Green Barrier are: i) to prevent the coalescence of urban areas and villages with other settlements; ii) to assist in safeguarding the countryside from encroachment; iii) to protect the setting of urban areas and villages; and iv) to assist in urban regeneration by encouraging the recycling of derelict and other urban land.

9. Policy EC2 states that development on agricultural land of grades 1, 2 or 3a will only be permitted if it does not lead to the irreversible loss of that land. Policy EC5 states that, within SLAs, priority will be given to the conservation and enhancement of the landscape. It also goes on to state that developments, such as that proposed in this case, will be strictly controlled and be required to conform to a high standard of design and landscaping, with special attention paid to minimising its visual impact from both nearby and distant viewpoints.

10. Policy GDP1(d) states that all new development should ensure safe and convenient pedestrian and vehicular access to and from development sites, both on-site and in the nearby locality.

11. Other UDP Policies referred to within the evidence, but not forming part of the Council's Notice of Decision, include: Policy CLF5 - *Open Space Requirements from New Residential Developments*; Policy EC11 - *Archaeology*; Policy EC12 – *Development and Flood Risk*; Policy EC13 - *Surface Water Run-off*; Policy EC4 – *Hedgerows, Trees and Woodland*; Policy EC6 – *Biodiversity Conservation*; Policy H7 – *Affordable Housing Within New Developments*; and Policy T8 – *Parking*.

Emerging Development Plan

12. The Council has submitted its Local Development Plan (LDP) to the Welsh Ministers for independent Examination. Whilst that Examination is yet to conclude, it is notable that significant policy changes are proposed in respect of the appeal site. Specifically, the appeal site comprises a housing allocation in the submitted LDP and would not form part of the revised SLA or proposed Green Wedge. Should the Plan be found sound, development proposals at the appeal site would therefore be unconstrained by policies designed to protect the countryside, Green Barrier/Wedge and SLA.

13. Nevertheless, the Welsh Government's Development Management Manual[1] (DMM) is clear that, in making development management decisions, the weight to be attached to an emerging LDP will in general depend on the stage it has reached, but that it does not simply increase as the plan progresses towards adoption. In considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, it is necessary to consider carefully the underlying evidence and background to the policies. National planning policy and the evidence used to support policies in an emerging LDP can be a material consideration in the decision making process.

National Planning Policy

14. The primary objective of Planning Policy Wales[2] (PPW) is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales. That includes directing development to sustainable locations. Amongst other things, it also states that a plan-led approach is the most effective way to secure sustainable development through the planning system and that it is essential that plans are adopted and kept under review.

15. It is widely accepted that the Green Barrier designation is consistent with the Green Wedge designation referred within national policy[3]. PPW advises that the main aim of Green Wedges is to prevent urban sprawl and to retain their openness. When considering applications for planning permission in such areas, a presumption against inappropriate development shall apply and substantial weight should be attached to any harmful impact which the development would have on the purpose of the designation. Specifically, inappropriate development should not be permitted within Green Wedges except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Wedge. The construction of new buildings within Green Wedges is inappropriate development unless it is for one of a list of specified purposes. These purposes include: *justified rural enterprise needs; essential facilities for outdoor sport and recreation, cemeteries and other uses of land which maintain the openness and do not conflict with the purposes of including land within the Green Belt; limited extension, alteration or replacement of existing dwellings; limited infilling and affordable housing for local needs; or small scale diversification within farms.*

16. PPW states that agricultural land of grades 1, 2 and 3a of the Agricultural Land Classification system (ALC) is the best and most versatile and should be conserved as a

[1] Revision 2, May 2017
[2] Edition 10, 2018
[3] PPW, Edition 10, Paragraph 3.60- 3.74 (2018)

finite resource for the future[4]. It also states that considerable weight should be given to protecting such land from development because of its special importance. Land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations. If land in grades 1, 2 or 3a does need to be developed, and there is a choice between sites of different grades, development should be directed to land of the lowest grade.

17. The Welsh Government published a Consultation Document entitled '*Delivery of Housing through the Planning System'* on 9 October 2019 which proposes to: 1) Remove the requirement for Local Planning Authorities (LPA) to provide a 5 year supply of land for housing; 2) Revoke Technical Advice Note 1: *Joint Housing Land Availability Studies (JHLAS)* (2015) (TAN1); and 3) Monitor housing delivery, rather than housing land supply. That consultation exercise runs until 20 November 2019, however, meaning that such national policy requirements remain extant at the time this Report was prepared. Specifically, current policy requires LPAs to ensure that sufficient land is genuinely available or will become available to provide a five year supply of land for housing judged against the general objectives, scale and location of development required in the development plan[5]. TAN1 also advises that, where an LPA does not have an adopted LDP, or where an adopted UDP is outside of the plan period as in this case, it will not be able to produce a JHLAS and therefore will not be able to demonstrate a five year supply of land for housing[6].

Planning History

18. Residential development and the construction of new vehicular and pedestrian access was refused planning permission under LPA Ref: ROS 17649. No further information has been disclosed.

19. Since the refusal of planning permission under Ref: P/2018/0560[7], the appellant has resubmitted the scheme for determination by the LPA[8]. That application is yet to be determined.

The Proposal

20. The appeal proposal seeks outline planning permission for the residential development of the two parcels of land for up to 132 No. new dwellings (up to 61 No. dwellings on the northern land and up to 71 No. dwellings on the southern land), extension to community parking facility (in association with northern land) with associated means of access and all other matters reserved, but indicative provision made for pedestrian crossing, pedestrian linkages, public open space, landscaping and affordable housing.

21. A unilateral undertaking has been submitted to ensure that 25% of the dwellings[9] would comprise affordable housing. The Design and Access Statement (DAS) and associated Illustrative Masterplan indicate that the affordable housing would be '*pepper*

[4] PPW, Edition 10, Paragraph 3.54 onwards (2018)
[5] PPW, Edition 10, Paragraph 4.2.15 (2018)
[6] TAN1, Paragraph 8.2 (2015)
[7] The application subject of this appeal
[8] Planning application Ref: P/2019/0460
[9] 33 No. dwellings

potted' across the site and be '*tenure blind'*, with no noticeable differentiation between the open market and affordable housing. Those documents also establish the key principles with regard to amount, scale, density and design quality. A net density of approximately 21 dwellings per hectare is indicated by the most up to date Planning Statement[10], with some 1.16 ha of greenspace indicated by the DAS. A mix of housing sizes and types would be provided, although they would predominantly comprise two storey properties. The larger properties would be located along the key streets and greenspace frontages to provide a greater sense of enclosure, frame key views and approaches, and define key meeting points and junctions.

22. The vehicular access to each parcel of land is proposed exclusively off Rossett Road/Holt Road with only an emergency access provided to the southern parcel off Trevalyn Way. A series of pedestrian linkages are proposed along the western perimeters, with the public footpath running along the eastern boundary. A series of highway improvements are also proposed along Holt Road and Rossett Road, including a new footway and crossing, as well as traffic calming measures.

23. Areas of Public Open Space (POS) are proposed on each parcel of land. An extended community parking facility is also identified adjacent to the south-western boundary of the northern site, for use as a safe drop-off/pick-up facility for the Primary School, increasing parking provision from 4 to 13 spaces.

24. The proposal is supported by a significant number of reports and assessments, many of which have been requested by the LPA. A full list of the plans and documents is set out in the appellant's Appeal Submission Documents. A separate list of the main documents is set out in the Appellant's most up to date Planning Statement[11].

Agreed and Other Facts

25. The LPA's Notice of Decision identified two reasons for refusal. These are:

    1) *The site lies outside of the settlement limit, within a Green Barrier and Special Landscape Area and contains Grade 2 and 3a agricultural land. The proposed development therefore conflicts with Policies PS1, EC1, EC2, EC5 and H5 of the adopted UDP*; and

    2) *Due to the lack of continuous pedestrian footway provision along Holt Road and the increase in vehicular and pedestrian traffic that would be generated by the development, the proposals would be detrimental to pedestrian safety and therefore conflict with Policy GDP1(d)*.

26. In an attempt to focus the issues in respect of the appeal, a Statement of Common Ground (SoCG) has been prepared and signed by the main parties[12]. That SoCG states that: "*Following an intense period of negotiation, new highway evidence and an improved off-site highway improvements plan there no longer appears to be any dispute about whether the development is sustainable or not; nor does there appear to be any dispute about traffic safety, visibility or residential amenity. The main (original) concern raised by Highways Officers (and Members who sought to use this concern as the basis for the reason for refusal) is the belief that the development would exacerbate pedestrian safety for existing local residents and future occupiers of the site*

[10] Dated June 2019, Paragraph 1.22
[11] Dated June 2019, Paragraph 1.7
[12] Dates 17 April 2019, signed by both parties May 2019

seeking to use Holt Road as their walking route to and from the development site; this has now been resolved."

27. It is also relevant to note that the LPA's Statement of Case[13] states that, since the determination of the planning application, the appellants and Officers have undertaken further discussions regarding the second Reason for Refusal (pedestrian safety). Specifically, it states that: "*The appellants have put forward proposals to convert a section of highway verge along the southern side of Holt Road to a footway. Whilst the footway will be less than 2m wide it nevertheless represents a significant improvement in terms of pedestrian safety and as such the Highways Authority have confirmed this is sufficient to overcome their concerns."*

28. The SoCG also confirms that there is no dispute between the main parties on the issues of: *open space provision; archaeology; drainage strategy and flood risk; hedgerows, trees and woodland; biodiversity and ecology; affordable housing; parking; and other community infrastructure impacts and obligations*. It outlines both parties' agreement that the site is located outside of the settlement limits defined in the adopted UDP, but that it forms part of the settlement of Rossett in the emerging LDP. Similarly, it is common ground that, whilst the site is located within a Green Barrier and SLA for the purposes of the adopted UDP, it would not be constrained by such designations should the submitted version of the LDP be adopted without alteration. Finally, it is agreed that the site incorporates BMV agricultural land.

The Case for the Council

Development Outside of Settlement Limits/Within Special Landscape Area

29. The site lies outside of the settlement limit for Rossett, as defined by the adopted UDP, and therefore conflicts with Policy PS1. The Council does not consider the proposal to accord with any of the circumstances set out in Policy H5 that permit small scale residential development on sites outside of settlement limits. The application site currently comprises one field located on the north side of Rossett Road and approximately half of another field located on the south side of Rossett Road. The former is enclosed by hedgerows to the north east and south east, whilst the latter is enclosed by hedgerows to the western and southern boundaries. The Rossett Road frontages of both fields are also enclosed by hedgerows, which provide a strong and clearly defined boundary between the appeal site and the existing built up edge of Rossett. They contribute significantly to the rural character of the site frontage and ensure that the site forms an integral part of the surrounding countryside.

30. The Council notes that the development would project approximately 150 metres beyond the existing built up area of Rossett, representing a significant intrusion of urban development into the rural landscape. The impact would be compounded by the loss of hedgerows along the site frontage to provide for the site accesses and associated visibility splays. The eastern boundary of the southern site is not enclosed by a fence or hedge and, as a result, the development would subdivide what is effectively a single large field. The appeal proposal cannot therefore be described as a logical extension to the existing village. Whilst it would be possible to secure the planting of a hedge via a landscaping scheme at reserved matters stage, this would take a significant amount of time to mature to provide any meaningful screening of the site. In the interim the development would be visible from the countryside to the east.

[13] Paragraph 6.18

31. The site lies within a designated SLA and, as a result, Policy EC5 is applicable. The objective of the policy is the conservation and management of the landscape. The policy clearly states that development other than agriculture, small scale farm-based and other rural enterprises along with essential development by utility providers will be strictly controlled. The Council contends that the erection of 132 dwellings in a currently rural setting is fundamentally at odds with the requirements Policy EC5.

Green Barrier

32. The Council asserts that the Green Barrier designation serves the same purpose as a Green Wedge. The development constitutes inappropriate development as defined by paragraph 3.71 of PPW and, in accordance with paragraph 3.70, such development should not be permitted within Green Wedges except in very exceptional circumstances where other considerations clearly outweigh the harm to the Green Wedge. The proposed development is considered to represent a significant encroachment into the area of open countryside, reducing the gap between Rossett and Trevalyn from over 300 metres to approximately 150 metres. It is submitted that it would significantly harm the openness of the countryside between the two settlements and serve to erode their separate identify. The development is therefore considered to be significantly at odds with the purpose of a Green Barrier and, therefore, Policy EC1 of the adopted UDP.

Agricultural Land

33. The LPA notes the appellant's Agricultural Use and Quality of Land Report which concluded that the land to the north of Rossett Road is primarily Grade 3a land with a small amount of Grade 3b and the majority of the land to the south of Rossett Road being Grade 3b, with the remainder being 3a. Nevertheless, it notes that such land classification contradicts the Welsh Office Agricultural Department's Survey (1993) which found the majority land to the north of Rossett Road to be Grade 3b land with the remainder Grade 2 land. The land to the south of Rossett Road was found to be mainly Grade 2, with some Grade 3a land by the 1993 Survey.

34. The Welsh Government Department for Rural Affairs advised the Council that the decision should be made on the basis of the Welsh Government's survey. The specific quantities of each grade of land classification in that survey are as follows:

ACL Grade	Area (ha)	% of site area
2	3.3	53
3a	1	16
3b	1.9	31

35. On the basis of the above, the Council contends that the majority of the site constitutes BMV land. As such it contends that the proposals are significantly at odds with both PPW and Policy EC2 of the adopted UDP.

Whether there are Very Exceptional Circumstances

36. The Council acknowledges that it is unable to demonstrate a 5 year housing land supply. It is also acknowledged that the submitted LDP identifies a need for land to be brought forward for development to meet the Plan's housing requirements.

Nevertheless, in refusing planning permission, the Council contends that there are no exceptional circumstances to justify allowing housing development in the Green Barrier on the edge of Rossett.

37. The Council notes that the land forms a housing allocation within the settlement of Rossett in the LDP submitted for independent Examination. It also notes that the SLA and Green Barrier policy implications would not apply should that Plan be adopted without amendment. Nevertheless, it notes that policies and proposals in the submitted LDP could be amended or deleted as a consequence of the independent examination. It therefore submits that certainty over the content of the Plan will only be achieved once the LDP Inspectors have delivered their binding report and that such emerging policy should not, therefore, be afforded significant weight in the determination of the appeal.

Pedestrian Safety

38. The Council's second Reason for Refusal related to the fact that there is only an intermittent pedestrian footway along Holt Road, to the west of the appeal site, and that the increase in vehicular and pedestrian traffic along that route would, therefore, be detrimental to pedestrian safety and contrary to the aims of Policy GDP1(d) of the adopted UDP.

39. Nevertheless, as set out above[14], the appellants have since put forward proposals to convert a section of highway verge along the southern side of Holt Road to a footway. Whilst the footway would be less than 2m wide, the Council has confirmed that this would represent a significant improvement in terms of pedestrian safety and that it would be sufficient to overcome its concerns in relation to such matters.

Conclusion

40. The Council contends that the development represents a departure from the UDP, conflicting with policies PS1, EC1, EC2, EC5 and H5.

The Case for the Appellant

41. The principal arguments for the development are set out in the appellant's most up to date Planning Statement, with such arguments supplemented by the various technical reports submitted. The arguments can be summarised as follows.

42. The site is located in an accessible position on the very fringe of Rossett and within walkable range of all its amenities and facilities. The site is well served by public transport service routes that run along the B5445 Chester Road and bus stops exist within immediate walking distance of the site.

43. The site is considered to be located in a highly sustainable and accessible position to take advantage of existing community facility and transportation related infrastructure and benefits from very good sustainability credentials. A comprehensive list of services and facilities is set out at paragraph 1.18 of the Planning Statement.

44. The appellant considers that the Landscape and Visual Impact Assessment (LVIA) undertaken underpins the view that the development of these sites for residential development form a logical extension to the settlement. Specifically, it is noted that the landscape assessment concludes that the site is visually lost very quickly as you

[14] Paragraphs 26 and 27 of this Report

move away from the settlement and the illustrations serve to demonstrate that the impact upon the wider Green Barrier would be negligible.

45. The appellant concludes that the submission has satisfactorily addressed all the technical, design and landscape impact concerns that have been raised by LPA Officers and notes that a consensus position had been reached where Officers were entirely comfortable with the scheme.

46. In respect of the Green Barrier, it is agreed that, in terms of current UDP Policy EC1, the appeal proposal does not accord with the existence of a Green Barrier and would have to be classified as 'inappropriate development' as it does not meet one of the exceptions and is a departure from the development plan. The test therefore has to be that the proposal meets exceptional circumstances where other considerations clearly outweigh the harm.

47. There are essentially 4 purposes for including land in the Green Barrier and these are: *1) To prevent coalescence of urban areas and villages with other settlements; 2) To assist in safeguarding the countryside from encroachment; 3) To protect the setting of urban areas and villages; and 4) To assist in urban regenerations by encouraging the recycling of derelict and other urban land.*

48. In respect of coalescence, the appellant asserts that the development would be contained within a tightly defined and defensible boundary. The site is visually contained and enclosed by defined physical boundaries. It would not therefore result in any coalescence with neighbouring settlements, not least because of a Green Barrier being proposed between Rossett and Trevalyn in the emerging LDP.

49. In respect of encroachment into the countryside, the appellant states that a sensitive and sympathetic design solution has been endorsed by Officers. Its low density and overall design would have a rural character, with large areas devoted to open space (pocket parks) with the retention of existing landscaping (trees, hedgerows and stone walling) and new planting and biodiversity areas. Thus, the countryside would be protected, with the site not being 'open', but rather visually contained and enclosed.

50. With regards to the protection of the setting of urban areas and villages, the appellant states that the setting of Rossett is not defined by the appeal site. This site does not contribute to that setting and character. The development would also not undermine the setting or character of the eastern side of Rossett as has been demonstrated by the LVIA, but instead enhance and redefine its urban edge. The benefit of the site being contained by a strong landscape enclosure, with development within it, is that it would be discreet with a soft rural edge.

51. The appellant refers to the development of 'brownfield land' within Wrexham as having 'peaked' and the availability of suitable, viable and developable brownfield sites 'minimal to nil' in Rossett. It is contended that there is a recognition that Green Barrier and open countryside sites must now be identified to serve the future needs of delivering jobs, homes and other infrastructure.

52. The Council is unable to demonstrate a 5-year housing land supply. Moreover, this is unlikely to change for at least another year until the emerging LDP is adopted. Plan preparation slippage has been severe and it places the Authority in an even more difficult position with a housing 'backlog'. Delivering housing cannot wait and the need will simply grow ever larger without permissions being brought forward.

53. Council officers have recognised that sustainable Green Barrier sites must be released as part of the emerging plan process. Specifically, whilst the emerging LDP proposes to retain strategic Green Barrier between Rossett and Pulford, Rossett and Marford/Gresford and between Rossett and Trevalyn, it recognises that Green Barrier ought to be amended to exclude the area comprising the application site given that it would not materially lessen the gap between Rossett and Trevalyn. This concurs with the findings of the appellant's LVIA.

54. The emerging Plan has also been prepared within the context of an SLA Study which found that SLA land ought to be released from the designation in compliance with PPW guidance. The Authority has endorsed this advice and dramatically reduced the area of SLA, consistent with the findings of the appellant's own LVIA.

55. The appellant refers to the 'direction of travel' of the LDP process in relation to SLA and Green Barrier designations. For new development to be accommodated in Rossett, there must be some form of release and allocation of Green Barrier land because the whole settlement is (under the UDP) surrounded by Green Barrier.

56. The appeal site is submitted as the most logical and sustainable location for new development. The appellant contends that the appeal proposal outperforms all other alternative sites that have been promoted or identified in the LDP and by other speculative submissions. In terms of deliverability, the site is said to be 'fit for purpose' and 'commercially attractive', with a number of developers expressing an interest. The appellant also notes the time and resources spent in carefully addressing key highways and drainage issues.

57. The appellant asserts that the development would achieve sustainable development whilst providing a series of economic, social and environmental net gains. Specifically, the development would create a number of direct and indirect job opportunities and would introduce the spending power and Council Tax benefits of an additional 132 households to the area. Socially, it would provide a range of housing, including 33 No. affordable homes, public open space, education contributions and highway improvements. The development would also be sympathetically designed to take account of landscape character, place making principles, green infrastructure, connected and permeable pedestrian routes.

58. The appellant responds to local concerns by highlighting the fact that the proposal would make new links with established pedestrian routes, offering new internal footways, traffic calming measures and a new pedestrian crossing, along with opportunities of providing safe routes to school. Similarly, it is noted that the site lies within Flood Zones A and B in response to concerns regarding flooding.

59. It is submitted that the positive benefits of the scheme should be afforded full weight as material planning considerations. They are considered outweigh any perceived or apparent concerns (or harms) that this proposal could be considered to have upon the locality, its open countryside and Green Barrier designation.

60. The appellant notes that local precedent exists in respect of the Authority agreeing to release Green Barrier sites for housing. A number of cases have been cited at paragraph 1.73 of the Planning Statement, with copies of some decisions submitted as part of the Appeal Submission documents.

61. Finally, whilst the appellant's most up to date Planning Statement is silent on the issue of pedestrian safety, the SoCG sets out the appellant's willingness to convert a section

of highway verge along the southern side of Holt Road to a footway in order to satisfy the Council's concerns.

Written Representations Made by Interested Parties

62. A number of written representations were submitted by interested parties through the planning application process. These have been summarised in the LPA Officer's Report. Similarly, multiple representations were submitted to the Planning Inspectorate in response to the notification of appeal. The principal issues raised through the written submissions include the following:

- *Significant weight should be attributed to the adopted UDP and limited weight should be attributed to the emerging LDP;*
- *Planning permission should be refused on grounds of prematurity;*
- *The proposal would result in an unacceptable incursion into the countryside;*
- *The proposal would result in the loss of BMV agricultural land;*
- *The proposal would represent overdevelopment of the village;*
- *The development would have an injurious impact upon character of the village and SLA;*
- *It comprises inappropriate development that would result in the loss of openness to the Green Barrier designation and the coalescence of Rossett and Trevalyn;*
- *Arguments in favour of the development do not comprise very exceptional circumstances necessary to comply with policy framework relating to Green Barrier;*
- *The development would be detrimental to both highway and pedestrian safety, with particular reference to the safety of school children;*
- *Proposed pedestrian link improvements would not be satisfactory;*
- *The development would exacerbate the already significant pressure on local services, including local health services;*
- *The development would result in the loss of trees and hedgerows and would have an adverse impact upon local wildlife;*
- *The proposal represents a flood risk;*
- *The proposal raises unacceptable archaeological concerns;*
- *There are more suitable alternative sites that would better meet housing needs;*
- *It would result in loss of privacy and outlook to nearby residents, including loss of views over countryside;*
- *The development would result in unacceptable levels of noise, disturbances and pollution;*
- *There is inadequate water supply to accommodate the development;*
- *The development would represent a dangerous precedent;*
- *The proposal would contravene the Well-Being and Future Generations (Wales) Act*.

63. No objections have been raised by statutory consultees, subject to suitably worded planning conditions being imposed.

Planning Conditions and Unilateral Undertaking

64. The Council has suggested planning conditions[15] in the event the appeal be allowed and the SoCG confirms the appellant's agreement to the imposition of such conditions.

65. The Council contends that the development would also need to be subject to a planning obligation that would secure financial contributions towards education, ensure the management of on-site public open space and deliver affordable housing as required. The appellant has submitted a Unilateral Undertaking, under Section 106 of the Act, for such purposes and the Council has confirmed its opinion that it meets the necessary statutory and policy requirements and that it should, therefore, be attributed due weight in the determination of the appeal.

Appraisal and Overall Conclusions

66. In light of the available evidence, the main issues are:

- Whether the principle of development is compliant with the planning policy framework;
- The effect of the proposed development upon the character and appearance of the area, having particular regard to its siting within an SLA;
- The effect of the proposed development upon the purposes and openness of the Green Barrier and whether any such harm would be clearly outweighed by very exceptional circumstances; and finally
- Whether the development would result in the unacceptable loss of BMV agricultural land.

Principle of development, Character and Appearance and Green Barrier

67. As set out above, the adopted UDP remains the adopted development plan for the area despite being time-expired. Indeed, the examination into the soundness of the emerging LDP has yet to be closed or reported upon, meaning that the site falls entirely within the countryside for the purposes of the adopted development plan.

68. Policy PS1 of the adopted UDP directs development for housing to defined settlement limits. Policy H5 represents a criteria-based policy that expands on the principles of Policy PS1, setting out the circumstances where new dwellings in the countryside would be permitted. Nevertheless, it is common ground that the development proposed in this case does not satisfy the requirements of those policies and I have no reason to come to a different conclusion on this matter. It therefore follows that the principle of the development would run counter to adopted development plan policy and, in particular, Policies PS1 and H5.

69. The development would immediately adjoin existing residential developments located along the eastern flank of Rossett. Nevertheless, it would undoubtedly comprise a significant physical incursion into the countryside and designated SLA. By reason of its scale and nature, the development would also inevitably result in the urbanisation of what is a rural landscape and, in this respect, I consider that it would injuriously alter the prevailing rural characteristics of the area. It would therefore conflict with Policy PS1 of the adopted UDP which seeks to generally protect the countryside. It would also

[15] Schedule to LPA Appeal Statement

conflict with Policy EC5 of the adopted UDP which seeks to strictly control development and give priority to the conservation and enhancement of the landscape.

70. The site lies within a Green Barrier as defined by the adopted development plan and that designation is consistent with the Green Wedge policy tool referred within national policy[16]. Policy EC1 of the adopted UDP states that development proposals within Green Barriers will only be granted planning permission if they are for agriculture, forestry, essential facilities for outdoor sport and recreation, cemeteries and other uses of land which maintain the openness of the Green Barrier and do not conflict with the purpose of including land within it. Given the scale and nature of the development proposed in this case, there is little doubt that it would comprise 'inappropriate development' within the Green Barrier, in line with the definition of inappropriate development set out in PPW. Moreover, it would fail to fall within the types of development permissible by Policy EC1 of the adopted UDP.

71. PPW is clear that when considering applications for planning permission in such designations, a presumption against inappropriate development will apply and that substantial weight should be attached to any harmful impact which a development would have on the purposes of the designation. It also states that inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the designation.

72. By encroaching into an area of open countryside and reducing the area of undeveloped land between Rossett and Trevalyn, the development would clearly be contrary to the purposes of the Green Barrier which seek to: i) *prevent the coalescence of urban areas and villages with other settlements*; ii) *assist in safeguarding the countryside from encroachment*; iii) *protect the setting of urban areas and villages*; and iv) *assist in urban regeneration by encouraging the recycling of derelict and other urban land*. There is also little doubt that such a residential development would materially reduce the openness of the site.

73. The development therefore conflicts with Policy EC1 of the UDP and, in accordance with the advice contained within national policy, such harmful impacts merit substantial weight in the planning balance. Nevertheless, in order to conclude fully on the impact on the Green Barrier designation, it is necessary to consider whether the arguments advanced in favour of the proposed development amount to '*very exceptional circumstances*' that clearly outweigh the identified harm.

74. Given the age of the adopted UDP, and in particular the fact that it is time-expired, there is little doubt that it attracts less than full weight in the determination of the appeal. Furthermore, in accordance with national policy, the absence of an up-to-date development plan renders the LPA without a five year land supply for housing. In light of such factors, the need to increase the supply of housing therefore weighs significantly in favour of the proposal.

75. I have set out above that the weight to be attributed to an emerging LDP will depend on the stage it has reached, recognising however that it does not simply increase as the plan progresses. Specifically, in considering what weight to give to the specific policies of an emerging LDP, it is necessary to consider carefully the underlying

[16] PPW, paragraphs 3.60- 3.74 (Edition 10, 2018)

evidence and background to the policies, noting that national planning policy and the evidence used to support policies in an emerging LDP can be material.

76. In this respect, it is important to note that the submitted version of the LDP identifies a need to significantly increase the supply of housing within the area. It is also relevant to note that, despite the soundness of the Plan not yet being determined by the appointed Inspectors, the Council accepts that such housing need can only be satisfied through the development of undeveloped sites. This is reflected through the LDP strategy and, in particular, the housing allocations identified within the Plan.

77. Of particular relevance to the determination of this appeal is the fact that the appeal site has been identified within the settlement limits for Rossett and identified as a housing allocation. Indeed, whilst it is proposed to retain a strategic Green Wedge between Rossett and Trevalyn, the appeal site has been omitted from that designation and has also been omitted from the SLA designation. Such factors also weigh significantly in favour of the development, not least because it represents a concession from the LPA that the site ultimately represents a suitable and sequentially preferable housing site despite the inevitable impact that such a development would have on the landscape character and openness of the site.

78. PPW states that, when considering Green Belt/Wedge designations, a sufficient range of development land which is suitably located in relation to the existing urban edge should be made available, having regard to the longer term need for development land, the effects of development pressures in areas beyond the Green Belt/Wedge and the need to minimise demand for travel. Within this context, it is notable that the appeal site is located adjacent to the built form of Rossett and, therefore, represents a logical extension to the settlement.

79. I have already referred above to the loss of openness should the appeal succeed. Nevertheless, a visual gap would be retained between Rossett and Trevalyn and the openness of that area would be protected through the Green Wedge designation proposed in the emerging LDP. The appeal site represents a broadly sustainable option, well-located to a number of facilities and services. The evidence also indicates that the development is deliverable and would provide a number of positive benefits, including the provision of a number of affordable homes. It is clear that the number of affordable homes would be less than the percentage requirements of the affordable housing policy in the emerging LDP. Nevertheless, the contribution of 33 No. affordable homes would be consistent with the 25% affordable housing requirement set by the adopted UDP and therefore merits substantial weight in the planning balance.

80. The time-expired UDP, the lack of housing land supply and the consistency of the appeal proposal with the emerging LDP, coupled with the sustainable location and positive benefits of the scheme, weigh substantially in favour of the development. Indeed, in balancing these matters, I consider that they comprise the very exceptional circumstances required to clearly outweigh the harm to the Green Barrier and its wider countryside/landscape status.

Loss of Agricultural Land

81. There is a dispute over the ALC of the site. However, the Welsh Government department for Rural Affairs has advised the LPA that the decision should be made on the basis of the classification in their survey and, despite the appellant submitting an Agricultural Use and Quality of Land Report, I have not seen anything to persuade me to take a different view. Either way, the development would result in the loss of agricultural land, a significant proportion of which comprises BMV agricultural land.

82. As a consequence of the loss of BMV agricultural land, the development would clearly conflict with Policy EC2 of the adopted UDP which states that development on BMV agricultural land will be permitted if it does not lead to the irreversible loss of that land. However, whilst PPW states that such land should be conserved as a finite resource for the future, it also states that such land should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations.

83. I have already set out above the substantial benefits of the development, including the overriding need for development within the area. The emerging LDP evidences the need for the release of greenfield sites to meet the identified housing need and the allocation of the site has been undertaken within the context of a substantial evidence base that indicates that the housing requirements cannot be met without the loss of such BMV land. Indeed, all of the emerging LDP housing allocations located outside of the settlement limits identified within the adopted UDP contain some BMV agricultural land and this has been factored into the relevant Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA) processes. The evidence also indicates that Rossett is largely surrounded by BMV land and, given the proportions of BMV on the appeal site, the site is sequentially preferable to other sites within the area.

84. Therefore, whilst the proposed development would run counter to Policy EC2 of the adopted UDP, material considerations, including the sequential approach advocated by PPW, indicate that such conflict is justified in this instance.

Other Material Considerations

85. There is little doubt that the development would result in increased traffic on the local highway network and a number of written submissions have contended that this would be detrimental to pedestrian and highway safety. Nevertheless the concerns in respect of highway safety remain uncorroborated by robust evidence. The Council raised concerns regarding Holt Road at the time of determining the application, but only insofar as it has an intermittent pedestrian footway. Specifically, it had concerns that the alternative routes, particularly from the northern parcel of land, would represent longer and more unattractive options for pedestrians.

86. Nevertheless, whilst such information was not available at the time of determining the application, the appellant has since put forward proposals to convert a section of highway verge along the southern side of Holt Road to a pedestrian footway. The footway would be less than 2m wide. However, it would nonetheless represent a significant improvement in terms of pedestrian safety. In light of this information, I concur with the Highways Authority that the dismissal of the appeal on such grounds is no longer justified. There would not, therefore, be any conflict with Policy GDP1(d) of the adopted UDP.

87. A number of written representations have been submitted contending that the development would represent the 'overdevelopment' of the village. However, such concerns are largely unsubstantiated by cogent evidence and, given the scale of the development and the site's sustainability credentials, I consider that it represents a logical extension to the settlement of Rossett.

88. Concerns have been raised regarding the impact the development would have on local services that are already under significant pressure. Specific concerns have been raised in respect of local health services and, in particular, the Alyn Family Doctors Surgery.

However, the local health board does not object to the principle of development and no detailed assessment has been submitted to provide evidence of the specific healthcare infrastructure that would be needed to mitigate the effects of the development. No financial contributions have therefore been sought in this respect and, for these reasons, I consider that the refusal of planning permission on such grounds alone would not be reasonable. Nonetheless, the submitted unilateral undertaking incorporates covenants to deliver a contribution towards education and a management plan in respect of open space provision.

89. Representations have been submitted in respect of flood risk, although it remains a matter of fact that the site lies outside of the C1 and C2 flood zones as detailed in Technical Advice Note 15: *Development and Flood Risk* (TAN15). The development is therefore policy compliant in this respect. Meanwhile, I see no reason why matters of surface water drainage cannot be satisfactorily controlled through the imposition of a suitably worded planning condition, whilst water supply has not been raised as an insurmountable constraint by the supplier.

90. Concerns relating to the impacts on trees, hedgerows and wildlife remain largely unsubstantiated, with no objections from Natural Resources Wales (NRW) in respect of the development or the appellant's Ecology Report. Matters of landscaping are reserved for subsequent determination. Similarly, no objections have been submitted by the relevant statutory body in respect of archaeological interests.

91. Matters of residential amenity could be satisfactorily addressed through detailed design, whilst disturbances through the construction process would be temporary and could be minimised through the use of planning conditions. Loss of views over a countryside setting in third party ownership is not, however, something that is protected by the planning system.

92. Submissions have been made in respect of whether alternative sites would better address the housing needs of the area. However, the success or otherwise of the appeal proposal is restricted to an assessment of its own particular planning merits, with no requirement for prospective developers to demonstrate that a particular site is more suitable than other potential sites.

93. My attention has been drawn to a number of other planning decisions, including Appeal Ref: 3171383 which deals with the conflicting issues of housing need and the conservation of BMV agricultural land. However, that issue is addressed above and needs no further commentary. Other planning decisions referred within the evidence, including the appeal decisions that turned on the lack of a housing land supply[17], did not have the same set of circumstances as this case and have not, therefore, weighed heavily in my consideration of the appeal.

Conditions and Unilateral Undertaking

94. I have considered the suggested conditions and, having had regard to the advice in Welsh Government Circular 16/2014: *The Use of Planning Conditions for Development Management* (October 2014), have adjusted their wording in the interest of clarity and precision. Specifically, as I have not seen any cogent arguments for a shorter than typical time commencement period, I have imposed the standard periods for outline planning applications. The conditions have been drafted to enable a phased

[17] Including PINS Ref: 3188913 & 3182282

development as suggested, not least because there has been no objection to this approach. Whilst not set out as a condition, the developer must comply with the duties outlined in section 71ZB of the Town and Country Planning Act 1990.

95. I am satisfied that the Unilateral Undertaking is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development proposed. It satisfies the statutory and policy tests and therefore merits weight in the planning balance.

Planning Balance and Overall Conclusions

96. Based on the foregoing analysis, I have found that the development would run counter to adopted development plan policies designed to protect the countryside and wider landscape designations. I have also found that the development would be contrary to the purposes of the Green Barrier. However, the harm to the Green Barrier and the wider countryside and landscape setting would be clearly outweighed by the very exceptional circumstances described above. Furthermore, whilst the development would result in the loss of BMV agricultural land, such harm and associated policy conflict would be justified in light of the provisions of PPW and the particular circumstances of this case. For these reasons, and having considered all matters raised, including the substantial number of submissions made by interested parties, I recommend that the appeal should be allowed subject to the conditions set out in the schedule below.

97. In coming to this conclusion, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

Recommendation

98. The appeal should be allowed subject to the conditions set out in the attached schedule.

Richard E. Jenkins

INSPECTOR

Schedule of Conditions

1) Details of the, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") for each phase of development shall be submitted to and approved in writing by the Local Planning Authority before any development begins in that phase. The development shall be carried out as approved.

   Reason: *To comply with the provisions of the Town and Country Planning* (Development Management Procedure) (Wales) Order 2012.

2) The first reserved matters application shall include a plan showing the first phase of development and location of all subsequent phases of development (hereinafter called "the Phasing Plan"). The Phasing Plan shall include the percentage of affordable housing within each phase, which across the phases shall consist of no less than 25% of the total number of dwellings to be built on the site. All subsequent reserved matters applications shall be submitted in accordance with the Phasing Plan as approved.

   Reason: *In the interests of a co-ordinated approach to the development of the site.*

3) Any application for approval of the Reserved Matters shall be made to the Local Planning Authority not later than three years from the date of this permission.

   Reason: *To comply with Section 92 of the Town and Country Planning Act, 1990.*

4) The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

   Reason: *To comply with Section 92 of the Town and Country Planning Act, 1990.*

5) The development shall be carried out in accordance with the following approved plans and documents: Drawing No. Plnc-100-37-RLP-01; and Drawing No. Plnc 100-37-SMPA-01 in respect of vehicular and pedestrian access.

   Reason: *To define the scope of the planning permission and in the interest of pedestrian and highway safety − UDP Policy GDP1(d)*

6) No development shall commence in any phase until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority for that particular phase of development. No development or other operations within that phase shall take place except in strict accordance with the approved Method Statement. The Method Statement shall include:

   1) A specification for tree protection fencing and ground protection measures that comply with British Standard 5837:2012;

   2) A Tree Protection Plan showing the location of the trees to be removed and retained with their crown spreads, root protection areas, construction exclusion zones, and location of protective fencing and ground protection measures accurately plotted;

   3) A full specification for any access, driveway, path (to include paths required by Condition Nos.8 and 9), underground services or wall foundations within retained tree root protection areas or construction exclusion zones, including any related sections and method for avoiding damage to retained trees;

4) Details of general arboricultural matters including proposed practices with regards to cement mixing, material storage and fires;

5) Details of the frequency of supervisory visits and procedures for notifying the findings of such visits to the Local Planning Authority;

6) Method for protecting retained trees during demolition works;

7) Details of all proposed tree works, including felling and pruning.

Reason: *To ensure the work is carried out to accepted arboricultural practices for the long term wellbeing of trees within/adjacent to the site – UDP Policy EC4.*

7) Development shall not commence until a scheme for the comprehensive and integrated drainage of the site indicating provision for foul water, surface water and land drainage has been submitted to and approved in writing by the Local Planning Authority. In accordance with the submitted Flood Consequence Assessment & Drainage Strategy, any scheme must demonstrate compliance with the latest Sustainable Drainage Systems (SuDS) Standards for Wales. Where a SuDS scheme is to be implemented, the submitted details shall:

1) Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of receiving ground water and/or surface waters;

2) Specify the responsibilities of each party for the implementation of the SuDS scheme, together with a timetable for that implementation; and,

3) Provide a timescale for implementation, management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall thereafter be carried out in strict accordance with the approved scheme.

Reason: *To ensure the propose management of surface water in order to avoid on or off-site flooding - UDP Policy GDP1(i).*

8) Development shall not commence on the land to the north of Rossett Road until a scheme detailing the following has been submitted to and approved in writing by the Local Planning Authority:

1) Speed limit amendments along Rossett Road;

2) Pedestrian footway links to Holt Road, Darland View, Trevalyn Hall View and Darland High School;

3) Provision of a pedestrian footway along the south side of Holt Road;

4) Bus stop provision; and

5) Street lighting along the Rossett Road frontage of the site.

No dwelling shall be occupied on that part of the site until the approved scheme has been implemented in full.

Reason: *To secure safe and convenient means of pedestrian access to the site in the interests of promoting sustainable transport choices – UDP Policy GDP1(d) and (e).*

9) Development shall not commence on the land to the south of Rossett Road until a scheme detailing the following has been submitted to and approved in writing by the Local Planning Authority:

    1) Speed limit amendments along Rossett Road;
    2) Pedestrian footway links to Holt Road and Trevalyn Way,
    3) Provision of a pedestrian footway along the south side of Holt Road
    4) Bus stop provision
    5) Street lighting along the Rossett Road frontage of the site

    No dwelling shall be occupied on that part of the site until the approved scheme has been implemented in full.

    Reason: *To secure safe and convenient means of pedestrian access to the site in the interests of promoting sustainable transport choices – UDP Policy GDP1(d) and (e).*

10) No development shall commence in a phase until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority in respect of that particular phase of development. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

    1) the parking of vehicles of site operatives and visitors;
    2) loading and unloading of plant and materials;
    3) storage of plant and materials used in constructing the development;
    4) an earthwork balance in respect of materials arising from excavations carried out on site, including measures to ensure those materials are re-used on-site;
    5) hours of working.

    Reason: *In the interests of minimising disruption arising from the development as well as securing a sustainable use of materials excavated during construction - UDP Policy GDP1(f).*

11) Prior to their first use the vehicular accesses shall provide visibility splays of 2.4 metres x 56 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction in excess of 1 metre in height above the level of the nearside edge of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.

    Reason: *To ensure that adequate visibility is provided at the proposed point of access to the - UDP Policy GDP1.*

12) The Reserved Matters shall include details of a 3 metre wide combined footway and cycleway that shall be provided along the full length of both frontages of the site with Rossett Road. The combined footways and cycleways shall be provided in accordance with the approved details prior to the first occupation of the dwellings in the respective phase of the development that they are situated within.

    Reason: *To secure safe and convenient means of pedestrian access to the site in the interests of promoting sustainable transport choices – UDP Policy GDP1(d) and (e).*

13) The Reserved Matters shall include an area or areas of public open space to be provided within each phase, together with a scheme that includes the following details:

    1) the siting, size, layout and appearance of formal play equipped play areas;

    2) hard and soft landscaping of the open space area(s);

    3) the timing of the construction and landscaping of the open space area(s);

    Public open space shall be provided on site within each phase in accordance with the approved scheme and permanently retained thereafter.

    Reason: *In the interests of the appearance of the development and the standard of amenity afforded to future occupiers - UDP Policies GDP1(a) and CLF5.*

14) No dwellings in a phase shall be occupied until a Final Travel Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan(s) shall include measures to encourage occupiers of the development to walk, cycle and to use local facilities and public transport.

    Reason: *To assist future occupiers of the development to make sustainable transport choices – UDP Policy GDP1(e).*

15) No street lighting shall be installed on any part of the site until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details that demonstrate how the street lighting has been sited and designed so as to minimise the potential impact upon bat species. Street lighting shall thereafter only be installed in accordance with the scheme as approved.

    Reason: *To ensure the development takes place without harming statutory protected species – UDP Policy EC6.*

16) This development hereby permitted makes provision for a maximum of 132 dwellings.

    Reason: *To define the scope of the planning permission.*

The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 02/03/20

gan Mr A Thickett BA(Hons) BTP Dip RSA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 27.04.2020

Appeal Decision

Site visit made on 02/03/20

by Mr A Thickett BA(Hons) BTP Dip RSA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 27.04.2020

Appeal Ref: APP/A6835/A/3243303
Land south of Rhos Road, Penyffordd, Flintshire, CH4 0JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr R Heaton against the decision of Flintshire County Council.
- The application Ref 060076, dated 5 June 2019, was refused by notice dated 4 September 2019.
- The development proposed is over-55 retirement housing with detailed site access and all other matters reserved for subsequent approval.

Decision

1. The appeal is allowed and outline planning permission granted subject to the conditions set out in the schedule at the end of this decision.

Procedural matter

2. On 26 March 2020 the Minister for Housing and Local Government announced that with immediate effect, the five-year housing land supply policy in Planning Policy Wales had been replaced by a policy statement making it explicit that the housing trajectory, as set out in adopted Local Development Plans, (LDP) would be the basis for monitoring the delivery of development plan housing requirements as part of LDP Annual Monitoring Reports. The Minister also revoked Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies.

3. The Council and appellant were invited to make submissions regarding the implications for their cases in this appeal. The appellant did so, the Council did not.

Main Issue

4. The main issue is whether the proposed development is premature and would prejudice the strategy set out in the emerging local development plan.

Reasons

5. The site lies outside but immediately adjacent to the settlement boundary of Penyffordd as defined in the Flintshire Unitary Development Plan 2001 – 2015, adopted 2011 (UDP). Outside settlement boundaries, UDP Policy GEN3 restricts new housing to, amongst other things, that necessary to support rural enterprises, infill or rural exceptions schemes. None of the exceptions in Policy GEN3 apply here and the proposed development, therefore, conflicts with the UDP in that regard.

6. The housing requirement, strategy and settlement boundaries set out in the UDP are based on evidence of housing need which is long out of date. Indeed, the UDP is 5 years past its end date. The Council's emerging Local Development Plan (LDP) has been placed on deposit and is expected to be submitted for examination later this year.

7. The Council argues that; *'housing completions during the first three years of the plan period are slightly ahead of the LDP's annualised planned provision, and the plan is therefore 'on track' as far as housing delivery is concerned'*. The weight to be attached to an emerging LDP does not necessarily increase as it progresses to adoption. The housing requirement, housing trajectory and LDP strategy are yet to be tested at examination. Consequently, I cannot be certain that they are sound and I afford the Council's assertion little weight.

8. The changes to PPW and revocation of TAN1 have not reduced the importance of delivering new housing, just the way delivery is planned, measured and monitored. PPW, as revised, states that: *'Under-delivery against the trajectory may require a specific early review of the development plan'*. In my view that is a clear indication that the government is committed to ensuring that the planning system delivers the housing Wales needs and that under delivery is a material consideration. I consider the matters to be considered in determining the weight to be attributed to under delivery are: the extent of the shortfall, the length of time there has been a shortfall and how soon the Council will be able to demonstrate through an adopted LDP, how the housing needs of the area are to be met.

9. The Development Plans Manual (DPM) sets out how delivery should be measured for development plans adopted prior to DPM Edition 3 in March 2020. For those plans published prior to the publication of the DPM, completions will be measured against the Average Annual Requirement set out in the plan. Flintshire does not have a LDP. Its UDP was adopted in 2011 and as stated above its housing requirement based on evidence of that is long out of date. Notwithstanding revocation of TAN 1 and changes to PPW, the only available objective and tested evidence relating to the delivery of housing in Flintshire is the 2014 Joint Housing Land Availability Study. That recorded a housing land supply of 3.7 years and for a number of years since the figure has been zero.

10. The extent of the shortfall is, therefore, significant both in terms of the amount and length of time Flintshire has suffered from an inadequate housing land supply. The Council will not be able to demonstrate that it can provide a supply of land to meet Flintshire's housing requirement as required by PPW until the emerging LDP is adopted. The Council does not dispute the appellant's assertion that this would be July 2021 at the earliest. In my experience LDP submission and adoption dates more often than not slip beyond those set out in the Delivery Agreement.

11. Nevertheless, with a fair wind Flintshire could have an adopted LDP in place in 2021. That is not that long from now in LDP production terms. I consider that the likelihood of a plan led solution to the shortfall in housing land supply in the next 12 to 18 months means that the weight to be given to under delivery is significant but does not of itself justify the grant of planning permission in this case.

12. I now turn to prematurity. It is a long established principle that withholding planning permission on grounds of prematurity will not usually be justified

except where a 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 to be determined through the LDP process.

13. The DPM states that; *'Whether planning permission should be refused on grounds of prematurity requires careful judgement and the LPA will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the LDP process'*. The illustrative plan submitted with the appeal application shows 36 units and the Council accepts that, on its own, the proposed development is too small to affect decisions about the scale or location of development in the emerging LDP.

14. The Council's objection to this development is based on the alleged cumulative impact of the appeal proposal and permission granted on appeal for 261 units on three other sites in Penyffordd. Penyffordd and Penymynydd together are defined as a tier 3 settlement in the emerging LDP. The emerging LDP apportions 14% of housing growth to tier 3 settlements. The Council uses that apportionment, the overall housing requirement in the emerging LDP and commitments to arrive at a residual need in tier 3 settlements of 122 units.

15. However, as stated above the LDP's housing requirement and strategy have yet to be tested at examination. I cannot be certain that the overall requirement figure or strategy are sound or the apportionment for any of the tiers is based on robust evidence. Even if it is, I am not persuaded that to permit 36 units out of the alleged residual 122 would go to the heart of the plan or prejudice the LDP process.

16. Despite citing concerns regarding the ability of Penyffordd to accommodate the developments allowed on appeal and arguing that *'it cannot be a sustainable proposition to keep on approving incremental speculative applications, such as this proposal, without regard to the cumulative effect on this settlement'*, the Council accepts that Penyffordd is a *'sustainable settlement capable of accommodating a reasonable level of growth'*. It also accepts that the *site 'is not necessarily in an unsustainable location, or that the site's development would not be a sustainable proposition'*.

17. I have considered the concerns of local residents with regard to the ability of local services and infrastructure to accommodate the development recently permitted in Penyffordd. The Council is satisfied that the highway network and drainage systems are capable of accommodating the development. The impact of the proposed development on other services is not cited as a reason for refusal and I am entitled to assume, therefore, that the Council does not consider that residents' concerns warrant the withholding of planning permission. I have seen no empirical evidence to lead me to a different conclusion.

18. The Council's third reason for refusal includes the following statement; *'A further reserved matters application would be required to examine a range of fundamental issues which may demonstrate the site is undeliverable'*. Fundamental issues should not be left to reserved matters. The approval of reserved matters follows the grant of planning permission and should local planning authorities consider that they need additional information before determining an application for outline planning permission they have the power

to ask for it. I have seen nothing to indicate that the Council did so or considered it was necessary to do so in this case.

19. The Council does not dispute the appellant's assertion that Penyffordd's Place Plan identifies a need to provide housing to enable the elderly to move to and remain in the village. Nor do the Council dispute that the appellant has already carried out a significant amount of preparatory work, that the site is free from constraints, a developer is lined up and a reserved matters application could be submitted within 6 to 9 months of outline planning permission being granted. In light of this I do not share the Council's pessimism and am persuaded by the appellant's evidence that work could start on site by or around the projected adoption date for the LDP. I will amend the standard time limit conditions to reflect this and the need to secure delivery.

Unilateral undertaking and conditions

20. The appellant submits a unilateral undertaking which restricts occupancy to over 55s, commits to making contributions to active travel and improving open space elsewhere in Penyffordd. In light of the identified need, I am satisfied that the age restriction is necessary. I also consider that, in the interests of sustainable development, the contribution towards improving pedestrian links to Penyffordd Railway Station is necessary. However, given the age of prospective residents, I am not persuaded that a financial contribution to improving off site teenage play provision is necessary and I afford that part of the unilateral undertaking little weight.

21. The undertaking also has a clause relating to the provision of affordable housing but through an application for reserved matters. It is only possible to impose conditions on a reserved matters approval which relates to the reserved matter. The provision of affordable housing is matter that goes to the principle of whether planning permission should be granted and so must be secured when planning permission is granted, not at a later stage. I am satisfied that an affordable housing contribution is necessary and shall impose a condition.

22. I have considered the Council's suggested conditions in light of the advice in Circular 16/14. I have seen nothing to suggest that the siting, design and layout of the access as shown on the submitted drawing is unacceptable and see no need, therefore, to require further details. Nor have I been given any reason why it is necessary to duplicate requirements relating to the construction of the access or highway drainage. Details of parking and internal layout will be subject to approval of reserved matters.

23. I have seen no technical evidence or submission from a suitably qualified person to support the proposition that the noise generated by traffic on the A550 is such that mitigation is necessary to ensure that prospective occupiers enjoy satisfactory living conditions. Nor, given the contribution to active travel contained in the unilateral undertaking and the location of the site, am I persuaded that a condition requiring a travel and transport plan is necessary.

Conclusions

24. The appeal site lies outside the settlement boundary of Penyffordd and the development conflicts with Policy GEN3 of the UDP. But, the policies for housing provision and restraint in the UDP are based on evidence long out of date and the UDP time expired 5 years ago. The latest, tested evidence

relating to housing delivery demonstrated an under delivery of housing in Flintshire.

25. I consider the extent of the shortfall both in amount and the number of years it has existed means that increasing housing provision is a significant factor which weighs in favour of the proposed development. The prospect of a plan led solution to the shortfall is more than a year away and, at this time, there is no certainty that the housing requirement and strategy set out in the emerging LDP is sound. The Council accepts that, on its own, the proposed development would not prejudice the LDP process. Nor do I consider that when added to the units permitted at appeal at Penyffordd, around 300 dwellings out of a requirement in the emerging LDP of almost 8,000, can be said to go to the heart of the emerging plan.

26. The Council accepts that Penyffordd is a sustainable location for new growth and does not argue that Penyffordd is not capable of accommodating the proposed and permitted developments. The Place Plan identifies a need for accommodation for the elderly, the scheme would provide affordable housing and I have no doubt that the development could be implemented around the time the LDP is programmed for adoption if not before.

27. I consider that taken together these matters outweigh the conflict with UDP Policy GEN3 and for the reasons given above and having regard to all matters raised, I conclude that the appeal should be allowed.

28. 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 objective of building healthier communities and better environments.

Anthony Thickett

Inspector

Schedule

APP/A6835/A/3243303

The appeal is allowed and outline planning permission is granted for over-55 retirement housing with detailed site access at land south of Rhos Road, Penyffordd, Flintshire, CH4 0HY in accordance with the terms of the application, Ref 060076, dated 5 June 2019, subject to the following conditions:

1) The development shall begin either before the expiration of two years from the date of this permission or before the expiration of one year from the date of approval of the last of the reserved matters to be approved, whichever is the later.

   Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

   Reason: To ensure that the development hereby permitted does not have a detrimental impact on the character and appearance of the area in accordance with UDP Policy GEN1(a).

3) Any application for approval of the reserved matters shall be made to the local planning authority not later than one year from the date of this permission.

   Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

4) The development shall be carried out in accordance with the following approved plan: Proposed Site Access and Road Layout Dwg No. 5138/02.

   Reason: To ensure that the development is carried out in accordance with the approved plans and drawings submitted with the application.

5) The access shown on Dwg No. 5138/02 shall be completed before the first dwelling is occupied. The 2.4m by 43m visibility splays shown on Dwg No. 5138/02 shall be maintained free of any obstruction exceeding 0.6m in height for as long as the development hereby permitted remains in existence.

   Reason: In the interests of highway safety and to accord with Policy UDP Policy GEN1(e).

6) The footway along Rhos Road shown on Dwg No. 5138/02 shall be completed in accordance with details to be submitted to and approved in writing by the local planning authority before the first dwelling is occupied.

   Reason: In the interests of highway safety and to accord with Policy UDP Policy GEN1(e).

7) No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

i) the parking of vehicles of site operatives and visitors;
ii) loading and unloading of plant and materials;
iii) storage of plant and materials used in constructing the development;
iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
v) wheel washing facilities;
vi) measures to control the emission of dust and dirt during demolition and construction; and
vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In the interests of highway safety and to safeguard the living conditions of nearby residents in accordance with UDP Policy GEN1(d).

8) No development shall commence until details of a scheme for the disposal of foul water has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the occupation of the first dwelling and retained in perpetuity.

Reason: To ensure that the foul sewage system can satisfactorily accommodate the proposed development in accordance with UDP Policy GEN1(i)

9) No development shall take place, nor any site clearance, until there has been submitted to and approved in writing by the local planning authority details of a scheme for the protection of the hedges on the site boundaries (excluding Rhos Road) throughout the construction of the development hereby permitted.

Reason: To ensure that the development hereby permitted does not have a detrimental impact on the character and appearance of the area in accordance with UDP Policy GEN1(a).

10) No development shall take place until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:
i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units;
ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no affordable housing provider is involved);
iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and

v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: In order that the development contributes to the need for affordable housing and complies with UDP Policy HSG10

The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 22/01/21

gan A L McCooey, BA (Hons) MSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 15th February 2021

Appeal Decision

Site visit made on 22/01/21

by A L McCooey, BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 15th February 2021

Appeal Ref: APP/H6955/A/19/3238474

Site address: Land North of Gatewen Road, New Broughton, Wrexham

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 outline planning permission.
- The appeal is made by Glyndwr University against the decision of Wrexham County Borough Council.
- The application Ref: P/2018/0674 dated 12 June 2018, was refused by notice dated 1 July 2019.
- The development proposed is a residential development, of up to 112 Dwellings together with vehicular / pedestrian access from Gatewen Road, open space, landscaping, sustainable drainage and other related infrastructure.

Decision

1. The appeal is allowed and planning permission is granted for residential development, up to 112 dwellings together with vehicular / pedestrian access from Gatewen Road, open space, landscaping, sustainable drainage and other related infrastructure at Land North of Gatewen Road, New Broughton, Wrexham in accordance with the terms of the application, Ref: P/2018/0674 dated 12 June 2018, subject to the conditions set out in the attached Annex.

Application for costs

2. An application for costs was made by Glyndwr University against Wrexham County Borough Council. This application is the subject of a separate Decision.

Background and Procedural Matters

3. The validity of the application was challenged by interested parties on the basis that the land ownership certificate submitted with the application was incorrect. The Council has confirmed that this error was rectified, and corrected ownership certificates were submitted prior to the application being determined. The accuracy of this information has been verified by the Inspectorate and the appeal has been accepted as valid. I therefore proceed on the basis that there is a valid appeal.

4. The appellant has set out the background to the proposal and the information provided is summarised in this paragraph. The application is part of a package of developments aimed at providing sufficient income for investment in improvements for the university. The cash reserves have become depleted in recent years and additional income is urgently required. The university has considered its existing estate and identified surplus land that could yield capital receipts to fund improvements. This would secure the university's future which would provide major economic benefits to the region and Wrexham itself. The income will enable the re-modelling of the main campus and the provision of additional student accommodation. The release of surplus land for housing will assist in meeting the urgent housing need in Wrexham.

5. The application was reported to the Planning Committee with a recommendation from officers that planning permission should be granted. Upon a vote members resolved to refuse planning permission for two reasons. These reasons are comprised in the main issues below.

Main Issues

6. The main issues are:

- Whether the development complies with relevant planning policy, especially in relation to its effect upon the purposes and openness of a Green Barrier and whether any resultant conflict would be clearly outweighed by very exceptional circumstances; and
- The effect of the proposal on traffic flow on the highway network and on highway safety.

Reasons

The Site

7. The application site extends to 4.743 hectares (11.7 acres) and is situated to the north of Gatewen Road. The site is roughly triangular. The site was used for grazing by horses but was unused at the time of my visit. It does not form part of a wider agricultural holding and exists as a pocket of grazing land, which is located on the edge of a settlement. To the north and east is a large residential development (Gatewen Village) which has recently been completed. To the west is an existing area of public open space and beyond this, the urban edge of New Broughton. To the south is Gatewen Road and beyond this, an established residential area. Topographically, the site is undulating, with various high and low points across the site. There are no formal public rights of way which cross the site. Adjoining the eastern site boundary there is a disused railway line, which provides a good quality walking and cycling route that continues past Wrexham Maelor Hospital to the town centre.

8. The surrounding area is primarily residential or public open space. Moss Valley Country Park is beyond the newly constructed residential development site to the north and east. The main access route to the site is from junction 5 of the A483 via Berse Road and Gatewen Road. There are several roundabouts on Berse Road.

Planning Policy and Guidance

9. The site is outside the development limit in the extant Wrexham Unitary Development Plan 1996-2011 (UDP), which despite being 10 years beyond its end date remains the adopted plan. A replacement Local Development Plan (LDP) has been the subject of an examination that is nearing completion.

10. UDP Policy PS1 states that new development for housing will be directed to within defined settlement limits. Policy H5 states that new dwellings will only be permitted outside settlement limits in certain circumstances. The proposal does not meet any of those circumstances. The appeal site is within a green barrier in the UDP. It is agreed that a Green Barrier equates to a green wedge as referred to in Planning Policy Wales. Policy EC1 states that within Green Barriers, development will only be granted planning permission if it is for agriculture, forestry, essential facilities for outdoor sport and recreation, cemeteries and other uses of land which maintain the openness of the Green Barrier and do not conflict with the purpose of including land within it. The purposes of a Green Barrier are set out as: i) to prevent the coalescence of urban areas and villages with other settlements; ii) to assist in safeguarding the countryside from encroachment; iii) to protect the setting of urban areas and villages; and iv) to assist in urban regeneration by encouraging the recycling of derelict and other urban land. These purposes align with the purposes of Green Wedges as set out in Planning Policy Wales[1]. The proposal would be inappropriate development as defined in Planning Policy Wales and envisaged in Policy EC1. National policy states that inappropriate development should only be granted planning permission in very exceptional circumstances where other considerations clearly outweigh the harm caused to a green wedge.

11. Planning Policy Wales 10 sets out relevant national policy on housing delivery[2], consistent with its primary objective, which is to ensure that the planning system contributes towards the delivery of sustainable development. Paragraph 4.2.1 sets out the basis for evidence-based housing policies in LDPs and informed development management decisions that focus on the creation and enhancement of sustainable places. Paragraph 4.2.2 states that the planning system must identify a supply of land to support the delivery of the housing requirement and focus on the delivery of the identified housing requirement. Paragraph 4.2.5 states that Local Planning Authorities must clearly set out the housing requirement in their development plan. The supply of land must be deliverable and the ability to deliver must be demonstrated through a housing trajectory.

Compliance with Policy, Character and Appearance and the Green Barrier

12. As the proposal would be contrary to Policies PS1, H5 and EC1, the very exceptional circumstances that have been advanced must be considered. The evidence from the Council shows that there has been a consistent under-delivery of housing since the UDP end date. The Council proposes to address this considerable shortfall by means of housing allocations in the LDP. The weight to be attributed to an emerging LDP will depend on the stage it has reached, recognising however that it does not simply increase as the plan progresses. Specifically, in considering what weight to give to its policies, it is necessary to examine the underlying evidence and background to the policies, which can be material. Preparatory studies have determined the housing requirement in the light of the evidence of need and past under-delivery. The LDP has identified sufficient land to meet that housing requirement. In so doing the Council recognised that land that is currently outside settlement limits must be identified for development and that the majority of that land is within green barriers. I note that the LDP process included the preparation of a Green Barrier review, resulting in the selection of suitable sites to meet the identified housing need within the Green Barrier. The Council's evidence for this appeal does not resile from that position. The Council merely states that the LDP Inspectors have not issued their binding report and the

[1] The relevant paragraphs are 3.60 to 3.74

[2] Which has been revised following the revocation of Technical Advice Note 1 in March 2020

proposed changes to the Green Barrier should therefore be afforded limited weight in the determination of this appeal.

13. The appeal site is a housing allocation in the LDP. The site is currently open land with public open space to the west (which would remain). Since the completion of the Gatewen village development to the north and east, the site and adjoining open space are almost completely surrounded by the built-up area. The development of the site would not therefore result in any coalescence of New Broughton with other settlements. The site is well-contained by the existing built form and constitutes a logical extension to the settlement, which is why it is a housing allocation in the LDP.

14. The site is in a sustainable location close to local services including shops and a school. There is a frequent bus service with bus stops nearby. There is also a good network of public footpaths in the area. There is a cycleway/footpath on a disused railway line that runs from the site into the centre of Wrexham via the hospital. Planning Policy Wales encourages the use of walking, cycling and public transport as an alternative to the car and the Welsh Government is committed to supporting a modal shift to active travel and public transport. This prioritisation of walking/cycling and public transport is set out in the sustainable transport hierarchy, which must be a key principle in the preparation of development plans. This is also relevant to the traffic issue that is considered below.

15. The proposed development would provide up to 112 dwellings; of which 25% would be affordable in line with the Council's policy and guidance. There is no evidence of any impediment to the deliverability of the development. The proposal would make a significant contribution to meeting the Council's housing requirement and addressing the shortfall in supply that has persisted for some years. This factor should be given substantial weight. The site is allocated for housing in the emerging LDP, after a series of studies considering the options to accommodate the identified housing requirement. It is well-contained by the existing built form and as such would not erode the Green Barrier. I consider that the substantial benefits of the proposal in terms of its contribution to housing supply and affordable housing; its sustainable location with good walking/cycling links and public transport provision; and the fact that it is allocated in the LDP weigh heavily in favour of the proposal. All these factors combined constitute the very exceptional circumstances required to clearly outweigh the harm to the Green Barrier and the conflict with Policies EC1, PS1 and H5.

Effect on Traffic Flow

16. Planning permission was refused due to alleged conflict with criterion (d) of UDP Policy GDP1 which requires safe and convenient pedestrian and vehicular access to and from development sites, both on site and in the nearby locality. I have had regard to the comments of the Highway Authority, which were provided. The application was accompanied by a transport assessment, which was reviewed by the Highway Authority. The queries arising were answered in a Highways Addendum document. I note that the appellant has also provided further comment on the reasons for refusal; an independent audit of the appellant's transport evidence to the LDP and an independent report on road safety at the proposed access. The Council has not raised any concern with the modelling used as the basis of these reports. I note the objectors' concerns in this regard but I am satisfied that the assessments and surveys were carried out using recognised and accepted methodology and provide sufficient information to understand the potential highway impacts of the proposed development. The evidence also shows that the other proposed developments (including the appellant's other developments) have been included in the assessments.

17. The Council's concerns related to queuing issues during the morning and evening peak hour at the junction of Gatewen Road with Berse Road and the roundabout to the east where Berse Road meets Rhyd Broughton Lane. A short distance to the north from there is another roundabout where Berse Road meets Mold Road, which is one of the main approaches to Wrexham town centre from the adjoining junction 5 of the A483. The appellant's worst-case scenario (without mitigation[3]) indicates that background traffic growth plus the development would increase queuing times at the relevant junctions to between 1 and 4 minutes at peak times from now to 2035. The appellant disputes the use of 2035 as a future year because it post-dates the plan period and forecast accuracy decreases over such a long period. However, it is accepted that additional congestion will potentially occur.

18. The congestion and junctions referred to are within Wrexham town, a location favoured for growth in both the UDP and LDP[4]. The Council and objectors refer to significant queuing occurring at these junctions at the moment. It is important to note that the congestion is an existing issue and is restricted to relatively short periods of the day. There is an issue with congestion on the wider network especially the A483junctions. The peak time queuing on the network leading to the appeal site appears to relate to congestion on the approach to the A483 and A541 Mold Road. Welsh Government has consulted on proposed improvements to the A483 junctions that would address the existing problems[5]. The traffic arising from the development would represent around 3-4% of all traffic. This traffic would have a relatively minor impact on the operation of the relevant junctions compared to the forecast overall growth.

19. I refer to the national policy on restricting car use above. The Highway Authority has not considered any alternative modes of transport. It is not the function of the planning system to ensure that the convenience of the private car user is safeguarded from congestion, especially existing congestion. There is no evidence of any impact on highway safety caused by queuing. My site visit coincided with the morning peak and I noted little congestion at the specified junctions. Taking all these matters into account, I conclude that the issue of congestion and queuing is an existing problem that would not be significantly affected by the proposal and it would not justify the refusal of planning permission in this case.

Highway Safety

20. Gatewen Road is subject to a 30mph limit and is heavily traffic-calmed. Car parking outside the terrace dwellings opposite the appeal site restricts the carriageway width and forces traffic to have to occasionally wait for a clear path. The accident statistics reveal no significant highway safety issues on this part of the road. I observed that traffic flows were relatively light. The traffic calming measures provide safe crossing opportunities for pedestrians. The proposed access can be provided with the required visibility splays within the existing highway verge. The trees to the east are subject to a Tree Preservation Order (TPO). From my observations, it appears that the provision of the splays would not affect the continued viability of the trees.

21. The proposed access would be opposite an existing junction with New Road. New Road is lightly trafficked because it is in a poor state of repair and is not therefore an attractive route for through traffic. Other routes are available. I consider that any

[3] Mitigation such as increased active travel and public transport use
[4] And in the emerging Future Wales
[5] Including active travel improvements

vehicular conflict between traffic from the appeal site and that using New Road would be very low. Despite the highway officers querying these issues, the Council has carefully assessed the access and has not included them in the reasons for refusal. The Council's evidence confirms that these reasons reflect the decision of the Committee Members. I also conclude that the proposed access would be acceptable in terms of highway safety.

Other Material Considerations

22. The site is not currently in agricultural use. It contains Best and Most Versatile (BMV) agricultural land. UDP Policy EC2 safeguards BMV land from irreversible development resulting in the loss of that land. The proposal would therefore conflict with Policy EC2. In contrast Planning Policy Wales states that such land should be conserved as a finite resource for the future and should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable. As noted above, the emerging LDP provides for the release of greenfield sites to meet the identified housing requirement. The land around the urban fringes of Wrexham is largely BMV land. All of the LDP housing allocations located outside of the UDP settlement limits contain some BMV agricultural land. Therefore, the allocation of the site has been undertaken within the context of a substantial evidence base that indicates that the housing requirement cannot be met without the loss of some BMV land. The benefits of the development as set out earlier and the sequential approach set out in Planning Policy Wales, means that the loss of BMV land contrary to Policy EC2 is justified in the particular circumstances of this case.

23. The application was submitted in outline with all matters reserved except for access to the site. The submitted scale parameters indicate that single and two storey housing is proposed. An indicative layout plan has been submitted, which is not binding. From my inspection of the site, I consider that the site can be developed without detriment to the living conditions of the occupiers of nearby dwellings. These issues can be considered in the reserved matters applications where details of the design and layout of the proposal must be submitted for approval prior to any development taking place. Any disturbance caused as a result of the construction of the dwellings would be temporary and could be controlled by planning conditions.

24. Whilst there may be constraints in providing a footway along Gatewen Road to the east of the access, there are ample opportunities for pedestrian links to the existing footpath along the eastern boundary and to the adjoining recreation ground.

25. Objectors refer to problems with the drainage facilities in the area. Dŵr Cymru has confirmed that no problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from the site. There is insufficient capacity in the local foul sewer at the nearest sewer connection point. A connection to the mains sewer would be permitted at another appropriate position (the location of this is stipulated). Alternatively, a hydraulic modelling assessment may demonstrate that another location would be suitable. This is a matter for the developer that can be required by a suitable condition.

26. Dŵr Cymru also states that no surface water shall be permitted to enter the public sewer system. This matter can be addressed by conditions on any consent. The submitted flood consequences assessment indicates that the risk of flooding is low (site lies entirely within zone A), and the site is not in a floodplain or known area of flooding. A surface water drainage strategy is provided indicating the various measures that can be used to provide a Sustainable Drainage System (SuDS). I note

that the development will require separate SuDS approval from the SuDS Approving Body (SAB). The consultation replies from the SAB has not indicated any insurmountable issues and as the design and layout of the Scheme has not been finalised then the SuDS requirements can be incorporated into the final design. Planning conditions requiring the approval of surface water drainage arrangements would not therefore be necessary.

27. The submitted heritage impact statement indicates that there would be no significant impact on the setting of the nearby Gatewen Hall (a listed building) or on archaeological remains. The Clwyd-Powys Archaeological Trust agrees with this assessment. I conclude that the proposed development would have no significant impact on heritage assets. The Council's evidence indicates that the impact on ecology would be acceptable. Natural Resources Wales had no objection to the proposal and indicated that the updated Ecological appraisal and Protected Species Report satisfactorily addresses outstanding issues in respect of bats. As noted above, trees within and adjacent to the site are the subject of a TPO. I note the submitted arboricultural assessment and method statement and consider that the retention and protection of trees as part of the Scheme can be required by conditions and have seen no convincing evidence to the contrary.

28. Objectors refer to issues with capacity at local schools and potential problems with further expansion of those schools. The Council has indicated that further spaces at local primary schools would be required as a result of the additional dwellings. The Council considers that a suitable contribution to provide further spaces can be secured by a Unilateral Undertaking, which I discuss further below. There is no indication from the relevant authorities that expansion of local schools would be impractical. Objectors also refer to issues with capacity at local medical facilities. No evidence to substantiate those concerns has been provided and this is not a reason for refusal of planning permission. The loss of views and any effect on property values would not justify the refusal of planning permission. The site is in private ownership and there is no loss of public open space. I note that the Local Planning Authority require open space and landscaped areas to be provided as part of the conditions on any planning permission. The management of communal areas, etc. would be addressed by a planning obligation.

Conditions and Unilateral Undertaking

29. The appellant has submitted a Unilateral Undertaking, under Section 106 of the Town and Country Planning Act 1990, for financial contributions towards spaces at local primary schools, mechanisms to ensure the management of communal areas and on-site public open space and to deliver affordable housing as required. The Council has confirmed the submitted undertaking meets the necessary statutory and policy requirements and that it should, therefore, be attributed due weight in the determination of the appeal. I consider that the submitted obligations are necessary, are related to the proposed development in scale and kind. The undertaking therefore meets the appropriate legal tests set out in Section 122(2) of the Community Infrastructure Levy Regulations 2010 and the policy tests in Circular 13/97. Accordingly, the Section 106 obligations should be afforded considerable weight in the determination of the appeal.

30. I have considered the suggested conditions and, having had regard to the advice in Welsh Government Circular 16/2014: *The Use of Planning Conditions for Development Management* (October 2014), have adjusted their wording in the interest of clarity and precision. Whilst not set out as a condition, the developer must comply with the duties outlined in section 71ZB of the Town and Country Planning Act 1990.

Overall Planning Balance and Conclusions

31. Based on the foregoing analysis, I have found that the development would run counter to adopted development plan policies designed to protect the countryside and would be contrary to Policy EC1 in relation to Green Barriers. However, the harm to the Green Barrier and the wider countryside and landscape setting would be clearly outweighed by the very exceptional circumstances described above. Furthermore, whilst the development would result in the loss of BMV agricultural land, such harm and associated policy conflict would be justified in light of the provisions of PPW and the particular circumstances of this case. The proposal would not be detrimental to highway or pedestrian safety. For the reasons given, I find that the issues of congestion and queuing raised in this case would not justify the refusal of planning permission. I have considered all the other matters raised and I judge that they would not when taken individually or together represent grounds to dismiss this appeal. I therefore conclude that the appeal should be allowed, subject to the conditions set out in the Annex below. 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' revised well-being objectives to build healthier, more resilient communities and environments.

A L McCooey

Inspector

Annex to decision APP/H6955/A/19/3238474

Conditions

1) Details of the appearance, landscaping, layout and scale of the development (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before development is commenced and shall be carried out as approved.

   REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

2) Plans and particulars of the reserved matters referred to in Condition 1) above, relating to the appearance, landscaping, layout and scale of the development, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

   REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

3) Any application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission.

   REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

4) The development hereby permitted shall begin either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

   REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

5) The development hereby approved shall be limited to a maximum of 112 dwellings.

   REASON: To define the terms of the planning permission and to ensure that the development has been assessed adequately in terms of the impact upon the local highway infrastructure. This will accord with the requirements of policies GDP1 and T8.

6) Before the commencement of the development the access shall be completed in accordance with the details shown in drawing no. DWG-2627-401 Rev C and retained for as long as the development remains in existence.

   REASON: To define the terms of the planning permission and in the interests of highway safety to ensure compliance with policy GDP1 of the Wrexham Unitary Development Plan

7) Prior to first use the vehicular access shall provide for visibility splays of 2.4 metres x 43 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction in excess of 1 metre in height above the level of the nearside edge of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.

   REASON: In the interests of highway safety to ensure compliance with policy GDP1 of the Wrexham Unitary Development Plan

8) All works in relation to the implementation of this permission, including deliveries to and / or leaving the site, shall be undertaken only between the hours of 7.30 and 18.00 Monday to Friday, and 08.00 to 14.00 on a Saturday, and at no time on a Sunday or a Bank Holiday.

REASON: To protect the amenities of the occupiers of nearby properties in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

9) No part of the development shall commence until a Construction Traffic Management Plan including provisions for contractor parking has been submitted to and approved in writing by the Local Planning Authority and the Plan as is approved has been fully implemented.

REASON: In the interests of highway safety and in accordance with Policy GDP1 of the Wrexham Unitary Development Plan

10) Prior to the first occupation of the development hereby approved, a footway shall be provided along the site frontage from a point west of the vehicular access in accordance with details which have been submitted to and approved in writing by the local planning authority.

REASON: In the interests of pedestrian safety to ensure compliance with policy GDP1 of the Wrexham Unitary Development Plan

11) No part of the development shall commence until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in strict accordance with the Method Statement as is approved. The Method Statement shall include the following:

a) A specification for tree protection fencing and ground protection measures that comply with British Standard 5837:2012;
b) A Tree Protection Plan showing the location of the trees to be removed and retained with their crown spreads, Root Protection Areas, Construction Exclusion Zones, and location of protective fencing and ground protection measures accurately plotted;
c) A full specification for any access, driveway, path, underground services or wall foundations within retained tree Root Protection Areas or Construction Exclusion Zone, including any related sections and method for avoiding damage to retained trees;
d) Details of general arboricultural matters including proposed practices with regards to cement mixing, material storage and fires;
e) Details of the frequency of supervisory visits and procedures for notifying the findings of such visits to the Local Planning Authority;
f) Details of all proposed tree works, including felling and pruning.

REASON: To ensure the work is carried out in line with accepted arboricultural practices for the long-term wellbeing of the trees in accordance with Policies GDP1, PS2 and EC4 of the Wrexham Unitary Development Plan.

12) No part of the development shall commence until full details for the arboricultural supervision of tree protection measures and any ground works within retained tree(s) Root Protection Areas, as specified by BS5837:2012 or as shown on a Tree Protection Plan have been submitted to and approved in writing by the Local Planning Authority. The supervisory works shall be carried out in strict accordance with the details as approved.

REASON: To ensure the work is carried out in line with accepted arboricultural practices for the long-term wellbeing of the trees in accordance with Policies GDP1, PS2 and EC4 of the Wrexham Unitary Development Plan.

13) No development shall take place until a phased site investigation of the nature and extent of contamination has been carried out and submitted to and approved in writing by the Local Planning Authority. If any contamination is found during the site investigation, no part of the development shall commence until a scheme specifying the measures that will be taken to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The site shall thereafter be remediated in accordance with the approved scheme. If during the course of development any contamination is found that has not been identified in the site investigation, no further development shall take place on those parts of the site where that contamination has been found until an additional scheme of remediation has been submitted to and approved in writing by the Local Planning Authority for those parts of the site. The relevant parts of the site shall thereafter be remediated in accordance with the additional scheme of remediation.

REASON: In the interests of the amenities of the future occupants of the buildings in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

14) Each part of the site subject to the remediation under the scheme(s) approved as part of condition 13 shall not be occupied/used until a Validation Report has been completed in respect of that part of the site and submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of the amenities of the future occupants of the buildings in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

15) No part of the development shall commence until a sewerage scheme to satisfactorily accommodate the foul water discharges from the development has been submitted to and approved in writing by the local planning authority. The scheme shall include details of and be informed by a Hydraulic Assessment. No part of the development shall be occupied until the foul water system has been fully implemented and brought into use in accordance with the approved scheme.

REASON: To ensure that the development does not cause a detrimental overload to the public sewerage system in compliance with policy GDP1 of the Wrexham Unitary Development Plan.

16) The landscaping and layout reserved matters to be submitted for the approved development pursuant to the requirements of condition 1 above shall include a scheme for all areas of open space and green space to be provided within the development site, including public amenity space and equipped children's play areas. The scheme shall be implemented in accordance with the approved details prior to the first occupation of the dwellings.

REASON: In the interests of providing for a high standard of development for the future amenity of the occupiers of the site in accordance with policies GDP1 and CLF4 of the Wrexham Unitary Development Plan.

Note:

Prior to development taking place and throughout the course of development you must comply with your duties in section 71ZB (Notification of initiation of development and display of notice: Wales) of the Town and Country Planning Act 1990.