

REPORT OF THE CHIEF PLANNING OFFICER – 2 OCTOBER 2023

APPLICATION NO:
P/2022 /0469

LOCATION:
LAND OFF BETHANIA ROAD
ACREFAIR WREXHAM LL14 3HP

DATE RECEIVED:
24/09/2021

COMMUNITY:
Cefn

DESCRIPTION:
CAIS AMLINELLLOL AR GYFER CODI
33 ANNEDD (YMDDANGOSIAD,
TIRLUNIO, CYNLLUN A GRADDFA) /
OUTLINE APPLICATION FOR
ERECTION OF 33 DWELLINGS (
APPEARANCE, LANDSCAPING,
LAYOUT AND SCALE RESERVED)

CASE OFFICER:
GH1

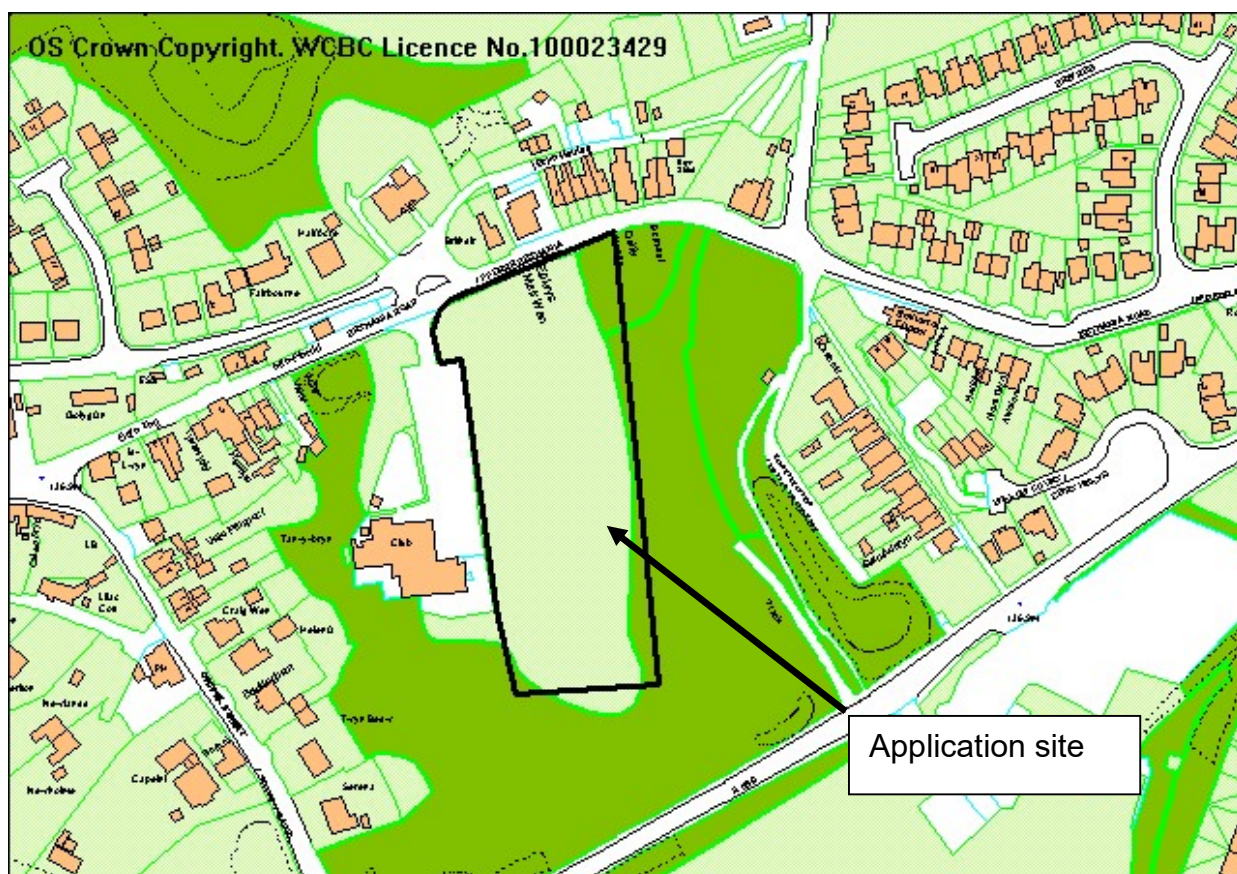
WARD:
Cefn

AGENT NAME:
MR ROGER LEE

APPLICANT(S) NAME:
MR R COOKE

THE SITE

The application site comprises approximately 0.7 hectares of grassland located within the settlement boundary of Acrefair. The site is located to the south of Bethania Road, from which access is gained. The application site is surrounded by areas of mature woodland (subject to a group TPO) to the east and south, and by an existing bar/restaurant to the east.



PROPOSAL

This application seeks outline planning permission for a residential development of up to 33 dwelling houses. Approval for access is sought at this stage. The proposed access would be directly off Bethania Road. Matters of appearance, landscaping, layout and scale are reserved for subsequent consideration.

HISTORY

P/2007/1420 Erection of 45 No. residential units with new access, landscaping and ancillary development. Refused 28/01/2008.

P/2012/0045 Outline application for mixed use development comprising residential, commercial and leisure uses. Granted 17/04/2013.

P/2014/0657 Application for Non-Material Amendment to Planning Permission P/2012/0045 dated 17/04/2013 – To allow various conditions to be discharged in accordance with a phasing plan as submitted with the application. Refused 31/10/2019.

RELEVANT PLANNING POLICY

National Planning Policy & Guidance:

- Future Wales: The National Plan 2040
- Planning Policy Wales (Edition 11)
- TAN 2: Planning & Affordable Housing
- TAN 5: Nature Conservation & Planning
- TAN 10: Tree Preservation Orders
- TAN 11: Noise
- TAN 12: Design
- TAN 15: Development & Flood Risk
- TAN 16: Sport, Recreation & Open Space
- TAN 18: Transport

Local Planning Policy

Adopted Wrexham Unitary Development Plan (1996 – 2011):

Policies PS1, PS2, PS3, PS4, PS5, PS8, PS11, GDP1, GDP2, EC4, EC6, EC13, H2, H7, CLF5, T8 and T9 are of relevance.

Draft Wrexham Local Development Plan (2013 – 2028):

Policies SP1, SP2, SP5, SP11, SP12, SP13, SP14, SP18, H2, NE1, NE2, NE3, NE6, DM1, CF2, T1, T2 and T3 are of relevance.

REPORT OF THE CHIEF PLANNING OFFICER – 2 OCTOBER 2023

Wrexham Local Planning Guidance Notes:

- 07 – Landscape & Development
- 10 – Public Open Space in New Housing Development
- 15 – Cycling
- 16 – Parking Standards
- 17 – Trees & Development
- 21 – Space Around Dwellings
- 23 – Development of Sites with Land Contamination
- 27 – Developer Contributions to Schools
- 28 – Affordable Housing
- 30 – Design
- 32 – Biodiversity & Development

CONSULTATIONS

Cefn Mawr Community Council

Objects on the following grounds:

- The site is not large enough to accommodate 33 houses.
- Highway infrastructure concerns - the road leading from Bethania Road to Llangollen Road is substandard - 33 more homes would generate a considerable increase in traffic to the area.
- The site was used as landfill for many years and is not suitable to build on as it is contaminated.

Local Member

Objects to the number of houses proposed for this development and expresses the following concerns:

- Bethania Road is not a main highway, with various pinch points particularly between this site and the turning for Delph Rd which reduces to single lane where it is not possible to see on-coming traffic;
- Bethania Road is the preferred walking route for children at Acrefair and Rhosymedre schools;
- The road is already a narrow with a dangerous junction onto the Llangollen road from Bethania Road which is going to be made worse with the increase in cars; and
- A high level of chemicals were buried in the proposed development site, forty years ago.

Public Protection Officer

No objections raised subject to conditions being attached to secure the completion of a noise survey and the submission of a Dust Management Scheme. Recommends informative notes in relation to construction/demolition noise levels and the burning of waste on-site.

Highway Officer

Objects on highway and pedestrian safety grounds for the following reasons:

REPORT OF THE CHIEF PLANNING OFFICER – 2 OCTOBER 2023

- The potential increase in both vehicular and pedestrian traffic approaching and using the Bethania Road and Llangollen Road junctions as a consequence of the proposals; and
- The potential for residents of the proposed development to walk along the carriageway of Bethania Road to access the site by foot

The Highway Officer notes that Bethania Road would be the primary route for accessing the application site from the wider highway network. Bethania Road is narrow in places, including at its junction with Chapel Street. The width of the road does not allow for a footway to be provided along its entire length.

The Highway Officer advises that the applicant's proposed footway appears to be on land outside of their control and through woodland with unknown gradients. Whilst the proposed footway may provide a direct link to bus stops, it would not prevent pedestrian flows to and from the site along Bethania Road, for example parents and children walking to school.

The Highway Officer raises no concern about the site access onto Bethania Road, confirming adequate visibility is achievable.

Contaminated Land Officer

Recommends that outline planning permission should not be granted until intrusive site investigation work to establish whether contamination is present within the site (in particular gas risks) has been completed; and it is clear that the development can be completed safely so that future site users are protected from any risks for the lifetime of the development. Advises that if contamination is found, sufficiently robust mitigation would need to be put in place which would last the lifetime of the development.

Whilst reference is made within the submitted documents to an adjacent development and the level of risk being managed there with standard measures, the Council's Contaminated Land Officer advises that it cannot be certain, without site investigation that the same would apply at the application site. The Contaminated Land Officer advises that each site requires its own site specific investigation and whilst adjacent or nearby investigations can be informative, it is not safe to make assumptions that their findings will be similar and sound enough to base decisions on for the site in question.

Arboricultural Officer

Expresses concerns about the number of plots proposed and subsequent limitations and pressures impacting upon any proposed green infrastructure and existing protected woodland trees.

Advises that the plot density should be reduced with any revised layout being integrated more sympathetically into the existing natural and built environment. Explains that greater consideration should also be shown regarding the influence and protection of the woodland along with the ability of those residents affected to enjoy their limited garden space.

REPORT OF THE CHIEF PLANNING OFFICER – 2 OCTOBER 2023

Ecology Officer

Advises that the submitted Ecology Report does not include sufficiently detailed information on the risk to protected species and does not demonstrate that the proposal has a net biodiversity benefit. Advises that further ecology assessments are required before outline planning permission can be granted; namely a bat activity survey.

Education Department

Confirms that a financial contribution towards the delivery of primary education within the site's vicinity is sought. In the absence of such a contribution, the Education Department would object to the application.

Welsh Water

No objections raised to the proposal subject to a condition being attached to any outline planning permission granted to secure the submission of a foul and surface water drainage scheme prior to the commencement of development.

Welsh Water confirm that capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site, and that Cefn Mawr Wastewater Treatment Works has an Environmental Permit in place.

The Coal Authority

No objections raised to the proposed development in outline form, subject to conditions being imposed to secure a scheme of intrusive site investigations, a report of findings arising from the intrusive site investigations and, if required, the submission of details of any remedial works for approval and their subsequent implementation.

Natural Resources Wales

Concerns raised because inadequate information has been provided in support of the proposal. NRW have advised further consideration is required regarding foul drainage and noted that the application site is within the catchment of the River Dee and Bala Lake SAC. Explains that it is therefore necessary to consider whether the proposed development will have an adverse impact on the SAC from additional foul water flows.

NRW have also recommended conditions being imposed to require the site to be investigated for contamination and for a remediation scheme to be submitted for approval and subsequent implementation.

Health & Safety Executive

Advises against the granting of planning permission on safety grounds,

Press Notice

Expired 13/7/2022

Site Notice

Expired 7/7/2022

REPORT OF THE CHIEF PLANNING OFFICER – 2 OCTOBER 2023

Neighbours

The owners/occupiers of 7 nearby properties were notified on 13/06/2022 and re-notified on 28/09/2022 following the submission of amended plans.

15 objections received expressing the following concerns:

- Highways safety;
- Bethania Road is already congested and cannot accommodate more traffic;
- Overlooking and overshadowing;
- No demand for additional housing;
- Lack of infrastructure available for existing residents;
- Contamination concerns;
- Development would increase phosphate inputs into River Dee;
- Too much residential development within Acrefair;
- There are no pavements along Bethania Road, nor is there space to accommodate them;
- Land should be retained for community use;
- Development would impact upon trees and ecology; and
- Over-development of the site.

SPECIAL CONSIDERATIONS

Principle of Development The application site is located within the defined settlement boundary for Acrefair as per both the Wrexham Unitary Development Plan and the draft Wrexham Local Development Plan.

UDP Policy H2 permits new residential development within defined settlement limits subject to it complying with the general requirements of Policy GDP1. Draft LDP has no equivalent policy to UDP policy H2. However policy SP2 directs new residential development to sites within defined settlements limits. Draft LDP policy DM1 sets broadly similar requirements to UDP policy GDP1. As such, there is no policy objection in principle to the redevelopment of the site for housing.

Design: Matters relating to appearance, landscaping, layout and scale are reserved for subsequent consideration. The proposed site layout plan is purely indicative and therefore the grant of outline permission would not commit the Council in respect of the layout or indeed density.

The site is not subject to any specific designations in the UDP or draft LDP. The proposed development would be viewed in the context the existing built development in the vicinity of the site. Subject to more detailed consideration of design at reserved matters stage, it is not envisaged that the development of the site for residential use would detract from the character of the locality.

In light of the above, the proposed development accords with policies PS2 and GDP1 of the UDP and policy DM1 of the draft LDP.

REPORT OF THE CHIEF PLANNING OFFICER – 2 OCTOBER 2023

Public Open Space: Wrexham UDP Policy CLF5 requires new development of ten dwellings or more to provide informal public open space within the site at a minimum level of 0.4 hectare per 50 dwellings. It explains that such open space should be conveniently located for users, and should be usable for playing field(s) and/or equipped children's play area(s) and open amenity area(s). Draft LDP Policy CF2 states that a minimum requirement of 0.25ha per 50 dwellings (50sqm per dwelling) is expected.

The indicative plans make provision for 1700 sq. metres of public open space within the site, which accords with LDP Policy CF2. The indicative plans demonstrate that an adequate area of open space could be provided in accordance with LDP policy CF2. Whilst the open space provision is less than UDP policy CLF requires, given that the LDP is underpinned by recent evidence regarding open space provision and has been found to be sound by the LDP Inspectors, the LDP policy should be afforded very significant weight in the determination of the application.

The indicative siting of the open space as per the site plan is not appropriate, being poorly integrated into the site layout. However, the site plan is indicative as explained and this matter could be given further consideration at the reserved matters stage. A suitably worded condition could also be imposed on any outline planning permission requiring the layout details submitted at reserved matters stage to include provision for on-site public open space. In addition, the long-term management of on-site open space could be secured by way of a Planning Obligation in the usual manner.

Amenity: Detailed consideration of the impact upon residential amenity would be given at reserved matters stage. However, sufficient distance exists between the application site and nearby residential properties to ensure a development could meet the requirements of LPGN21. As such, the development need not cause any undue harm to the living conditions of the occupiers of existing nearby properties by way of loss of light, privacy or visual over-dominance.

In terms of other potential impacts, such as noise, the Council's Public Protection Officer raises no objections subject to conditions being imposed in respect of a noise survey due to the proximity of the adjacent bar/restaurant and also relating to construction/demolition noise

In such terms, the proposed development is considered to be acceptable in terms of amenity issues, in accordance with UDP policy GDP1 and draft LDP Policy DM1.

Highway Safety: The Transport Assessment accompanying the application assumes that Bethania Road is subject to light to moderate traffic at peak periods. However no traffic counts appear to have been undertaken to determine existing traffic volumes.

REPORT OF THE CHIEF PLANNING OFFICER – 2 OCTOBER 2023

In the absence of traffic surveys, the Highway Officer raises concerns about the adequacy of the junction between Bethania Road and Llangollen Road to safely accommodate additional traffic flows.

In addition, whilst the site is physically within a reasonable distance of a range of local facilities and public transport, the narrowness of Bethania Road does not allow for a footway to be provided along its length in an easterly direction from the site. Furthermore, whilst intermittent footways are present along Bethania Road in an easterly direction from the application site, there is no consistent length of footway leading to the site. As a result, pedestrians associated with the proposed development would be forced to walk within the highway itself. The Highway Officer therefore also raises concerns in relation to pedestrian safety.

The applicant has proposed a footway link from the south-east corner of the site to connect to an existing Public Right of Way (PROW), Footpath Cefn No.71. Some improvements to the PROW, including surfacing with compacted stone and low level lighting is also proposed. However, it is unclear if the land required between the site and the PROW is within the applicant's control. In any event, this it would involve substantial works through an area of woodland subject to a Tree Preservation Order. The gradient of the proposed path has not been detailed.

In addition to the above technical issues, the proposed path would not adequately address pedestrian safety concerns. Whilst it would provide a direct route to bus stops on Llangollen Road, the more direct route to other local facilities, notably Ysgol Acrefair, is to the west via Bethania Road. The proposed footway is therefore unlikely to deter pedestrians travelling to and/from the site via Bethania Road, presenting an unacceptable risk to their safety.

Para 3.12 of Planning Policy Wales (Edition 11) states that *“Good design is about avoiding the creation of car-based developments. It contributes to minimising the need to travel and reliance on the car, whilst maximising opportunities for people to make sustainable and healthy travel choices for their daily journeys. Achieving these objectives requires the selection of sites which can be made easily accessible by sustainable modes as well as incorporating appropriate, safe and sustainable links (including active travel networks) within and between developments using legal agreements where appropriate”*.

By virtue of the lack of safe pedestrian access to the application site, the development is poorly placed to encourage non-car modes of transport, contrary to the requirements of Planning Policy Wales. There is no space along the highway with which to provide a footway along Bethania Road's extent meaning this matter could not be satisfactorily addressed by a planning condition or planning obligation to require new footways to be constructed.

Having regard to the above, the development would have the potential to adversely impact upon highway and pedestrian safety within the site's vicinity,

REPORT OF THE CHIEF PLANNING OFFICER – 2 OCTOBER 2023

contrary to UDP Policies GDP1 (Criterion D) and T9, Policies SP11, DM1, T1 and T2 of the draft LDP, TAN 18 and Planning Policy Wales.

Ecology: There are no statutory designated ecological sites within close proximity to the application site, although the site is bounded to the south and east by an area of mature woodland subject to a Tree Preservation Order.

The Council's Ecology Officer has advised that the submitted Ecology Survey does not include sufficiently detailed information regarding the potential risks to protected species arising from the development. Further assessments would be required before outline planning permission could be granted, namely a Bat Activity Survey.

Paragraph 6.2.2 of TAN 5 advises:

“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. It is considered best practice that such a survey is carried out before planning application is submitted. Planning permission should not be granted subject to a condition that protected species surveys are carried out and, in the event that protected species are found to be present, mitigation measures are submitted for approval

In light of the above, the proposed development would conflict with policy EC6 of the UDP and policy NE1 of the draft LDP.

Trees: Whilst concerns have been expressed by the Council's Arboricultural Officer, the submitted site layout is indicative at this stage. Further consideration could be given to this matter at reserved matters stage. As such, and notwithstanding the Arboricultural Officer's concerns, there is no reason to conclude the site could not be development in compliance with policy EC4 of the UDP and policy NE3 of the draft LDP.

Phosphorous: The development would connect to Cefn Mawr Wastewater Treatment Works. Whilst the Treatment Works does have an Environmental Permit, it does not have phosphate stripping in place and at this time and the permit has not been assessed against the revised phosphorus targets set-out in the conservation objectives for the River Dee and Bala Lake SAC, by NRW. Given that this work is still outstanding, it is not currently possible to conclude that the proposed development would not have an adverse impact on the SAC from increased phosphate inputs originating from the proposed development. Accordingly the development conflicts with Policy EC6 of the UDP and Policies NE1 and NE6 of the draft LDP, together with Planning Policy Wales and TAN 5.

Contamination: Para 6.9.12 of Planning Policy Wales explains that the planning system should guide development to reduce the risk from natural or man-made hazards affecting the land surface or sub-surface, and advises it is

REPORT OF THE CHIEF PLANNING OFFICER – 2 OCTOBER 2023

essential that any physical, geo-technical, chemical and other relevant constraints on the land, including the anticipated impacts which climate change may have, are taken into account at all stages of the planning process.

Part of the application site is a former landfill and the majority of it was previously used for engineering/industrial purposes. The application is accompanied by a Desktop Geotechnical and Geo Environmental Site Investigation, together with an additional letter from a Consultant Engineer. The Contaminated Land Officer has considered these reports and advised that outline planning permission should not be granted until further site investigation works have been completed and it has been demonstrated that the development could be completed without posing a risk to future occupiers of the site.

Whilst the applicant has been asked to submit additional details to satisfy the requirements of the Contaminated Land Officer, these have not been forthcoming. On this basis and in line with the requirements of Section 6 of Planning Policy Wales (Edition 11), it is considered that insufficient information has been submitted to demonstrate that the risks from contamination on-site are acceptable and can be managed/remediated for the end users of the site. The proposals therefore also conflict with policy GDP1 of the UDP and DM1 of the draft LDP.

Health & Safety: The Health and Safety Executive (HSE) is a statutory consultee because of the nature of the development and the application site falls within the Consultation Distance of Major Hazard Sites/ pipelines - in this instance the former Flexys works. The HSE advises that outline planning permission should not be granted in this case because of the number of proposed dwellings in close proximity to the former Flexys works.

Whilst the HSE have advised against grant of outline planning permission, it is of note that a number of sites around Cefn Mawr and Acrefair have previously granted schemes of residential development despite HSE having advised against. This includes the former Air Products site. When the Council notified the HSE of their intention to grant planning permission for that site, the HSE did not exercise their right to 'call in' the application for determination by Welsh Ministers.

Given that the hazard in this instance is a vacant and now derelict site, it is considered that there would be no existing or imminent risk to potential occupiers of the site. However, should Members be minded to grant outline planning permission, there would be a requirement to notify HSE allowing 21 days to determine whether to call-in the application for the consideration of the Welsh Ministers.

Other Matters: UDP Policy H7 and Local Planning Guidance Note 28 require a 25% affordable housing contribution to be provided on sites of 25 or more new dwellings. However, Policy H2 of the draft LDP requires a 0% contribution on sites Cefn Mawr and Rhos sub market areas, which the site

REPORT OF THE CHIEF PLANNING OFFICER – 2 OCTOBER 2023

lies within. The LDP policy is underpinned by viability evidence that the LDP Inspectors have found sound. On this basis, the LDP policy should be afforded very significant weight in the determination of the application, particularly as the UDP policy and LPGN28 are not underpinned by any viability evidence. On this basis, it is considered that conflict with Policy H7 of the UDP is not be a sustainable reason to refuse planning permission in this case

A consultation has response has been received from the Council's Education Department, confirming that a financial contribution towards the delivery of Primary education within the host area is sought in-line with the provisions of Local Planning Guidance Note 27. Any permission granted would therefore be subject to the completion of a planning obligation to secure the payment of the requested commuted sum.

CONCLUSION

The site is located within the settlement limit in both the UDP and draft LDP, thus the principle of residential development is acceptable. However, a lack of technical evidence means that the proposal fails to demonstrate that concerns relating to highway and pedestrian safety, ecology, the River Dee and Bala Lake SAC and land contamination could be adequately addressed. The proposal is therefore contrary to the requirements of UDP Policies PS11, GDP1, EC6 and T9, Draft LDP Policies SP11, SP14, NE1, NE2, NE6, T1 and T2, Planning Policy Wales and Technical Advice Note 5.

RECOMMENDATION: That permission be REFUSED

REASON(S)

1. In the absence of any compelling technical evidence to the contrary, it is considered that the proposal would lead to increased vehicle movements at the junction of Bethania Road and Llangollen Road which has substandard visibility. As such, the proposal would cause an unacceptable increase in the risk to the safety of highway users, contrary to policies GDP1 and T9 of the Wrexham Unitary Development Plan and Policies SP11, DM1, T1 and T2 of the draft Wrexham Local Development Plan.
2. Inadequate pedestrian footways exist along Bethania Road to and from the application site which means that there would not be a safe means of access to/from the site for pedestrians. The development therefore conflicts with policies GDP1 and T9 of the Wrexham Unitary Development Plan and Policies SP11, DM1, T1 and T2 of the draft Wrexham Local Development Plan.
3. In the absence of any compelling evidence to the contrary, it is considered that the proposed development would lead to increased phosphate inputs entering the freshwater catchment of the River Dee and Bala Lake Special Area of Conservation, thereby having a harmful effect on its ecosystem. In such terms, the proposal conflicts with Policy EC6 of the Wrexham Unitary Development Plan and Policies NE1 and NE6 of the draft Wrexham Local Development Plan.

REPORT OF THE CHIEF PLANNING OFFICER – 2 OCTOBER 2023

4. Insufficient information has been submitted to demonstrate the site can be developed without adverse impacts upon protected species. The development therefore conflicts with Policy EC6 of the Wrexham Unitary Development Plan, Policies NE1 and NE2 of the draft Wrexham Local Development Plan, Technical Advice Note 5 and Paragraphs 6.4.22 and 6.4.23 of Planning Policy Wales (Edition 11).

5. Insufficient information has been submitted in relation to land contamination to demonstrate that the development will not pose an unacceptable risk to future occupiers of the site. The development therefore conflicts with Policy GDP1 of the Wrexham Unitary Development Plan, Policy DM1 of the draft Wrexham Local Development Plan, and Paragraph 6.9.12 of Planning Policy Wales (Edition 11).

6. In the absence of an executed Planning Obligation to secure an appropriate contribution to local education facilities, the proposal conflicts with Policy GDP2 of the Wrexham Unitary Development Plan and policy SP5 of the draft Local Development Plan.
