

RE-OPENED HEARING

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 on land east of Tan y Bont,
Main Road, Rhosrobin, Wrexham**

Appeal ref. APP/H6955/A/17/3182282

FURTHER EVIDENCE SUBMITTED ON BEHALF OF THE APPELLANT

September 2018

1. Introduction

- 1.1 As advised in correspondence from PINS, it is our understanding that the Hearing has been reopened to enable the Inspector to consider further evidence to be put forward by both the appellant and the Council in response to the matter of the dis-application of paragraph 6.2 of TAN 1. It is our understanding that, subsequent to the additional Hearing session the Inspector will submit an addendum report to the Ministers in advance of their final determination.
- 1.2 This document represents the further evidence submitted on behalf of the appellant and form the basis of further discussion at the, to be scheduled, hearing session.
- 1.3 As background, the Hearing in this case took place on 14th February 2018. There followed a very brief period clarifying agreed planning conditions. We received notification that the Inspector's Report was received by the Welsh Ministers on 29th March 2018 – some 16-weeks prior to the Cabinet Secretary for Energy, Planning and Rural Affairs 'Call for Evidence' to all Heads of Planning in Wales and the associated dis-application of paragraph 6.2 of TAN 1, the document, which in the view of the Welsh Ministers, calls for them to disagree with the Inspector's recommendation that the appeal be allowed.
- 1.4 Taking the basis of our evidence presented through this additional Hearing statement aside, our dissatisfaction at the poor application of correct and fair procedure by the Welsh Ministers is expressed very strongly, which is clearly contrary to the very clearly expressed exhortations for decisions to be made in a timely manner. Plainly, had the appeal been determined in a timely manner consistent with the public expressions concerning such matters, there would have been no basis whatsoever to disagree with the Inspector's recommendation.
- 1.5 With reference to the dis-application of paragraph 6.2 of TAN 1 our position is a clear one, a position we understand is also endorsed by the Council, in that the need to increase housing land supply is still afforded considerable weight by decision makers where there is still a significant need for new housing in a Council's administrative area and this very real need has to be met now. In PPW the need for housing is emphasised we need to reference other aspects of Welsh policy that are unchanged including that maintaining a 5 YS is a key aspect. This is based upon the current context of a clear and justified evidence base, which supplements the emerging Local Development Plan. Accordingly, the current identified housing requirement in the Borough is a material consideration in its own right, which must be met now through sites that are available and deliverable now and so forms part of the very exceptional circumstances that exist.
- 1.6 Please note, this statement is put forward without the benefit of the full Inspector's Report, as submitted to the Welsh Ministers. Further to a number of requests put forward to the Welsh Ministers, we have been provided with a series of relevant extracts of the report. The response from the Welsh Ministers reads as follows:

It is not normal practice for the Welsh Ministers to release a report of a Planning Inspector before the Welsh Ministers have made a decision on the application or appeal. However, to enable the parties to understand the reasoning behind the issues with which the Welsh Ministers are minded to disagree with the Inspector's recommendation and to provide an informed response to the issues raised we will release relevant extracts of the report. I am attaching an extract from the Inspector's Report which relates to the conclusions reached in

respect of the provision of housing land supply and the related paragraphs which are referenced in those conclusions.

- 1.7 Whilst we consider the fact that we have not been party to a full copy of the Inspector's Report, which we feel compromises our position as we are not party to the comprehensive assessment that will have been applied by the Inspector to a series of policy matters and key material considerations and the extent of weight they will have applied to increasing housing land supply in their decision, we make comment on the provided extracts (submitted as **Appendix 1** to this statement) as follows. It is even more pertinent that the following extracts are from the Inspector's Conclusions and are directly aligned with the very exceptional circumstances position:

Para.83

...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.

Para.84

...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.

Para.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.

- 1.8 The conclusions made by the Inspector highlights the fact that the overriding factor is the need to increase supply. This is taken as a material consideration in its own right, regardless of the issue of 5-year housing land supply and the associated dis-application of paragraph 6.2 of TAN 1. This clearly highlights the fact that it is not solely the lack of a 5-year housing land supply that the Inspector has attached the considerable weight argument to.
- 1.9 Again, this highlights the fact that the overriding factor is the need to increase supply. This is taken as a material consideration in its own right, regardless of the issue of 5-year housing land supply and the associated dis-application of paragraph 6.2 of TAN 1.
- 1.10 It is further highlighted that the need to increase supply of housing and the fact that it will not be met without the release of greenfield sites, has been aligned with a series of references to Local Planning Policy (adopted and emerging). It is not a decision that has simply been aligned with National Policy, more specifically paragraph 6.2 of TAN 1.
- 1.11 As referenced in the Cabinet Secretary's letter of 18th July to all Heads of Planning in Wales, as a result of the disapplication of paragraph 6.2 of TAN 1, it will be a matter for decision makers to determine the weight to be attributed to the need to increase housing land supply where an LPA has a shortfall in its housing land. In our opinion we are faced with a scenario where, subject to further detailed assessment through the Hearing (re-opened), it is clear that

the weight to be afforded by the Inspector to the need to increase housing land supply now is considerable. The very special circumstances argument remains as valid as ever.

- 1.12 It is our understanding that the Council, through their response to the Welsh Ministers invitation for initial representations to the re-opening of the Hearing, highlighted the fact that the need to increase housing land supply remains an important material consideration because the County Borough has a zero housing land supply and there is an identified housing requirement as set out in the emerging Local Development Plan. We would add to this that there is a clear strategy to provide a large proportion of the housing land supply through the use of greenfield land, which includes the release of land from the Green Barrier.
- 1.13 Therefore, regardless of the dis-application of paragraph 6.2 of TAN 1, we are of the opinion that the Inspector can apply considerable weight to the very real and current need to increase housing land supply and apply planning balance to the policies and circumstances as they currently exist.

2. Dis-application of paragraph 6.2

- 2.1 As a pre-cursor to the wider review of housing delivery, earlier this Summer the Welsh Government consulted on the dis-application of paragraph 6.2 of TAN 1 to remove the emphasis placed on attaching “considerable” weight to the lack of a five-year housing land supply as a material consideration in determining planning applications for housing.
- 2.2 The consultation on the proposed dis-application of paragraph 6.2 of TAN 1 was related to a forthcoming wide-ranging review of the delivery of housing through the planning system. This review is being undertaken in response to the current housing land supply position and the directly related situation regarding the delivery of LDP housing requirements, with the aim of ensuring the most appropriate housing sites are brought forward as part of a systematic and rigorous LDP process.
- 2.3 The dis-application of paragraph 6.2 of TAN 1 formally came into effect on 18th July 2018, as the Welsh Ministers issued a ‘call for evidence’ to the Heads of Planning in Wales, which forms an initial part of the wider review of housing delivery. It is a temporary arrangement, remaining in force for the duration of the review.
- 2.4 It is our understanding that the rationale for this appears to be related to the receipt of speculative housing proposals that generate uncertainty and is to the detriment of the plan led system. Our opinion is that, in the case of this appeal, that rationale does not gain any traction and is approach is expanded upon as follows:
- Section 38(6) applies. The appeal proposal addressed the compliance with the development plan and the application of other material considerations.
 - The statutory development plan is considerably out of date (adopted 2005 and addressed development needs ending in 2011)
 - The appeal is being brought forward because development plans are failing to maintain a 5-year supply. The appeal therefore supports development plans in delivering much needed development in sustainable locations, for Council’s such as Wrexham that are clearly in difficulty. To suggest that the response to the housing shortage is to prevent further planning applications being made is counterintuitive.
- 2.5 The Welsh Minister’s ‘Summary of Responses’ document, published subsequent to the consultation on the proposed dis-application of paragraph 6.2 of TAN 1 earlier in the summer, speaks volumes in its statistical content. Substantive responses were received from the business community (largely made up of housebuilders and planning consultants) with a resounding 93% opposition to the proposed temporary dis-application of paragraph 6.2 of TAN 1. The business sector argued that TAN 1, and in particular paragraph 6.2, provides necessary and appropriate guidance to inform the decision-maker when determining planning applications where housing land supply is less than 5 years. Businesses also argued that the qualification in paragraph 6.2 regarding compliance with development plan and national policies ensured that developments would only be allowed where they were in sustainable locations. Evidence regarding planning applications and appeal decisions was cited to support this assertion.

Well-being of Future Generations (Wales) Act 2015 (WFGA)

- 2.6 Section 5 of the Well-Being of Future Generations (Wales) Act 2015 establishes the sustainable development principle. This places on public bodies an obligation to take into account “the

importance of balancing short terms 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 Welsh Ministers letter that responds to a housing shortage with a message that is being construed as a vehicle for preventing residential development appears to be inconsistent with straightforward sustainable development principles.

- 2.7 The WFGA requires public bodies in Wales to think about the long-term impact of their decisions, to work better with people, communities and each other, and 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.
- 2.8 The WFGA sets out five ways of working for public bodies to achieve the seven well-being goals:
- Long-term – the importance of balancing short-term needs with the need to safeguard the ability to also meet long-term needs.
 - Integration – consider how the public body's well-being objectives may impact upon each of the well-being goals, on their objectives, or on the objectives of other public bodies.
 - Involvement – the importance of involving people with an interest in achieving the wellbeing goals, and ensuring that those people reflect the diversity of the area which the body serves.
 - Collaboration – acting in collaboration with any other person (or different parts of the body itself) that could help the body to meet its well-being objectives.
 - Prevention – how acting to prevent problems occurring or getting worse may help public bodies meeting their objectives.
- 2.9 Planning Policy Wales 9 (PPW9), and the emerging draft PPW10, entrench the five ways of working to achieve the seven well-being goals in planning policy.

The Importance of Housing Delivery

- 2.10 The National Housing Strategy (2010) established a series of actions to bring about investment in housing. The actions aimed to: meet people's need for a home; bring about positive economic impacts through jobs and training opportunities; improve people's health and well-being; and benefit the environment. Housing delivery tackles poverty and inequality, opening new opportunity for people.
- 2.11 The importance of housing delivery is consolidated in the second priority area in Welsh Government's National Strategy Prosperity for All (September 2017). The document 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.
- 2.12 On this basis, the delivery of a choice and quality of 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 WFGA.

3. Consideration of the Issues

3.1 Key points:

- The case remains one where section 38(6) of the 2004 Act applies.
- A material consideration is a question of law not policy.
- The Welsh Ministers decision to enforce the temporary dis-application of 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 taker.
- The overriding effect of the Welsh Ministers position is to signal that the temporary removal of attaching the "considerable" weight component from national policy and the associated scenario of not being able to demonstrate a 5-year housing land supply. That cannot mean that the Welsh Ministers, or other decision makers, must invariably give less than considerable weight in any given decision otherwise that would be an unlawful fetter on the Welsh Ministers discretion. Each case will still have to be considered on its merits with contribution to meeting housing need being undoubtedly material.

3.2 The question arises what weight should be given in this case. In our opinion great weight must be applied in light of the following:

- In the case of Wrexham Council, it is not simply a case of not being able to demonstrate a 5-year housing land supply, the actual position is a '0' supply. It is acknowledged that the Council's Housing Land Monitoring Statement (April 2015) contains the Council's most up-to-date published position in respect of housing land supply. It is a matter of fact that the Housing Land Monitoring Statement sets out that the Council has a zero housing land supply. At paragraph 1.1 it states: "In the absence of an up-to-date Unitary Development Plan (UDP) and adopted Local Development Plan (LDP) in accordance with the latest Welsh Government Guidance on Joint Housing Land Availability Studies (JHLAS), TAN1, January 20015 [sic], there is no requirement for a Local Authority to prepare a JHLAS and the authority is considered to have a zero land supply."
- It is fundamentally clear that there is a significant need for additional land to be brought forward for housing.
- Housing is not an abstract consequence. The delivery of housing is to facilitate very real social consequences. Housing enables household formation. The converse is also true – 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 creation of jobs.
- The failure of housing supply to keep up with rising demand has wide social and economic implications. It has been clear for some time that housing supply is not keeping up with demand across the UK. Reasons for rising demand include improved life expectancy rates and a growing number of one-person households. There is an ever increasing number of households on local authority housing registers and significant levels of overcrowding in the private and social housing stock. Poor housing impacts directly on residents' health and educational attainment, while difficulties in accessing affordable housing can also 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.

- Effectively a moratorium would be in place preventing delivery of market and affordable housing.
- There is a very real need to address Wrexham's need for affordable housing and the delivery of market housing is the only effective vehicle for delivery of this for the foreseeable future. It must be acknowledged that these are real people in real need now.
- Housing supply is more than just a mathematical calculation. It is noteworthy that the Government is particularly concerned to ensure that there is a real supply of housing to meet local needs, both in terms of general housing and also in terms of affordable housing. 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 that land comes forward early enough to meet real needs.
- It must be acknowledged that the lack of housebuilding within Wrexham Borough 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.

Local Housing Strategy

- 3.3 In 2013, the Council published its Local Housing Strategy 2013-2018, 'The New Housing Landscape Responding to the Challenges.' It establishes how the Council is tackling the challenges posed by the recession and the impact of welfare reform. The Strategy 'will play a pivotal role in helping to deliver sustainable communities in well-designed neighbourhoods where people can access quality, affordable housing.'
- 3.4 The Strategy is guided by a series of underlying principles, which focus upon:
- Reviewing and monitoring what works, to build in flexibility and adapt to the changing political landscape;
 - Having housing policies that contribute to sustainable development, social, economic and environmental policies;
 - Supporting the development of the economy;
 - Ensuring that it relates to rural, urban, town and village contexts; and
 - Being applicable across tenures (public and private) and community groups (voluntary, tenant, resident and homeless).
- 3.5 The Strategy sits within the wider local strategic context and links to both the Wrexham Plan and the corporate Council Plan. It also sits alongside, and links with, the Local Development Plan. Priorities within the Housing Strategy focus on three themes under a framework of developing sustainable communities:
- More housing more choice;
 - Improving homes and communities; and
 - Better services to improve people's lives.

4. Approach by Wrexham Council – determination of applications

- 4.1 Wrexham Council themselves acknowledge the need to increase housing land supply and how it remains an important material consideration despite the dis-application of paragraph 6.2 of TAN 1. This position remains consistent both pre and post the temporary dis-application. This is highlighted as follows:

- **Planning Officer's letter to Welsh Ministers in response to letter of 31 July 2018 concerning the planning appeal in question.**

Extract as follows:

Despite the disapplication of paragraph 6.2 of TAN1 the need to increase housing land supply remains an important material consideration (our emphasis) because the County Borough has a zero housing land supply and there is an identified housing requirement as set out in the emerging Local Development Plan.

- **Planning Officer's report to Committee – post dis-application of paragraph 6.2 of TAN 1.**

P/2017 /0879 - FERNDAL GARDEN CENTRE, BERSE ROAD, CAEGO, WREXHAM - OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT (8 NO. DWELLINGS)

Extract from officer's report to Committee (August 2018):

The Council are unable to demonstrate a supply of allocated land to meet a demand over a 5 year period. TAN1 advises that where this is the case, it should be considered as a 0 year supply of land. Recent changes to TAN1 have removed previous advice that suggested considerable weight be given to this issue in determining housing schemes which would otherwise not accord with UDP policy. It is for the LPA to apportion what weight to give. I remain of the opinion that considerable weight should be given to this matter. (our emphasis by underlining)

The site does not adjoin an existing settlement but is considered to be previously developed land (PDL). However PPW defines in detail the definition of PDL. It does not necessarily run to the extreme of the site boundary and goes onto to state that whilst there is a preference to develop PDL over greenfield sites, other matters such as the location of the development come me into play.

Green Barrier designations are in place to ensure openness is maintained, to prevent coalescence of settlements and promote urban regeneration. Development may be acceptable where it can be demonstrated that these aims are maintained or where very exceptional circumstances can be demonstrated.

The site is prominent and does not represent a logical addition to the settlement. The area of land is associated with a built form of development but does not feature a significant amount of physical buildings. I do not consider that the proposal will maintain the openness of the green barrier.

The amount of development will be evident and prominent and it will not appear as a logical extension to the existing settlement. Whilst the LPA must give weight to the Council's shortage of housing land supply, I do not consider it outweighs the harm that would be attributed to the

reasons for including the land within the Green Barrier. No other exceptional circumstances have been demonstrated in this instance.

Recommendation of refusal.

- 4.2 This highlights the Council's stance prior to the temporary TAN 1 changes. The site in Green Barrier has been refused BUT principally on non-compliance with Green Barrier policy grounds and NOT on the dis-application of paragraph 6.2 of TAN 1. In fact it is to the contrary of the temporary TAN 1 position, as the Officer clearly states that **considerable weight** should be given to the matter of housing land supply and the recognised shortfall.

- Planning Officer's report to Committee – pre dis-application of paragraph 6.2 of TAN 1.

P/2016 /0080 - LAND SOUTH OF BERSE ROAD, CAEGO, WREXHAM - OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT AND ASSOCIATED VEHICULAR AND PEDESTRIAN ACCESS

Extract from officer's report to Committee (April 2018):

Planning Policy Wales (PPW) at paragraph 9.2.3 requires local planning authorities to ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing. Members will be aware that under the provisions of TAN1: Joint Housing Land Availability Studies (JHLAS) the Council has a statutory duty to monitor housing land supply on an annual basis in the form of the JHLAS. In accordance with paragraph 8.1 of TAN1 (Jan 2015) Wrexham is now unable to demonstrate whether it has a 5 year housing land supply because the UDP plan period expired in 2011.

*The Wrexham Local Development Plan Preferred Strategy, which has recently been the subject of public consultation, proposes the development of approximately 11,715 new homes over the period 2013-2028. Taking into account existing housing land supply this equates to a requirement for sufficient land to be brought forward for approximately 6,738 houses to be built. It is therefore clear that there is a significant need for additional land to be brought forward for housing. TAN1 (paragraph 6.2) advises that **the need to increase supply should be given considerable weight** when dealing with planning applications, provided that the development would otherwise comply with national planning policies.*

Whilst it is acknowledged that the development of the site does not accord with all of the strategic policies relating to the site location, the proposal presents the opportunity to deliver without significant known difficulty, a high quality development which would make a significant contribution towards much needed housing. Whilst representing a departure from some of the policies of the adopted UDP, the development of the site is justified in this instance as contributing to the 5 year land supply whilst at the same time being in a sustainable location and providing an acceptable form of development. The proposal would maintain the openness of the green barrier and does not conflict with the purpose of including the land within it. The development would make a positive contribution to the character and appearance of the area and I recommend accordingly.

Recommendation to grant (overturned at Committee)

- 4.3 This highlights the Council's stance since the temporary TAN 1 changes came into effect. The site is in Green Barrier and is supported at officer level as seen to be contributing to the 5 year land supply whilst at the same time being in a sustainable location and providing an

acceptable form of development. The proposal would maintain the openness of the green barrier and does not conflict with the purpose of including the land within it. Considerable weight afforded to the housing land supply position but not the overriding determining factor.

5. Deposit Wrexham Local Development Plan (2013 – 2028)

- 5.1 Wrexham are at the Deposit stage of the emerging LDP, having put this out to consultation in April this year. The consultation has now closed and the Council will proceed to Examination, most likely early 2019.
- 5.2 The Deposit Local Development Plan sets out the Council's proposed planning policy up to the year 2028, identifying what can be built and where. Based on all the information gathered and responses to the previous stages of consultation the plan sets out:
- a strategy, objectives and key policies,
 - policies to promote and control development,
 - allocations of land for housing, employment and other uses including Gypsy and Traveller sites,
 - policies and proposals to protect sensitive areas, including a Green Wedge, and
 - maps showing the Plans proposals and constraints.
- 5.3 The opening section of the Plan sets out the **Key Issues, Vision and Objectives**, of which the following are pertinent to this appeal:
- Make provision to increase housing delivery after a period of under-delivery and meet requirements for a 5 year land supply.
 - There is a lack of brownfield capacity to accommodate projected household and economic growth in the County Borough
 - Providing new homes in sustainable locations to support a growing economy and population.
 - Wrexham experiences some significant social needs, with housing demand projected to continue over the Plan period. The Strategy aims to positively respond to these needs by providing a wide range and choice of sites.
 - The key to sustaining the economic prosperity of the County Borough is ensuring that a continued supply of new homes is provided to meet the needs of an increasing population. The housing position as of 1 April 2017 shows that there is already a number of committed new homes that have either been built, are under construction or have planning permission which contribute in part to meeting the requirement for 7750 new homes up to 2028. **There remains however a shortfall that needs to be provided for the remainder of the Plan period, a proportion of which will result in the need for greenfield sites on the edge of existing settlements to be allocated.**
- 5.4 **Policy SP2 – Location of Development**
- 5.5 New development is directed to the defined settlement limits identified on the Proposals Map. Whilst the strategic approach of directing development to the most suitable locations within the County Borough, the majority being to Wrexham Town, it is submitted that the proposed settlement boundary as shown on Map 2 – Wrexham Town does not correctly reflect the opportunity for allocation of the site the subject of this appeal.
- 5.6 The approach is not dissimilar to that taken for proposed allocation (as presented in the Deposit Plan) of two sites in the vicinity of the site that is the subject of this appeal. These are:
- Mold Road/A483 site (Site 1), which extends the settlement boundary to the northern side of the A483.

- Llay New Road site (Site 17), which lies in the gap between New Rhosrobin and Pandy.

Both sites are currently designated Green Barrier.

- 5.7 The inclusion of the New Road, Rhosrobin site as an allocation, within an extended settlement boundary to be shown on Map 2 – Wrexham Town, would not prejudice the established principles of the delineation of the settlement boundary, more to the point it would strengthen them, whilst simultaneously strengthening the separation of New Rhosrobin and Pandy.
- 5.8 This approach has been assessed at some length in this hearing so we will not go over this ground again. What is pertinent to the Hearing now is the now published Deposit Plan and the now proposed housing allocations. Aligned with this, the appeal hearing also included a detailed assessment of the Green Wedge in this locality. Such a critical analysis has highlighted flaws in the Council's Strategic Green Wedge review in this locality and supports consideration of the New Road, Rhosrobin site for allocation. Further, through this critical analysis of the Green Wedge, an allocation should certainly take priority over the Llay New Road site, which is supported as an allocation in the Deposit Plan under Policy H1 (Site 17), or at the very least be considered as a supported allocation in its own right when considered against the stand-point that the proposed housing provision figures are too low and need to be increased for taking the Plan forward to Examination.
- 5.9 **Policy SP7 – Green Wedge**
- 5.10 Green Wedge designations are shown on the Proposals Map. They have been identified through the Strategic Green Wedge Review (2016).
- 5.11 Extensive critical analysis of the Council's GWR in respect of Area 4 (includes the New Road site and the allocated Llay New Road site) took place at the appeal hearing. Such a critical analysis has highlighted flaws in the Council's Strategic Green Wedge review in this locality and supports consideration of the New Road, Rhosrobin site for allocation. Further, through this critical analysis of the Green Wedge, an allocation should certainly take priority over the Llay New Road site, which is supported as an allocation in the Deposit Plan under Policy H1 (Site 17), if the Green Wedge Review assessment is applied correctly.
- 5.12 In summary, the landscape character of the Area 4 Land between Bradley, Rhosrobin and east of Gwersyllt (as referenced in the Strategic Green Wedge Review) Green Barrier is disparate and disjointed interspersed with regular housing and transport corridors. Its overall landscape value is Moderate/Minor with the exception of Fishpond Wood which is High/Moderate. It has a low susceptibility to change given the amount of residential development that already exists around the Green Barrier. The New Road, Rhosrobin site itself has a lesser landscape and visual quality compared to the rest of the Green Barrier given the adverse landscape and visual effects of the adjacent A483 dual carriageway and should be considered as a priority for allocation over and above all other proposed allocations in this locality.
- 5.13 Serious questions are raised to the Council's approach to the correct use of the Green Wedge and revisions to it in this area, through the Deposit Plan. Fundamentally, if the Llay New Road site is acceptable then so to should the New Road site – as presented through the planning application and considered at appeal.

5.14 Comparison is easily made with reference to the plans submitted as **Appendix 2** to this statement.

6. Conclusion and Summary

- 6.1 It is our understanding that the rationale for this appears to be related to the receipt of speculative housing proposals that generate uncertainty and is to the detriment of the plan led system. Our opinion is that, in the case of this appeal, that rationale does not gain any traction.
- 6.2 Where there is no demonstrable five year housing land supply, Paragraph 6.2 of TAN1 provides the technical guidance on the application of the PPW policy framework. The 'considerable weight' given to the absence of a five year housing land supply is a long-established and legitimate mechanism, which supports the delivery of housing through sustainable development. Crucially, it is only applied when the local development plan is failing and is an important means of increasing housing land supply.
- 6.3 This 'considerable weight' is qualified by the need for any development proposal to otherwise comply with the development plan and national planning policies. The decision maker retains the ability to make a balanced judgement in the context of the requirement to deliver sustainable development. It does not place a presumption in favour of granting planning permission in any instance, nor does it promote unsustainable development.
- 6.4 As a result of the disapplication of paragraph 6.2 of TAN 1, it will be a matter for decision makers to determine the weight to be attributed to the need to increase housing land supply where an LPA has a shortfall in its housing land. In our opinion it is clear that the weight to be afforded by the Inspector to the need to increase housing land supply now is considerable. The very special circumstances argument remains as valid as ever.
- 6.5 The Council themselves support the fact that the need to increase housing land supply remains an important material consideration because the County Borough has a zero housing land supply and there is an identified housing requirement as set out in the emerging Local Development Plan. An approach that has remained consistent through planning determination during both the pre-dis-application and post-dis-application period. We would add to this that there is a clear strategy to provide a large proportion of the housing land supply through the use of greenfield land, which includes the release of land from the Green Barrier.
- 6.6 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 that land comes forward early enough to meet real needs.
- 6.7 Therefore, regardless of the dis-application of paragraph 6.2 of TAN 1, we are of the opinion that the Inspector can apply considerable weight to the very real and current need to increase housing land supply and apply planning balance to the policies and circumstances as they currently exist.

APPENDIX 1

Extracts from the Inspector's Report, as provided by Welsh Ministers, which relate to the conclusions reached in respect of the provision of housing land supply and the related paragraphs which are referenced in those conclusions

Inspector's Conclusions

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]

*** - the paragraphs referred to in the end of paragraph 83 in square brackets are reproduced below**

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.

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 adoption². 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

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.

The Case for the Council (Hearing Statement)

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.

The Case for the Appellants

(Grounds of Appeal, Hearing Statements, Final Comments and Closing Statement)

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.

**** - the paragraphs referred to in the end of paragraph 84 in square brackets are reproduced below**

The Case for the Council
(Hearing Statement)

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.

The Case for the Appellants
(Grounds of Appeal, Hearing Statements, Final Comments and Closing Statement)

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.

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.

***** - the paragraphs referred to in the end of paragraph 85 in square brackets are reproduced below**
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 remainder of the land would remain open, providing a landscape buffer to either side of Wat's Dyke.

The Case for the Appellants

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.

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.

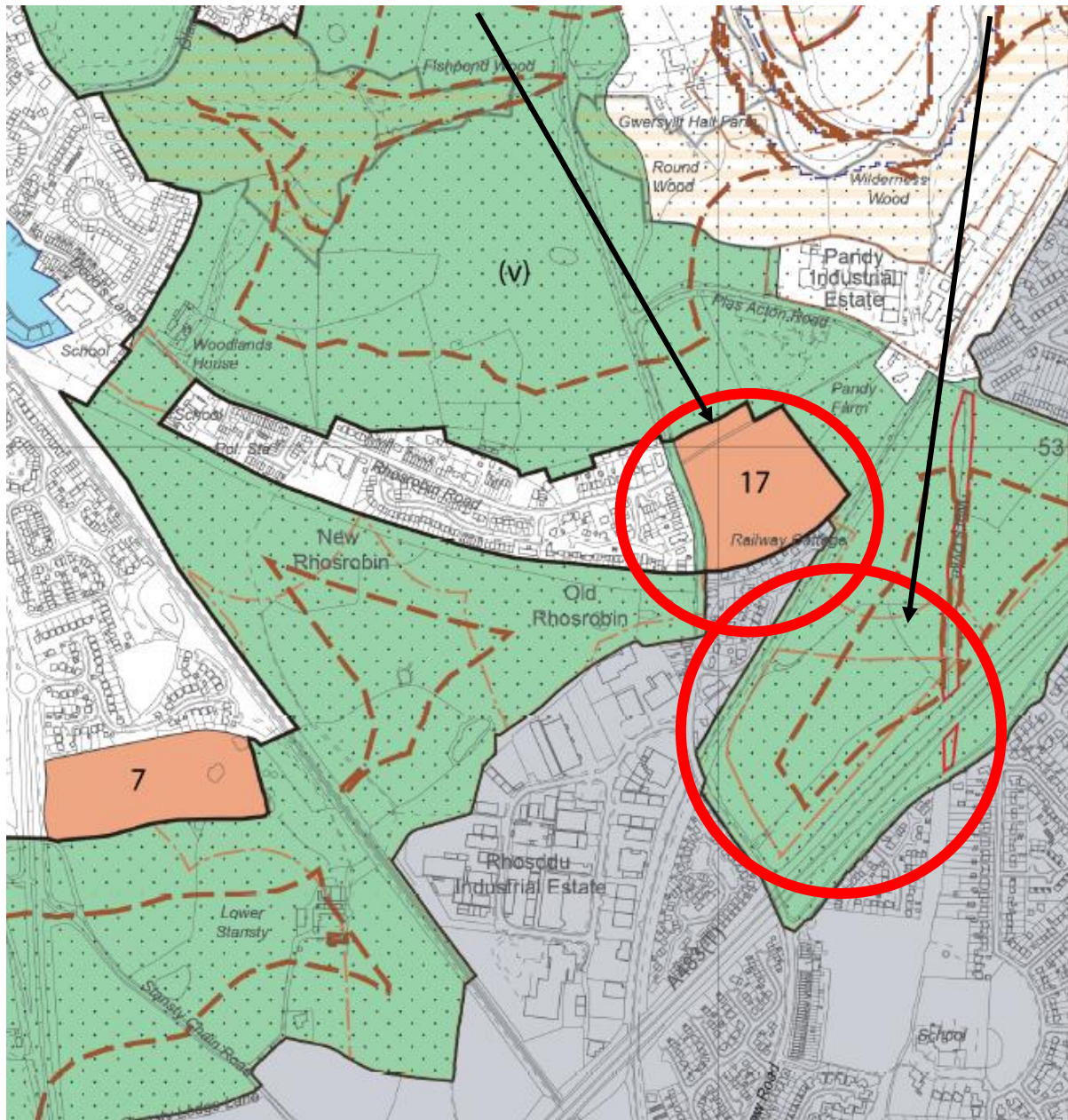
APPENDIX 2

Wrexham Borough Council LDP (2013-2028)

Deposit Plan Proposals Map extracts

Llay New Road site – Site 17 Allocation

Appeal site (area proposed for housing)

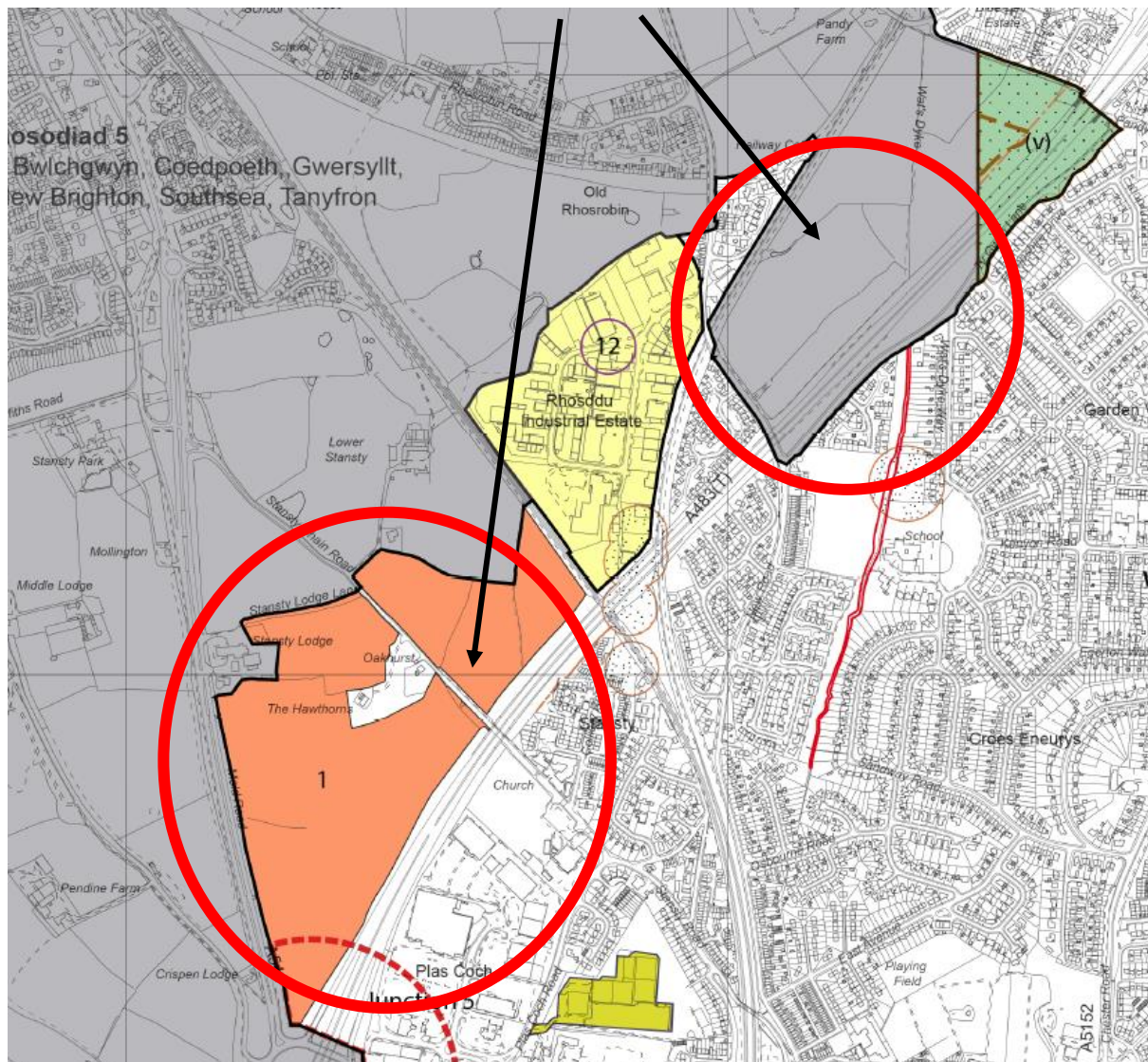


Extract from Wrexham County Borough LDP (2013-2028)

Proposal Map (Deposit April 2018)

Mold Road/A483 site – Site 1 Allocation

Llay New Road site – Site 17 Allocation



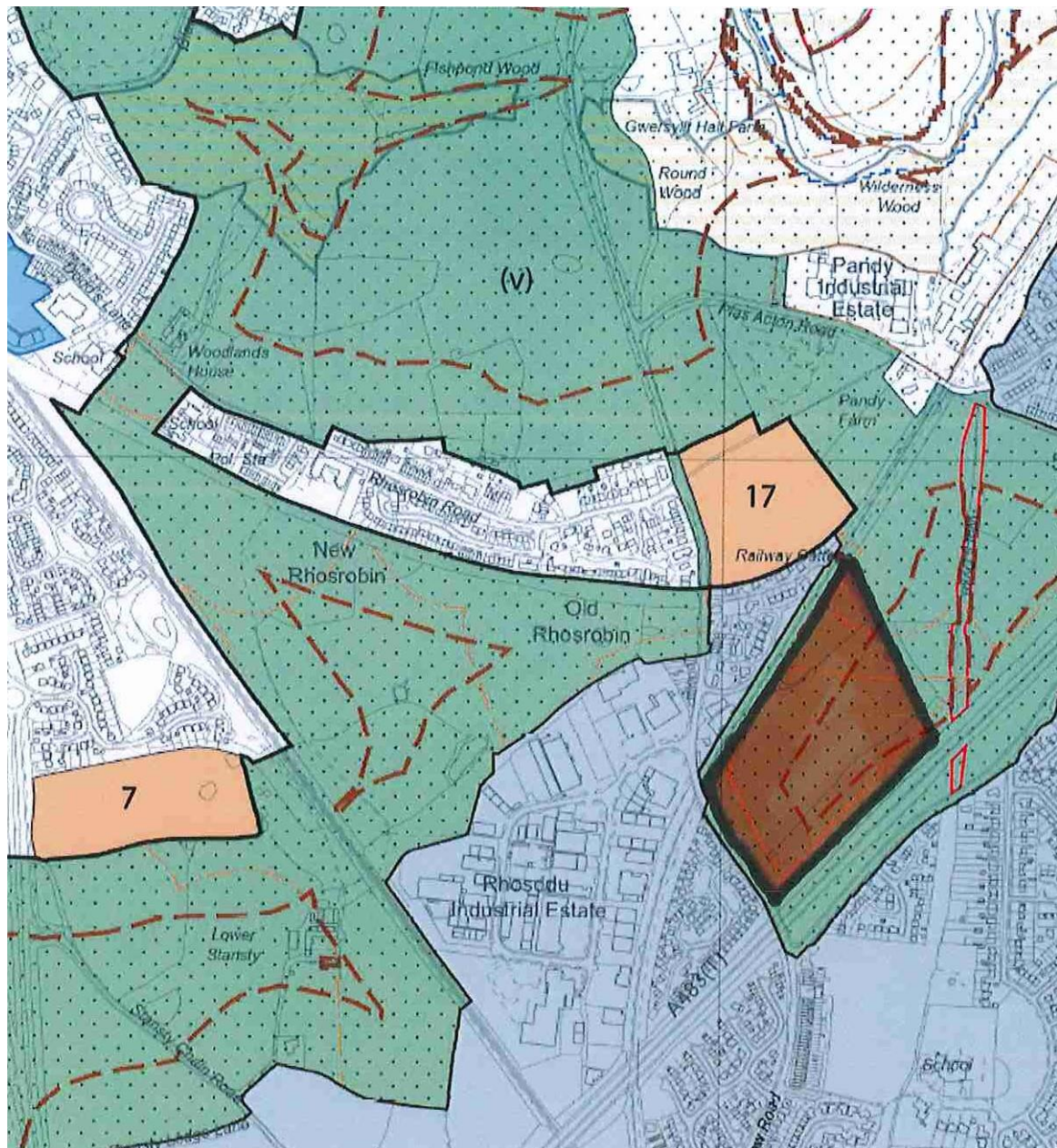
Extract from Wrexham County Borough LDP (2013-2028)

Proposal Map (Deposit April 2018)

Llay New Road site – Site 17 Allocation



Appeal site – outline application masterplan / development framework



**Combined plan – appeal site (proposed extent of housing) in context with
the LDP Deposit Plan Proposals Map**