

**Town and Country Planning Act 1990
Section 78 Appeal**

**Appeals at Broadoak Farm, Llyndir Lane, Rossett,
Wrexham.**

COUNCIL'S STATEMENT OF CASE

PINS Ref: APP/H6955/A/18/3214586
APP/H6955/A/18/3214588

LPA Ref: P/2017/0623
P/2018/0223

1 STATEMENT OF CASE

- 1.1 The Council will primarily rely on the Case Officer reports appended to this document for both appeals. The Council request that both appeals be dismissed for the reasons set out on the planning decision notices.

2 RESPONSE TO THE APPELLANTS APPEAL STATEMENT

- 2.1 In response to some of the statements made in the appellants appeal statement, the Council comments below.
- 2.2 Paragraph 4.1 of the appellants' statement states that given the net loss of 50% of built development across the site, this would result in a positive impact to the openness of the Green Barrier. This is reiterated in paragraph 5.1 of the appeal statement.
- 2.3 However, the impact of the development on the openness of the Green Barrier was not a reason for refusal. Furthermore, just because the proposals would result in less built development on the site as a whole does not mean that the schemes submitted would be considered acceptable in this respect and based solely on this issue.
- 2.4 In addition, the Council have powers to issue a notice under S.215 of the Town and Country Planning Act 1990 if the site deteriorates to such an extent as to adversely impact on visual amenities of the area.
- 2.5 Paragraph 4.3 of the appellants statement states that the key criterion in policy terms is that the building must be structurally sound and capable of conversion without extensive rebuild. This is not the only criterion set out within UDP Policy H3 or LPG 03 which sets out the limits and general guidance in assessing the suitability of buildings for conversion, of which copies have been sent to the Inspector.
- 2.6 Paragraph 4.4 states that the roof covering of the buildings could be replaced under permitted development rights for agricultural buildings. The stipulation for any alteration to an agricultural building is that the alteration must be reasonably necessary for the purposes of agriculture.
- 2.7 In paragraph 8.18 of the appeal statement, it is argued that whilst the established use is agricultural, the appeal site is currently vacant and the buildings strictly speaking constitute previously developed land. PPW exclude agricultural land and buildings from the definition of previously developed land. Therefore, the site and associated buildings cannot be classed as previously developed land if it is also being stated that the roofs could be altered under permitted development rights, given this would have to be reasonably necessary for the purposes of agriculture.
- 2.8 Furthermore, it is unknown whether the buildings meet the criteria set out in the relevant part of the GPDO and the Local Planning Authority also have

control over the siting, design and external appearance of any alteration to existing agricultural buildings.

- 2.9 Whilst the Conservation Officer stated in her original response that Barn D could accommodate a greater degree of alteration without compromising the character of the site, any proposed change also has to be considered acceptable in principle, complying with the provisions set out within UDP H3 and LPG 03, which as specified in the officer report at Appendix 1 and set out in the decision notice, this application does not.
- 2.10 Section 7 of the appellants appeal statement refers to highways and drainage issues. Whilst a reason for refusal on highway grounds originally formed a reason for refusal on both applications, the additional information submitted by the agent during the application process overcame this reason for refusal and was therefore removed, prior to the determination at Planning Committee held on 30th July 2017.
- 2.11 The same also applies to the reason for refusal relating to drainage, given it was confirmed during the application process that the proposal would not result in culverting of an existing watercourse. This reason for refusal was therefore removed.
- 2.12 The appellants appeal statement at paragraph 8.4 refers to PPW's statement at paragraph 4.4.3 in Chapter 4 of PPW that there is a *'preference for the re-use of suitable previously developed land and buildings'*. Even if the sites were considered to be previously developed land, this does not mean that the buildings are suitable for conversion and re-use, as set out in PPW, and as evidenced in the reasons for refusal of both planning applications.
- 2.13 Paragraph 8.17 of the agents appeal statement states that the development will not increase the height of existing buildings, however paragraph 4.3 of the appeal statement states that the only extent of external building alteration is the altered pitch of the roof and associated raised ridge line which is less than 1.0m. The existing and proposed plans show that some of the roofs would be raised as part of the proposed applications.
- 2.14 Whilst the Council acknowledges that there would be economic benefits through the conversion works and associated supply chain as set out in paragraph 8.24 of the appellants statement, this in itself is not considered would outweigh the schemes conflict with local plan policy.
- 2.15 Whilst the appellant recites the text at paragraph 6.10 which accompanies UDP Policy H3 stating that *'conversion can provide much needed smaller accommodation more quickly than would provision of new homes'*, this is assuming that the proposal complies with UDP H3, which as set out in the reasons for refusal of both applications, these proposals are not considered would comply with UDP H3.
- 2.16 The Appeal Statement states at paragraph 9.14 that the residential curtilages and parking areas serving the proposal would be contained within the existing

built up form of the farm buildings and will protrude no further into open countryside than the existing situation.

- 2.17 However, the residential curtilage serving Units 1, 2 and 5 (shown on Dwg No. L05 Rev P1) and Unit 11 (shown on Dwg No. L04 Rev P2) are considered to be significant, particularly in relation to the size of the dwellings and the resultant residential use would extend beyond the built form of the existing agricultural buildings.
- 2.18 The appellants' statement refers in Section 10 to precedent decisions, most notably an application previously recommended for approval by the Council, for the conversion of agricultural buildings and construction of 2 no. semi-detached dwellings under P/2016/0384.
- 2.19 The appeal statement refers that the alterations to the buildings approved as part of the previous application under P/2016/0384, go above and beyond those proposed as part of the Broadoak Farm scheme, particularly in relation to Barn D on site 1 (Appeal Ref: APP/H6955/A/18/3214586).
- 2.20 However, the officer report for the application approved under P/2016/0384 states on page 42 *'that the buildings are in a reasonably well maintained condition and will not require extensive rebuilding works in order to convert them to residential use.'* This is different to the appeals at Broadoak Farm where it is considered that the works proposed would go over and above what is considered reasonably by virtue of conversion, as set out on the decision notices for both applications.
- 2.21 The officer report also refers on page 42 that the *'overall form of those buildings is also retained as a result of the works.'* As part of the conversion works involved with Barns E, F and G (Appeal Ref: APP/H6955/A/18/3214588), a proportion of each of these buildings would require demolition to facilitate the conversion works and the resultant residential use of these buildings. Therefore, their existing form would alter as part of the proposed scheme.
- 2.22 The aerial image and approved Proposed Site Layout below shows the built form of the site at Gamford Farm in relation to its approved scheme.



- 2.23 As shown outlined in red on the aerial image, many of the existing buildings on the site which appear to have metal roof sheeting and are in a generally poor state of repair, do not form part of the approved site layout, which would indicate that they were not considered suitable for conversion. These buildings appear to be similar to the buildings on the appeal sites, which have also been identified as being unsuitable for conversion and re-use as set out in the reasons for refusal on the decision notices. For reference, the yellow outlines are the areas of approved built development on the site.
- 2.24 Minor sympathetic alterations to buildings proposed for conversion are considered could be acceptable by the Local Planning Authority, provided the buildings proposed for conversion are considered suitable for conversion in the first place. However if the buildings identified for conversion are considered unsuitable, then any alterations proposed would likely go above and beyond what is considered reasonable and would not therefore be acceptable.
- 2.25 In the context of the above, the Council consider that a consistent approach has been taken in the determination of the applications at Broadoak Farm (subject of the appeal sites) and the application at Gamford Farm under P/2016/0384.
- 2.26 In addition to the above, each application is treated on its own merits and a positive recommendation on the application at Gamford Farm (P/2016/0384) is not considered creates precedent to allow approval of these combined appeals.

Ecology

- 2.27 A Bat Survey Report has been submitted to accompany the appeal referenced APP/H6955/A/18/3214588 and to overcome the third reason for refusal.
- 2.28 Wrexham's Ecology Officer has assessed the Report and considers that the information submitted would not overcome the reason for refusal.
- 2.29 The further survey work carried out does not meet the standards advised in the Bat Conservation Trust Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd edition). Where 2 surveys are required, at least one survey should be carried out between May and August in order to pick up small maternity colonies. The survey carried out on 14th September would have been acceptable provided a summer survey was also carried out. The 30th September Activity (dawn) survey was carried out too late in the season to provide evidence of bat activity. Dawn surveys are not representative in autumn as bats tend to return to roosts earlier especially on cool nights, as this was.
- 2.30 On this basis, the third reason for refusal identified on the application refused under P/2018/0223 (Appeal Ref: APP/H6955/A/18/3214588) still stands.

- 2.31 Notwithstanding the above, and taking into account that bat surveys are required to be undertaken up front prior to determination and prior to attaching a condition for bat mitigation, a suggested condition that an updated Ecological Report shall be submitted prior to commencement of development, should the Inspector be minded to grant the appeal, forms part of Appendix 4.
- 2.32 To note, the submitted Bat Report and subsequent mitigation for the application determined under P/2017/0623 (Appeal Ref: APP/H6955/A/18/3214586) was considered to be sufficient, subject to a condition to secure further detail and this is attached as a suggested condition in Appendix 3 accordingly.

Conclusion

- 2.33 On the basis of the submitted Officer Reports and the Council's appeal statement, it is requested that both appeals be dismissed for the reasons set out on the planning decision notices.

3 SUGGESTED CONDITIONS

- 3.1 Should the appeals be allowed, a list of suggested conditions is attached at Appendices 3 and 4 of this Statement.

APPENDIX 1

Case Officer Report for application P/2017/0623 (Appeal Ref: APP/H6955/A/18/3214586)

APPENDIX 2

Case Officer Report for application P/2018/0223 (Appeal Ref: APP/H6955/A/18/3214588)

APPENDIX 3

List of suggested conditions if planning permission is granted (Appeal Ref: APP/H6955/A/18/3214586)

APPENDIX 4

List of suggested conditions if planning permission is granted (Appeal Ref: APP/H6955/A/18/3214588)