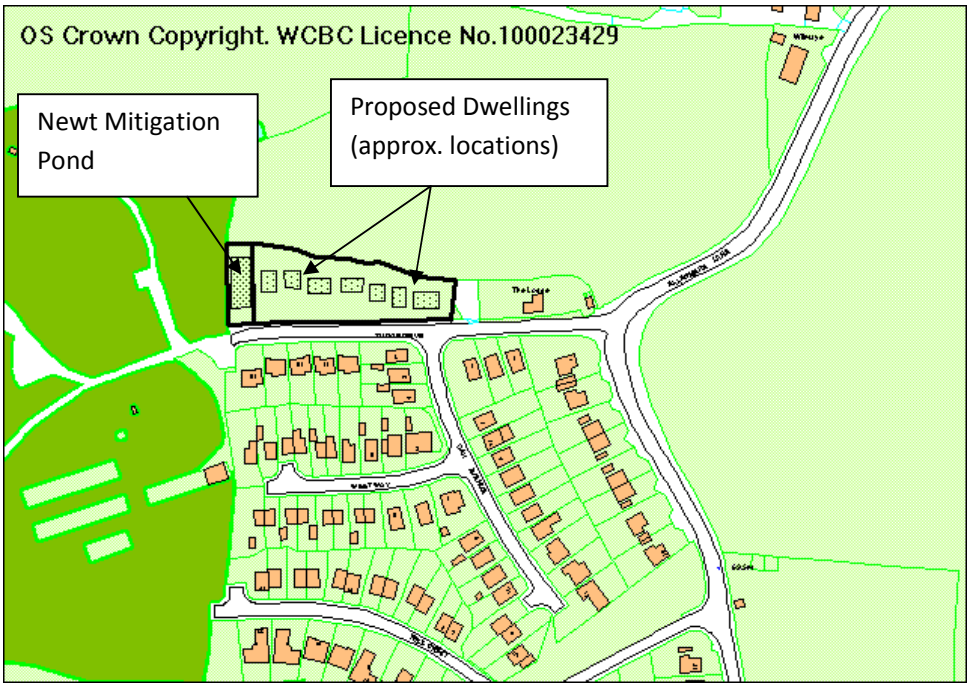
THE SITE



PROPOSAL

This is an outline application (with access and layout unreserved) for residential development consisting of 7 no. 3 and 4 bedroom detached houses. The application includes a design and access statement, ecological appraisal, newt mitigation and management plan, bat survey, tree report and indicative landscaping scheme.

HISTORY

P/2014/0358 Outline planning application for residential development (10 houses - 6 detached and 4 semi-detached) and new access points onto Tudor Drive (layout and access not reserved). Withdrawn 18/07/2014

DEVELOPMENT PLAN

The site is outside any settlement limit and within Zone A flood Risk Area. Policies PS1, PS2, PS3, PS4, PS11, GDP1, GDP2, EC2, EC4, EC6, EC12, EC13, H5, T8 and T9 of the Wrexham UDP are relevant. Local Planning Guidance Notes Nos. 16 – Parking Standards, 17 – Trees and Development, 21 – Space around Dwellings, and 32 – Biodiversity and Development are also relevant.

CONSULTATIONS

Community Council:	Object on the grounds that the development site is outside of the Village envelope.
Local Member:	Firstly the access from this Estate joins the Ellesmere Lane on a bend. Admittedly there are no visibility problems but the road

	markings are inadequate. Furthermore, although this section of the Ellesmere Lane is controlled by a 30 mph limit, because the Lane itself is only spasmodically developed it appears more as open country so motorists feel that the 30 mph limit is superfluous. Perhaps some speed calming requirements could be added as conditions? More importantly, both the Primary and the Secondary Schools are, in the words of the Head Teacher of the Primary School 'full to bursting'. It is essential that the necessary contributions are made for both Primary and Secondary, and that the payments are made before the development starts and are not allowed to be paid only when the development is completed.
Highways:	No objection subject to recommended conditions (see special considerations section below).
Public Protection:	No objection subject to the imposition of a condition to restrict hours of construction works, and advisory notes in relation to dust management.
Education:	Contributions are required for both primary and secondary education provision in the amount of £24,304.
Welsh Water:	No objection subject to the imposition of a condition securing a drainage scheme for the site. No objections to the potential connection to the public surface water drain on Tudor Drive.
NRW:	The site is within a Zone A surface water flood risk area and so a condition is required to secure the submission of a Sustainable Urban Drainage System. No objection to the development provided that the newt mitigation area is properly established and managed in the long term.
Senior Flood Officer:	No objection to the development provided that a condition is attached to the permission to secure SuDS at the site. Should this prove inappropriate, the surface water can be disposed of via the existing public surface water drain on Tudor Drive.
Neighbours:	6 letters of objection and 11 online comments received raising the following concerns:

- The proposed development is to be built on agricultural land, outside of the settlement limit which would cause a visual intrusion into the countryside location. There is no demand for these houses as there are new houses for sale on the other side of Penley, and brownfield sites available inside the settlement limit which should be used first before this greenfield site;
- The position of the access to the site is on a sharp bend on the junction of Tudor Drive. Ellesmere Lane is already very busy with the additional homes in the village from the Morris Homes estate, going to use the amenities in Ellesmere. There are visibility problems at the junction and the condition of the road is poor. The highway cannot cater for the additional traffic movements which will cause safety issues for the pedestrians, cyclists, joggers and horse riders that frequently use this road and Ellesmere Lane where drivers often exceed the speed limit;
- The schools are already oversubscribed and the village shop is not open regularly. The village does not have a regular bus service. The site is located in an unsustainable location and new residential development should be located in Wrexham where there are adequate services to sustain the 5 year housing demand;
- The residents in the village have chosen to live here to escape large housing estates and want to enjoy the peace and quiet of the countryside. If this development goes ahead local residents will leave;
- Existing dwellings will be overlooked;
- Negative impact upon the trees on site, wildlife, great crested newts, hedgerows, flora and fauna;
- Potential flooding issues.

SPECIAL CONSIDERATIONS

Background: The proposal is in outline but with access and layout to be considered at this stage. All other matters are reserved for further approval. An application for 10 dwellings was submitted in 2014 which was subsequently withdrawn. This is a resubmission with a reduction in housing numbers to 7 which increases the distance

between the built development and the existing trees on site and provides for a newt mitigation area as shown on the site layout plan as shown below.

Figure 1. site layout plan

Policy: The proposals do not accord with any of the circumstances set out in policy H5 that permit small scale residential development on sites outside of settlement limits (rural exception site, infilling and agricultural workers dwellings). Additionally, the site would not accord with Policy PS3 which relates to the broad location of development which should utilise brownfield land before greenfield wherever possible. Ordinarily I would recommend that a planning application be refused for proposals that represent a departure from UDP policies. However the Council is only required to determine planning applications in accordance with an adopted development plan ***unless material considerations indicate otherwise***. Applications should also be considered in relation to up to date policies.

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 the most recently published Joint Housing Land Availability Study (JHLAS) (2014) found that Wrexham has a housing land supply of 3.1 years. Dwellings proposed on sites allocated for housing in the UDP and/or already benefitting from planning permission have already been taken into account by the most recent JHLAS.

The recently updated Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies (2015) advises that the results of the JHLAS should be treated as a material consideration in determining planning applications for housing. However, it further states that where local planning authorities do not have an adopted Local Development Plan (LDP) or where their UDP is out of date, they will not be able to produce a JHLAS and they will have no 5 year housing land supply.

Where the JHLAS shows a land supply below the 5 year requirement, TAN1 (paragraph 6.2) advises that the need to increase supply should be ***given considerable weight*** when dealing with planning applications outside of the settlement limit, provided that the development would otherwise comply with national planning policies. The proposals conflict with UDP policies PS3 and H5, however as

already discussed above, the lack of a 5 year land supply is a significant material consideration in favour of the site being developed.

For sites to contribute towards the 5 year housing land supply, sites must be free, or readily freed, from planning, physical and ownership constraints, and economically feasible for development. The site is relatively level thus making it a comparatively straightforward site to develop. The entire site is within the ownership of the applicant therefore I am unaware of any ownership issues that would prevent the site from being developed and there are no reasons to believe that the development is unviable.

Planning Policy Wales includes a ***presumption in favour of sustainable development.*** The development of the site would broadly accord with this presumption as it is in a sustainable location on the edge of the satellite settlement limit of Penley, and the development would accord with PPW para 4.7.8 which states that development in the countryside should be located within and adjoining settlements where it can best be accommodated in terms of infrastructure, access, and habitat and landscape conservation.

Paragraph 9.2.9 of PPW (to be read in conjunction with paragraph 9.2.8), indicates that a search sequence should be followed by local planning authorities when identifying sites to be allocated for housing. Whilst this doesn't strictly apply to the consideration of planning applications, it nonetheless provides useful guidance. The proposal does not entirely comply with the guidance set out in paragraphs 9.2.8 and 9.2.9 since it is not within existing settlement limits and is not brownfield. However in terms of being located within a sustainable location with accessibility to employment, shops, church, schools etc. the site within easy access on foot and is as accessible as those within the adjoining settlement. There is also an hourly bus service to Wrexham, Whitchurch and Oswestry.

The land is also classed as grade 3 agricultural land on the provisional maps held by the Land Nature & Forestry Division of the Welsh Government (WG). The site though is near the boundary of a change in soil types and due to the low resolution of the mapping data in this area, WG cannot properly predict the likely grade. Welsh Government records show no detailed survey information for the site. Given that the site is already bounded by substantial hedging and separated naturally from the larger agricultural fields, I am of the view that the land would not be readily useable for agricultural purposes and the loss of this relatively small area of agricultural land will have only a minimal impact upon agricultural locally.

Despite the fact that the proposal does not fully comply with policies H5 and PS3, given the sustainable location of the development and its edge of settlement location, I accept that its small scale development for residential use in principle would not cause any detrimental harm to the countryside. This is particularly in comparison to the existing development to which this would represent a minor and logical extension which would follow the existing pattern of development on the opposite side of the access road in compliance with Policy PS1, PS2 and PS4 of the UDP.

Site Layout and Design: The site is bounded by high hedges which with the exception of that to be lost to create the new vehicular access points, will be retained. This is in the interests of preserving the character and appearance of the site and maintaining its semi-rural appearance, and eases the integration of the new development into its surroundings. The site layout plan demonstrates that the site can accommodate the 7 dwellings proposed whilst providing private gardens and off street parking. The houses have been carefully sited to ensure that the development does not turn its back on the highway fronting the site. The dwellings face the highways in order to provide active frontages in the interests of the visual amenities of the area and the development would accord with Policies PS2 and GDP1 of the UDP.

Residential Amenity: There would be no issues of overlooking or loss of light to the existing nearby dwellings arising from the proposed development. The site layout has been carefully designed to meet the separation distances recommended in LPGN No.21 to ensure that the occupiers of the proposed dwellings will enjoy private outdoor spaces and habitable rooms which will also have the benefit of a good level of natural daylight in the interests of the residential amenities of the occupiers. These matters will be further considered as part of the reserved matters application should outline permission be granted.

Highways, Access and Parking: The site is located on Tudor Road which is an unclassified road subject to a 30 mph speed limit. Average speed is considered to be 25mph due to the geometry of the road. The site plan demonstrates 2 access points to the development site which have the benefit of adequate visibility in both directions. Parking provision is in accordance with LPGN No.16. A 2 metre wide footway will be provided along the site frontage and a detailed scheme for these works should be submitted for approval prior to work commencing on site (to be secured by condition). The traffic generation associated with 7 new houses would not warrant the imposition of a traffic calming scheme on the access road or the nearby Ellemere Lane, and it would not be fair and reasonable to make this a condition of any planning permission.

The developer has indicated that the road will remain private. Manual for Streets suggests that it is possible for streets to remain private as long as a properly constituted body with defined legal responsibilities is established to maintain the street to the common benefit of the residents in perpetuity. This will form part of the S106 agreement to be signed and sealed prior to the granting of planning permission, to be maintained in perpetuity by this company. The development therefore complies with Policies PS4, GDP1, T8 and T9 of the UDP.

Ecology: The site is in an area known to support a nationally high population of great crested newt. Proposed is the construction of a pond area to provide adequate mitigation in the interests of the favourable conservation of the protected species. As already mentioned, the existing boundary hedge surrounding the site will remain largely intact which will preserve the diversity of the mature hedge frontage which acts as terrestrial habitat and a corridor for movement, and the proposal accords with Polices PS11 and EC6 of the UDP.

Trees and landscaping: The final landscaping and lighting schemes will be secured for further approval by way of planning condition. An Arboricultural Impact Assessment has been submitted which demonstrates that the houses and their foundations will be located outside of the trees' root protection areas and the development will not impact upon the health and stability of the existing trees on site. Adequate garden space has been proposed and the development has been re-orientated since the original submission to ensure that the gardens areas and habitable room windows will not be overly shaded by the tree canopies which should eliminate any pressure to fell the trees in the future. The proposal therefore accords with Policies GDP1 and EC4 of the UDP.

Drainage: There are no objections to the scheme from either Welsh Water (WW) or Natural Resources Wales (NRW), or the Council's senior flood management officer. A comprehensive drainage scheme will be required by planning condition which provides for a scheme of SuDS including on-site soakaways. Should SuDS prove inappropriate for the site, WW have confirmed that there is no objection to the connection of the site to the existing public surface water drain which runs down the centre of Tudor Drive. I have no reason therefore to think that the surface water cannot be properly managed and the development would not give rise to flooding matters within the Zone A flood Risk area that cannot be mitigated against. The development would therefore comply with Policies GDP1, EC12 and EC13.

CONCLUSION

Whilst representing a departure from two of the policies of the adopted UDP (PS3 and H5), 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 current proposal would not be to the detriment of the visual or residential amenities of the area or have an adverse effect upon highway safety, and would comply with all other relevant planning polices and GDP1 (a), PS1, PS2 and PS4 which seek to ensure that development does not harm the appearance of area, that it positively contributes to the appearance of the nearby locality, and is located in a sustainable location which safeguards the amenity of settlement limits against large scale extensions.

RECOMMENDATION A

That the Council enters into an obligation under Section 106 of the Town and Country Planning Act 1990 requiring:-

- Management Company for the future maintenance by the applicant of all communal areas including the driveway, parking areas, hard and soft landscaped areas, newt mitigation area and planted features.
- Payment of a financial contribution towards the provision of secondary education facilities in the amount of £24,304.

The final form and amount shall be determined by the Head of Community Wellbeing and Development.

RECOMMENDATION B

That if the Obligation pursuant to Section 106 of the Town and Country Planning Act 1990, as detailed above, is not completed within six months of the date of the Committee resolution, the Head of Community Wellbeing and Development be given delegated authority to **REFUSE** planning permission for the following reasons:-

- Lack of appropriate maintenance by the applicant of all communal areas including the parking areas, newt mitigation area hard and soft landscaped areas and planted features.
- Lack of adequate contribution to schools to offset the development.

That the Head of Community Wellbeing and Development is given delegated authority to determine the final form and content of reasons for refusal.

RECOMMENDATION C

Subject to the completion of the S106 obligation, planning permission be GRANTED subject to the following conditions:-