



Statement of Case

Appellant:

Mrs Margaret Crewe

Site:

Home Farm, Gresford Road, Llay,
Wrexham LL12 0NW

Date:

June 2016

LPA Ref: P/2014/0905

PINS Ref: APP/H6955/A/16/3147116

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For and on behalf of GVA Grimley Limited

1. Introduction

- 1.1 Bilfinger GVA is instructed to act on behalf of Mrs Margaret Crewe (the appellant) in respect of her appeal against the decision of Wrexham County Borough Council (the Council) to refuse outline planning permission with all matters reserved.
- 1.2 The appeal proposal is for up to 365 dwellings and erection of a 300 square metre retail unit at Home Farm, Gresford Road, Llay, Wrexham LL12 0NW.
- 1.3 The appeal was lodged online on 23 March 2016, with a full set of documents, including all required supporting documents, provided on 29 March 2016. On the 11 May 2016, the Planning Inspectorate issued an Environmental Impact Assessment (EIA) Screening Direction confirming that the proposal is not EIA development. On the 16 May 2016 the Planning Inspectorate confirmed the start of the appeal, which is following the Inquiry procedure, and that the appeal will be determined by Welsh Ministers, taking account of the Inspector's report.
- 1.4 This document comprises the appellant's Statement of Case. It sets out the appellant's case for planning permission to be granted that will be put forward in evidence at the Inquiry. It has been made with regard to guidance set out in the *Procedural Guidance: Planning Appeals and Called-In Planning Applications – Wales* published by the Planning Inspectorate July 2015.
- 1.5 The appellant and the Council (the main parties) are working collaboratively to prepare a Planning Statement of Common Ground (PSoCG), in order to establish matters agreed and matters in dispute and, as such, narrow the scope of submissions and save time and costs for all parties.
- 1.6 A Draft PSoCG (V6, March 2016), was submitted with the appeal (the Draft PSoCG). This Statement of Case should be read in conjunction with the Draft PSoCG. The Statement of Case draws on, but does not repeat, the Draft PSoCG, and has been prepared on the basis that the Draft PSoCG will be agreed without material amendments. Should material amendments be made, the appellant reserves the right to amend their case within their Written Statements of Evidence.
- 1.7 An agreed PSoCG, including conditions and obligations, will be submitted in due course and no later than four weeks before the Inquiry, in accordance with the Inquiry timetable. Further separate statements of common ground, including with any Rule 6 parties, may also be submitted. Written Statements of Evidence by each expert witness, and a Unilateral Undertaking under S106 of the Town and Country Planning Act 1990 (as amended), will also follow in accordance with the Inquiry timetable.

1.8 The remainder of this Statement of Case is structured as follows:

- **Section 2: Background** – This section briefly sets out pertinent details in respect of the application, the officers' report, the Council's decision, and the site.
- **Section 3: Development Plan & Material Considerations** – This section sets out key development plan policies and material considerations that set the context for consideration of the key issues.
- **Section 4: Key Issues** – Four key issues have been distilled from the reason for refusal, as set out on the decision notice, and this section considers each in turn.
- **Section 5: Other Matters** – This section briefly considers other matters.
- **Section 6: Conditions & Obligations** – This section outlines the current position in respect of conditions and obligations.
- **Section 7: Documents** – This section lists the documents on which the appellant may refer to in evidence.
- **Section 8: Conclusion** – This section summarises the appellant's case for planning permission to be granted.

2. Background

The Application

- 2.1 The planning application Ref P/2014/0905, dated 2 December 2014, was refused by notice dated 5 October 2015.
- 2.2 The application was supported by a suite of documents. These are listed in Section 2 of the Draft PSocG, together with an explanation of their status.
- 2.3 For avoidance of doubt, the appellant seeks outline planning permission with all matters reserved, and seeks approval for the OS Map (Application Red Line)(Dwg Ref: 653 P (00) 001) only at this stage. All others plans and drawings are provided for illustrative/indicative purposes only.

Officer's Report

- 2.4 The application was reported to the Council's Planning Committee with a recommendation to grant planning permission, subject to referral to Welsh Ministers and completion of a planning obligation.
- 2.5 The report of the Head of Community Wellbeing and Development (the officer's report) shows that, whilst there was opposition to the application from the local community and their representatives, there were no objections from statutory/technical consultees including, but not limited to, Highways, Education, Welsh Water and Natural Resources Wales.
- 2.6 The appellant will address objections raised by interested parties and draw on statutory/technical consultee responses, as appropriate, as part of their evidence.

The Council's Decision

- 2.7 The application was refused planning permission for a single reason. This is set out on the decision notice, as follows:

"The proposed development lies in open countryside outside settlement limits as defined in the adopted Wrexham Unitary Development Plan. The scale of development is also too great in proportion to the size of Llay and it does not represent a logical extension to the existing settlement. To allow the development would be contrary to PS1, PS2 and H5 of the adopted Wrexham Unitary Development Plan."

- 2.8 The only policies advanced by the Council to support the reason for refusal are Policies PS1, PS2 and H5 of *Wrexham Unitary Development Plan* (UDP). It therefore follows that the proposed development is not deemed contrary to other policies within the UDP, nor to any other policies and guidance, such as Welsh Government policies and guidance within *Planning Policy Wales* and Technical Advice Notes (TANs) and the Council's Local Planning Guidance Notes (LPGNs).
- 2.9 This Statement of Case focuses on the policies that the Council advance in support of their reason for refusal. The appellant will, however, address compliance with other development plan policies and local and national policies, as appropriate, as part of their evidence. The planning policy framework of relevance to this appeal is set out at Section 4 of the Draft PSoCG.

The Site

- 2.10 A brief description of the site and its surroundings is given in Section 3 of the Draft PSoCG and is not repeated here. The appellant will draw, and where appropriate expand, on this in their evidence, and will, amongst other things, highlight that:
- The site is **not** within the Green Barrier and is **not** subject to any designations in respect of landscape, or the natural or the historic environment.
 - The site is well related to the settlement of Llay, being located immediately to the north east of the settlement.
 - The Llay community is supported by a wide range of facilities and the Llay Industrial Estate is a key strategic employment site in the County Borough. In addition, Llay is 6.5km north of Wrexham, the County Borough's main town and an important services and employment centre.

3. Development Plan & Material Considerations

- 3.1 The starting point for determining the appeal proposal is Section 38(6) of the Planning and Compulsory Purchase Act 2004. This requires that:

“If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

The Development Plan

- 3.2 The current development plan comprises the UDP. The only policies advanced by the Council to support the refusal of planning permission are Policies PS1, PS2 and H5 of the UDP.
- 3.3 UDP Policies PS1 and PS2 are strategic policies. Policy PS1 (Settlement Limits) seeks to direct housing development to within defined settlement limits. Policy PS2 (Development and the Environment) states that development must not materially detrimentally affect countryside, landscape/townscape character, open space or the quality of the natural environment. UDP Policy H5 (Housing in the Countryside), is a specific policy, providing more detailed guidance, and follows from Policy PS1, in that it restricts housing development outside of settlement limits to a limited number of circumstances.
- 3.4 The appellant’s evidence will demonstrate that the proposed development does not conflict with Policy PS2. This is discussed further in Section 4 of this Statement of Case. The appellant accepts, as a matter of fact, that the proposed development technically conflicts with Policies PS1 and H5 of the UDP. However, the appellant will demonstrate that there are material considerations to justify departing from these policies. The appellant’s case in this respect is introduced below, with more detail provided in Section 4.

Material Considerations

- 3.5 National policies and guidance, including *Planning Policy Wales* (Edition 8, January 2016) (PPW) and *Technical Advice Note 1: Joint Housing Land Availability Studies* (2015) (TAN1), are material considerations that should be accorded great weight.
- 3.6 PPW advises how weight should be accorded to the policies of the development plan. Of particular relevance it advises that:
- *“All applications should be considered in relation to up to date policies”* (paragraph 3.1.2); and

- *“Where ... relevant development plan policies are considered outdated or superseded ... there is a presumption in favour of proposals in accordance with the key principles ... and key policy objectives ... of sustainable development In doing so, proposals should seek to maximise the contribution to meeting the local well-being objectives.”* (paragraph 4.2.4).
- 3.7 It is the appellant’s case that Policies PS1 and H5 of the UDP are outdated and superseded by other material considerations. Consequently, in line with paragraph 2.8.4 of PPW the policies should be given *“... decreasing weight in favour of other material considerations such as national planning policy, including the presumption in favour of sustainable development.”*
- 3.8 The UDP was adopted in 2005 and was prepared to cover the period 1996-2011. The UDP plan period ended some 5 years ago and it is, therefore, significantly time expired. The appellant’s evidence will demonstrate that the development needs and strategy on which it was formulated are obsolete. Consequently, it will be demonstrated that Policies PS1 and H5 are outdated.
- 3.9 In addition, it will be demonstrated that Policies PS1 and H5 are superseded by the Council’s housing land supply position. In this respect, Policies PS1 and H5 clearly intend to constrain the delivery of housing, whereas the Council does not have five year housing land supply (5YHLS), as required by PPW and TAN1. Of particular relevance, these documents advise that:
- *“Local planning authorities must **ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing ...**”* (PPW paragraph 9.2.3, emphasis as document); and
 - *“The housing land supply figure should ... be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study ... the need to increase supply should be given **considerable weight** ... provided that the development would otherwise comply with development plan and national planning policies.”*(TAN1 paragraph 6.2, emphasis added).
- 3.10 Given that the UDP is outdated and superseded by other material considerations, with the Council’s housing land supply position a significant consideration, the appellant will set out in their evidence that limited weight should be accorded to Policies PS1 and H5 of the UDP. On the other side of the planning balance, the appellant’s evidence will demonstrate that the proposal represents sustainable development for which there is a presumption in favour, and that it will deliver significant benefits, including, but not limited to, housing. The appellant will contend that these material considerations weigh heavily in favour of the grant of planning permission.

Emerging Local Development Plan

- 3.11 The Council is preparing a Local Development Plan (LDP), which on adoption will replace the UDP. However, LDP(1) was withdrawn in March 2012, following fundamental concerns raised by the Inspectors conducting the examination, including in respect of a shortfall in the supply of housing, and the preparation of LDP(2) is at the early stages with adoption not anticipated until March 2018. There is, therefore, a local policy vacuum, with no prospect of an up to date development plan being in place in the near future. The appellant will contend that given the Council's housing land supply position, this policy vacuum adds weight to the case to grant planning permission.

Prematurity

- 3.12 As the LDP is in preparation it recognised that questions of prematurity may arise. In this respect, PPW advises at paragraph 2.8.2 that:
- *"Refusing planning permission on the grounds of prematurity will not usually be justified except in cases where a development proposal goes to the heart of the plan and is individually or cumulatively so significant, that to grant planning permission would predetermine decisions about the scale, location or phasing of development which ought properly to be taken in the UDP context.";* and
 - *"The stage on which a plan has reached will also be an important factor and a refusal on prematurity grounds will seldom be justified where a plan is at the pre-deposit plan preparation stage, with no early prospect of reaching deposit, because of the lengthy delay which this would impose in determining the future use of the land in question."*
- 3.13 It is the appellant's view that any questions of prematurity would be unjustified, given the early stage of the LDP and that the proposed development is not of a significance to predetermine the direction of the plan. However, should any questions of prematurity arise, the appellant will address these, including with reference to case law as appropriate.

4. Key Issues

4.1 The single reason for refusal, as set out on the decision notice, can be distilled into the four key issues:

- Whether the development is acceptable in principle being outside the defined settlement limit of Llay.
- Whether the development represents an appropriately sized and logical extension to Llay.
- Whether there are any material considerations that justify departing from any provision of the adopted development plan with which the proposal conflicts.
- Whether the benefits that would be delivered by the proposal would outweigh any adverse impacts.

Whether the development is acceptable in principle being outside the defined settlement limit of Llay

4.2 As set out at Section 3 of this Statement of Case, the appellant accepts, as a matter of fact, that the proposed development technically conflicts with Policies PS1 and H5 of the UDP. In this respect, the site falls outside the Llay settlement limit as shown on the UDP's Urban and Rural Village Inset Map 3, and the proposal does not fall within the limited number of circumstances where housing development may be permitted under Policy H5.

4.3 The appellant will draw on the development plan and the emerging LDP documents, to set out that Policies PS1 and H5 reflect a strategy formulated to meet development needs identified at the time the UDP was prepared and, as such, are outdated. The appellant's evidence will demonstrate that the County Borough's housing requirement has substantially increased since the preparation of the UDP, and that any spatial strategy going forward will need to provide housing development outside currently defined settlement limits.

4.4 The appellant's case will set out that Policies PS1 and H5, which clearly intend to constrain the delivery of housing, cannot be considered consistent with PPW's requirement for local planning authorities to ensure a 5YHLS. The appellant will present evidence in respect of the Council's housing land supply position, including the Council's *Housing Land Monitoring Statement 2015*, which acknowledges at paragraph 1.1 that the Council has **"zero land supply"**, and the Council's Joint Housing Land Availability Studies 2007-2014, which show that this position follows a trend of decreasing housing land supply, with supply falling continuously

to 3.1 years in 2014. The appellant will set out that, with the adoption of LDP(2) not anticipated until March 2018, there is no early prospect of the Council being able to demonstrate a 5YHLS.

- 4.5 The appellant will therefore demonstrate that Policies PS1 and H5 are outdated and superseded by the Council's housing land supply position. Consequently, the appellant will contend that Policies PS1 and H5 should be accorded limited weight, whereas, in line with TAN1, "*considerable weight*" should be accorded to the proposal's housing contribution given the pressing need to increase housing supply in the County Borough.
- 4.6 The appellant will contend that the reference in TAN1 to "*considerable weight*" being given to the need to increase supply "*provided that the development would otherwise comply with the development plan*" can only be interpreted as meaning development plan policies that are not out of date. To interpret it otherwise, in this appeal at least, would be illogical, as it is out of date policies that constrain the supply of housing land and has led to a lack of a 5YHLS. To require compliance with such policies would exacerbate the Council's deteriorating housing land supply, whereas the need to ensure a sufficient supply of land for housing is a key planning policy requirement of Welsh Government.
- 4.7 The appellant's evidence will draw on appeal and Council decisions, as appropriate, to support their case that a lack of housing land supply may allow residential development outside of settlement limits.
- 4.8 Setting aside Policies PS1 and H5 of the UDP as outdated and superseded by other material considerations, the appellant's evidence will demonstrate that the proposal otherwise complies with relevant up to date development plan and national planning policies.

Whether the development represents an appropriately sized and logical extension to Llay

- 4.9 The appellant's evidence will demonstrate that the proposed development represents a modest and logical extension to Llay. In this respect, the appellant will, amongst other things, demonstrate:
- How Llay has developed historically, including through expansion, but with little growth since the 1980s, and how the proposed development represents the next stage in the evolution of the settlement. The appellant will advance historic maps charting the development of Llay as part of their evidence.
 - That Llay is a suitable settlement for housing growth and, whilst little weight can be accorded to the emerging LDP, the appellant's evidence will set out how the proposal accords with the emerging spatial strategy.

- That the site is in a location accessible to a wide range of facilities/services and employment opportunities within Llay and to the public transport network with services to Wrexham, the County Borough's main town. The appellant will advance technical evidence in this respect. In addition, the appellant will draw attention to the inclusion of a retail unit within the proposal in order to further meet day-to-day convenience shopping needs of new residents and existing residents on the eastern side of Llay.
 - That development of the site is not fettered by policy and physical constraints, drawing on policy documents and technical evidence as appropriate.
- 4.10 A key element of the appellant's case in relation to this issue will be to demonstrate that the proposed development will not have a materially adverse impact in landscape and visual terms. In terms of effect on the landscape, it is acknowledged that the proposed development will have an impact, which is inevitable with the development of greenfield sites. The appellant will, however, demonstrate that the landscape qualities of the site are common within the Wrexham area, and that the appeal site is of no particular landscape significance. The appellant will also demonstrate that there is an inevitable requirement to develop greenfield land for housing.
- 4.11 In terms of the visual effect, the appellant will demonstrate that this is of a localised nature only, and that the impact of the change can be effectively mitigated by the landscape strategy submitted with the application.
- 4.12 The appellant will advance technical evidence in respect of landscape and visual impact, and will draw on the Landscape and Visual Appraisal that supported the application. The Landscape and Visual Appraisal concluded at paragraph 7.8 that “... *the development proposal will not have any adverse effect considered to be of significance to either the character or appearance of the site and surrounding landscape setting that would make this proposal unacceptable in landscape and visual terms.*” The appellant will draw attention to the fact that, to date, the Council has not provided the appellant with any evidence to refute the findings of the Landscape and Visual Appraisal.
- 4.13 In light of the above, the appellant will contend that there is no conflict with UDP Policy PS2.

Whether there are any material considerations that justify departing from any provision of the adopted development plan with which the proposal conflicts

- 4.14 The appellant accepts that there is a technical conflict with Policies PS1 and H5 of the UDP. However, it is the appellant's case, as set out above, that these policies are outdated, and

superseded by other material considerations. In this respect, housing land supply is a significant material consideration, being a key requirement of the Welsh Government's planning policy. It will be argued that the Council's housing land supply position, and the benefits of the scheme, are material considerations that justify departure from provisions of the UDP where there is any conflict.

Whether the benefits that would be delivered by the proposal would outweigh any adverse impacts

- 4.15 It is the appellant's case that the proposed development is acceptable in principle, despite being outside the defined settlement limit of Llay, and that it represents an appropriately sized and logical extension to Llay. Consequently the appellant will contend that the proposed development would not result in any adverse impacts.
- 4.16 Notwithstanding the above, the appellant will draw attention to the benefits that the proposed development will deliver in their evidence, including, but not necessarily limited to, those set out below.

Benefits

- 4.17 Provision of housing, within a high quality development in a sustainable location, is a key benefit of the proposed development. With reference the Council's housing land supply position and emerging LDP documents, the appellant's evidence will draw attention to the proposals:
- Significant contribution to meeting housing need within the County Borough; and
 - Contribution to meeting the County Borough's need for affordable housing.
- 4.18 The appellant's case will set out that, in line with TAN1, "*considerable weight*" should be accorded to the proposal's housing benefits given the pressing need to increase housing supply in the County Borough.
- 4.19 The appellant's evidence will also demonstrate the economic benefits of the proposed development, including in respect of:
- Construction phase employment;
 - Operational/lifetime phase employment;
 - Expenditure generation; and

- Public revenue.

4.20 In addition, the appellant will draw attention to the benefit of enhanced access to retail opportunities for existing residents on the eastern side of Llay, and provision of open space and landscaping giving public access to the site for leisure and recreation.

5. Other Matters

5.1 Section 5 of the Draft PSoCG addresses other matters and this is not repeated here. The appellant's evidence will demonstrate, as required, that the proposed development is acceptable in respect of:

- Design.
- Transportation.
- Community Infrastructure.
- Drainage.
- Agricultural Land.
- Minerals.
- Land Stability.
- Ecology.
- Air Quality.
- Noise.
- Archaeology.
- Retail.
- Ground Conditions.
- Welsh Language.

5.2 In demonstrating that the proposed development is acceptable in respect of the aforementioned matters, the appellant will draw on technical documents submitted in support of the application and responses from statutory/technical consultees. In addition, the appellant will refer to any technical updates prepared to respond to changed circumstances and/or suggested conditions, together with on-going dialogue with the Council and statutory/technical consultees as appropriate.

6. Conditions & Obligations

Conditions

6.1 The PSoCG will, in due course, set out conditions. In the meantime, an extract from the officer's report is provided at Appendix 1, with recommended conditions set out under Recommendation C. The recommended conditions relate to the broad areas of:

- Reserved Matters.
- Ecology.
- Contaminated Land.
- Trees.
- Drainage.
- Transportation.
- Construction Management.
- Noise.
- Public Open Space.
- Affordable Housing.
- Extent of Permission.

6.2 The conditions within the officer's report are the starting point for discussion with the Council, and may be subject to change to take account of on-going dialogue with the Council, and statutory/technical consultees, and any updates to technical documents, as appropriate.

6.3 The appellant's evidence will consider all agreed conditions against the tests for conditions as set out at paragraph 3.6.2 of PPW. If dispute arises between the main parties as to any condition, the appellant's evidence will address this with reference to the tests.

Obligations

6.4 The PSoCG will, in due course, set out the Heads of Terms for planning obligations. In the meantime, an extract from the officer's report is provided at Appendix 2, with recommended obligations set out under Recommendation B. In summary, the obligations relate to:

- Provision of affordable housing.
- Management and maintenance of on-site public open space.
- Management and maintenance of any on-site habitat mitigation.
- Financial contributions towards education.
- Financial contributions towards Travel Plan monitoring.

- 6.5 The obligations within the officer's report are the starting point for discussion with the Council, and statutory/technical consultees, as appropriate. In this, the appellant will seek to ensure duplication between conditions and obligations is avoided.
- 6.6 The appellant's evidence will consider all obligations against the Regulation 122 tests as set out in Community Infrastructure Levy Regulations 2010. This will involve consideration of: planning policy; the demands or impacts generated by the proposed development; the ability of existing infrastructure to meet additional demands; methodology for calculating any financial contribution; and details of how any financial contributions will be spent.
- 6.7 A Unilateral Undertaking will be submitted in accordance with the Inquiry timetable.

7. Documents

7.1 The PSoCG will, in due course, list agreed/shared core documents, including, but not limited to, application documents, statutory/technical consultee responses, national policy/guidance, and local policy, both adopted and emerging, together with supporting evidence base documents.

7.2 The appellant will refer to the core documents, and others as appropriate, in evidence. In summary, the appellant may, amongst other things, refer to the following documents:

- Application documents, including the application form, plans and drawings and technical documents. These are listed in Section 2 of the Draft PSoCG, together with an explanation of their status.
- The Council's decision notice.
- The officer's report and addendum.
- Minutes of the Planning Committee meeting.
- Correspondence from/with statutory/technical consultees, including Council Services (Highways, Parks Countryside and Rights of Way, Ecology, Housing, Education, and Public Protection), North Wales Minerals and Waste Planning Services, Welsh Government (Highways and Land, Nature and Forestry Division), Natural Resources Wales, Clwyd-Powys Archaeological Trust, and Welsh Water.
- Correspondence from other interested parties, including local residents, Gresford Road Action Group, Community Councils, Councillors, and the local MP and Assembly Members.
- Any updates to technical documents, and further correspondence with statutory/technical consultees.
- Historic maps.
- Appeal documents, including the Grounds of Appeal, this Statement of Case, the PSoCG and any other statements of common ground.
- The Wrexham UDP, including the Urban and Rural Village Insets Map 3.
- Welsh Government policy and guidance, including PPW and TANs, including, but not limited to, TAN1.

- Welsh Government/Office/National Assembly Circulars (and circular/policy clarification letters), including *WGC 016/2014: The Use of Planning Conditions for Development Management* and *WOC 13/97: Planning Obligations*.
- The Council's LPGNs including, but not limited to, *LPGN 27 Developer Contributions to Schools* and *LPGN 28 Affordable Housing*.
- The Council's *Housing Land Monitoring Statement 2015*, and any update.
- The Council's Joint Housing Land Availability Studies.
- The emerging LDP, including the Inspectors' Preliminary Findings report in respect of LDP(1) and the Preferred Strategy of LDP(2), together with supporting Sustainability Appraisal and evidence base documents, including, but not limited to, *Background Paper 2: Settlement Hierarchy and Development Potential*.
- Relevant legislation, case law, appeal decisions, and Council decisions, including, but not limited to, appeal decision reference APP/H6955/A/15/3138885.

7.3 The appellant reserves the right to refer to other documents, as necessary, throughout the appeal.

8. Conclusion

8.1 This Statement of Case sets out the appellant's case for planning permission to be granted. Evidence will be presented at the Inquiry to support their case, which in summary is:

- Policies of the UDP in respect of settlement limits are outdated and superseded by other material considerations.
- The Council cannot demonstrate a 5YHLS. The housing land supply position has deteriorated year-on-year, and there is no prospect of the Council being able to demonstrate a 5YHLS in the near future.
- The site is in a sustainable location, well related to the settlement of Llay, and the proposed development represents a modest and logical extension to Llay that would not have a materially adverse landscape and visual impact.
- The site is not fettered by policy and physical constraints. There are no objections from statutory/technical consultees and the proposed development is acceptable in terms of design, transportation, community infrastructure, drainage, agricultural land, minerals, land stability, air quality, noise, archaeology, retail, ground conditions and Welsh language.
- The proposed development will deliver significant benefits, not least in delivering much needed housing, including affordable housing.
- There is no conflict with up to date policies of the development plan and Welsh Government policy/guidance lends support for the proposal.

8.2 Overall, the proposed development will deliver up to 365 new homes, including affordable homes, in a County Borough that has a substantial housing shortfall. It will do so on a site that is well related to an existing settlement and accessible to facilities/services, employment opportunities and public transport. There are no technical constraints to the delivery of housing and the sole landowner is willing to sell the site for development and, in this respect, there is interest from a house builder. Consequently, subject to the grant of planning permission, the site could bring forward much needed housing without delay. Evidence will be submitted in this respect.

8.3 In light of the above, the appellant respectfully requests that planning permission be granted.



Appendix 1

Conditions

RECOMMENDATION A

In accordance with the requirements of the Town and Country Planning (Notification) (Wales) Direction 2012 in respect of a significant residential development that is not in accordance with one or more provisions of the UDP, that the application be referred to the Welsh Ministers

If the Welsh Ministers issue confirmation that they do not intend to call the application or no response is received from the Welsh Minister following the expiry of 21 days from the date the application is referred to them, that the Head of Community Wellbeing and Development be given delegated authority to determine the application in accordance with Recommendations B and C below.

RECOMMENDATION B

That the Council enters into an Obligation under Section 106 of the Town and Country Planning Act 1990 to secure:

- i) The provision of affordable houses. 25% of the total number of dwellings built on site shall be affordable;
- ii) The payment of a commuted sum in order to secure the full 25% affordable housing as required by Local Planning Guidance Note 28 in the event of part of the affordable housing requirement being less than a full dwelling unit.
- iii) The management and maintenance on-site public open space;
- iv) The long term management and maintenance of any on-site habitat mitigation as may be provided;
- v) Financial contributions towards primary and secondary education.
- vi) Financial contributions towards the monitoring of the Travel Plans

That the Head of Community Wellbeing and Development be given delegated authority to approve the final form and content of the Obligation.

RECOMMENDATION C

Upon completion of the Planning Obligation that permission be **Granted** subject to the following conditions:

CONDITION(S)

1. Approval of the following details (hereinafter called "the Reserved Matters") for each phase shall be obtained from the local planning authority before any part of the development in that phase is commenced:

- a. the layout of the building(s) to be erected in that phase
- b. the scale of the building(s) to be erected in that phase
- c. the appearance of the building(s) to be erected in that phase

d. the means of access to the site and building(s) to be erected in that phase, to include details of how the phase will be accessed from the B5102 and B5373, the internal estate roads to be constructed within that phase, the pedestrian footways to be provided within that phase and the cycleways to be provided within that phase.

e. the landscaping of the site within that phase.

2. The first reserved matters application shall include a plan showing the first phase of development and location of all subsequent phases of development (hereinafter called "the Phasing Plan"). All subsequent reserved matters applications shall be submitted in accordance with the Phasing Plan as approved unless otherwise agreed in writing by the local planning authority.

3. Plans and particulars of the reserved matters referred to in condition 1 (above) shall be submitted in writing to the Local Planning Authority before the expiry of three years from the date of this permission. The development shall only be carried out in strict conformity with such details as are approved.

4. The development hereby approved shall be commenced before the expiry of five years from the date of this permission or before the expiry of two years from the date of approval of the last of the reserved matters required to be approved, whichever is the later.

5. The submissions made in respect of condition 01 for the first phase shall include details of the surveys recommended in paragraphs 7.8, 7.14 and 7.15 of the TEP Ecological Assessment (reference 4358.01.001) Version 1.0 dated June 2014. Where surveys of the site have been recommended, these surveys shall be carried out for the whole site subject to this permission. The submissions made in respect of condition 01 for the first and all subsequent phases of the development shall also include

i) details of how the findings of these surveys have informed the final layout of the development within that phase;

ii) any schemes of mitigation/compensation that are to be provided within that phase as may be necessary;

iii) a biosecurity risk assessments for that phase;

iv) long term management and monitoring plan(s) for the mitigation/compensation area(s).

Where mitigation/compensation is necessary the development shall take place in strict accordance with the mitigation/compensation scheme(s) as approved and the habitat mitigation/compensation area(s) shall thereafter be managed in strictly accordance with the approved long term management and monitoring plan(s)

6. Development shall not commence in each phase until a scheme of remediation in respect of the presence of Japanese Knotweed within the site has been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter only take place in that phase in strict accordance with the scheme as approved.

7. No part of the development shall commence in each phase until a scheme to deal with potential contamination within that phase has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include a phased investigation approach to identify the extent of

contamination and any measures required to remediate the site, including post-development monitoring.

8. No dwelling in each phase shall be occupied until a Verification Report which demonstrates that the remedial works approved as part of condition no. 07 above have been carried out, has been submitted to and approved in writing by the Local Planning Authority.

9. No part of the development shall commence in each phase until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority for that phase. No development or other operations within that phase shall take place except in strict accordance with the Method Statement as is approved. The Method Statement shall include the following:

- 1) A specification for tree protection fencing and ground protection measures that comply with British Standard 5837:2012;
- 2) A Tree Protection Plan showing the location of the trees to be removed and retained with their crown spreads, Root Protection Areas, Construction Exclusion Zones, and location of protective fencing and ground protection measures accurately plotted;
- 3) A full specification for any access, driveway, path, underground services or wall foundations within retained tree Root Protection Areas or Construction Exclusion Zone, including any related sections and method for avoiding damage to retained trees;
- 4) Details of general arboricultural matters including proposed practices with regards to cement mixing, material storage and fires;
- 5) Details of the frequency of supervisory visits and procedures for notifying the findings of such visits to the Local Planning Authority;
- 6) Method for protecting retained trees during demolition works;
- 7) Details of all proposed tree works, including felling and pruning.

10. No part of the development shall commence until a scheme for the comprehensive and integrated drainage of the site indicating provision for foul water, surface water and land drainage has been submitted to and approved in writing by the Local Planning Authority. Prior to the submission of those details, an assessment shall be carried out into the potential for disposing of surface water by means of Sustainable urban Drainage Systems (SuDS) in accordance with the principles of sustainable drainage systems set out in Technical Advice Note 15: Development and Flood Risk, and the results of the assessment shall be submitted in writing to the Local Planning Authority.

Where a SuDS scheme is to be implemented, the submitted details shall:

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

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11. Development shall not commence until a scheme for the provision of foul sewerage infrastructure has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of and be informed by a Hydraulic Modelling Assessment. No dwelling shall be occupied until foul sewerage infrastructure has been provided in full and in strict accordance with the scheme as approved.

12. No part of the development shall commence until a scheme of improvements for the junction of the B5102, the B5373 and Chapel Lane has been implemented in full in strict accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority.

13. Development in a phase shall not commence until a Construction Environment and Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. Construction shall thereafter be carried out in strict accordance with the details as approved.

14. Development in a phase shall not commence until a scheme of noise mitigation for the dwellings within that phase has been submitted to and approved in writing by the Local Planning Authority. Each dwelling requiring noise mitigation shall not be occupied until the mitigation measures as approved have been implemented in accordance with the scheme as approved.

15. No dwelling shall be occupied until a Traffic Regulation Order in respect of speed limit reductions along the B5102 Straight Mile has been implemented in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.

16. The site layout and landscaping details for each phase that are required by condition 01 shall include an area or areas of public open space to be provided within that phase together with a scheme that includes the following details:

- i) the siting, size, layout and appearance of formal play equipped play areas;
- ii) hard and soft landscaping of the open space area(s);
- ii) the timing of the construction and landscaping of the open space area(s);

Public open space shall be provided on site within each phase in accordance with the scheme as approved and thereafter permanently retained.

17. The submissions made in respect of condition 01 shall include details of the location and layout of off-street vehicular parking and turning areas for each dwelling. No dwelling shall be occupied until the vehicular parking and turning area for that dwelling has been laid out, surfaced and drained in strict accordance with the details as are subsequently approved. The parking and turning areas shall thereafter permanently retained and kept free of any obstruction, and made available solely for the parking and turning of vehicles at all times.

18. The submissions made in respect of condition 01 shall include details of the location and layout of off-street vehicular parking, turning and loading/unloading areas for the retail unit. The retail unit shall not be brought into use until the vehicular parking, turning and loading/unloading areas have been laid out, surfaced and drained in strict accordance with the details as

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are subsequently approved. The parking, turning areas and loading/unloading areas shall thereafter permanently retained and kept free of any obstruction, and made available solely for the parking and turning of vehicles at all times.

19. The details submitted in respect of condition 01 for each phase include a scheme for the provision of affordable housing in that phase. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN2 or any future guidance that replaces it. The scheme shall include:

i. the numbers and location of the affordable housing provision to be made, which shall consist of not less than 25% of the total number of dwellings to be built in that phase;

ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;

20. The rating level of any noise generated by air handling plant associated with the development shall not exceed the pre-existing background level by more than 5dB(A) at any time. The noise levels shall be determined at nearby noise sensitive premises, and measurements and assessment shall be made in accordance with BS4142:2014 Method of Rating Industrial Noise Affecting Mixed Residential and Industrial areas.

21. No dwellings in a phase shall be occupied until a Final Travel Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. This plan shall include details of an annual monitoring report which shall be submitted to the Local Planning Authority for written approval following the anniversary of the occupation of the first dwelling and every year after up to and including the fifth anniversary

22. This development makes provision for a maximum of 365 dwellings that do not exceed two and a half storeys in height.

23. The sales floor area of the retail unit shall not exceed 300 square metres.

REASON(S)

1. To comply with the provisions of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012

2. In the interests of a co-ordinated approach to the development of the site.

3. To comply with Section 92 of the Town and Country Planning Act, 1990.

4. To comply with Section 92 of the Town and Country Planning Act, 1990.

5. In order to protect wildlife interests, which are afforded special protection.

6. To remove and control the spread of an invasive species.

7. In the interests of the amenities of the future occupants of the buildings.

8. In the interests of the amenities of the future occupants of the buildings.

9. To ensure the work is carried out to accepted arboricultural practices for the long term wellbeing of the tree(s).

10. To ensure satisfactory drainage of the site and to avoid flooding.

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11. To protect the integrity of the public sewerage system and prevent hydraulic overloading of the public sewerage system. To protect the health and safety of existing residents and to ensure no detriment to the environment.
12. In the interests of the free follow of traffic and highway safety.
13. To protect the amenities of the occupiers of nearby properties.
14. In the interests of ensuring the amenity of future occupiers of the development.
15. In the interests of highway safety.
16. In the interests of the appearance of the development and the standard of amenity afforded to future occupiers.
17. To provide for the parking and turning of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
18. To provide for the loading, unloading, parking and turning of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
19. To ensure the development complies with the requirements of policy H7 of the Wrexham Unitary Development Plan.
20. To protect the amenities of the occupiers of nearby properties.
21. To support the Council's approved Integrated Transport Strategy and to reduce dependency on the motor vehicle.
22. In the interests of the free flow of traffic on the local highway network.
23. To protect the vitality and viability of the Wrexham town centre and the district shopping centres.

NOTE(S) TO APPLICANT

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at: <https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent



Appendix 2

Obligations

RECOMMENDATION A

In accordance with the requirements of the Town and Country Planning (Notification) (Wales) Direction 2012 in respect of a significant residential development that is not in accordance with one or more provisions of the UDP, that the application be referred to the Welsh Ministers

If the Welsh Ministers issue confirmation that they do not intend to call the application or no response is received from the Welsh Minister following the expiry of 21 days from the date the application is referred to them, that the Head of Community Wellbeing and Development be given delegated authority to determine the application in accordance with Recommendations B and C below.

RECOMMENDATION B

That the Council enters into an Obligation under Section 106 of the Town and Country Planning Act 1990 to secure:

- i) The provision of affordable houses. 25% of the total number of dwellings built on site shall be affordable;
- ii) The payment of a commuted sum in order to secure the full 25% affordable housing as required by Local Planning Guidance Note 28 in the event of part of the affordable housing requirement being less than a full dwelling unit.
- iii) The management and maintenance on-site public open space;
- iv) The long term management and maintenance of any on-site habitat mitigation as may be provided;
- v) Financial contributions towards primary and secondary education.
- vi) Financial contributions towards the monitoring of the Travel Plans

That the Head of Community Wellbeing and Development be given delegated authority to approve the final form and content of the Obligation.

RECOMMENDATION C

Upon completion of the Planning Obligation that permission be **Granted** subject to the following conditions:

CONDITION(S)

1. Approval of the following details (hereinafter called "the Reserved Matters") for each phase shall be obtained from the local planning authority before any part of the development in that phase is commenced:

- a. the layout of the building(s) to be erected in that phase
- b. the scale of the building(s) to be erected in that phase
- c. the appearance of the building(s) to be erected in that phase