

**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 APPEAL AT
LAND SOUTH OF BIG GREEN FARM, ELLESMERE LANE, PENLEY,
WREXHAM**

COUNCILS STATEMENT OF CASE

**PLANNING REF: P/2015/0399
PINS REF: APP/H6955/A/15/3139131**

1.0 THE SITE

- 1.1 The appeal site is located to the south of Big Green Farm, Ellesmere Lane, Penley, Wrexham. It is a Greenfield site located outside of the defined settlement limit of Penley and within open countryside,

2.0 PROPOSAL

- 2.1 The proposal is for outline planning permission for 26 dwellings with all detailed matters except access reserved for further approval.
- 2.2 Planning permission was refused on 20.10.2015 for the following reason:

By virtue of the proposed scale and location of this residential development of a greenfield site, outside of any settlement limit as defined in the Wrexham Unitary Development Plan, and within a Special Landscape Area, the development would be materially detrimental to the character of this countryside location and would represent an undesirable visual intrusion into the rural landscape and Special Landscape Area. The development would not maintain the existing settlement pattern or represent a logical extension to the settlement limit, and would not accord with the character of the site or make a positive contribution to the appearance of the locality. The development therefore conflicts with Policies PS1, PS2, PS3, PS4, GDP1, H5, CLF5 and EC5 of the Wrexham Unitary Development Plan.

3.0 PLANNING HISTORY

- 3.1 P/2014/0264 Outline application for residential development (66 dwellings) and new vehicular access onto Ellesmere lane. Permission refused on 05/09/2015 (See Appendix 1).
- 3.2 P/2014/0738 Application for outline planning permission for residential development of 7 no. Detached dwellings and new access points onto Tudor Drive (layout and access not reserved) Permission granted on 15/01/2016

4.0 LOCAL AND NATIONAL PLANNING CONTEXT

- 4.1 Planning Policy Wales (PPW) Edition 8, in particular Chapters 2 and 9.
- 4.2 Technical Advice Note 1: Joint Housing Land Availability Studies.
- 4.3 The site lies outside any settlement limit as defined in the current development plan for the area, which is the Wrexham Unitary Development Plan (UDP) 2005. Policies PS1, PS2, PS3, PS4, GDP1, H5, CLF5 and EC5 of that document are relevant. Copies of the

relevant UDP policies are contained in the submitted questionnaire bundle and a summary of each relevant policy is detailed below:

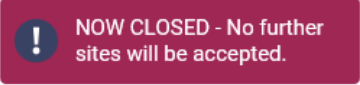
- **PS1 Settlement Limits**
Policy PS1 is a strategic policy stating that new development for housing, employment and community services will be directed to within defined settlement limits/employment.
- **PS2 Development and the Environment**
Policy PS2 is a strategic policy stating that development must not materially detrimentally affect countryside, landscape/townscape character, open space, or the quality of the natural environment.
- **PS3 Recycling of Land**
Policy PS3 states that “Development should use previously developed brownfield or underused land in preference to greenfield land wherever possible, particularly so where Greenfield land is of ecological, landscape or amenity value...”
- **PS4 Settlement Pattern**
UDP Policy PS4 states that “Development should maintain the existing settlement pattern and character and be integrated with the existing transport network to help reduce the overall need to travel and encourage the use of alternatives to the car.”
- **GDP1 Development objectives**
Policy GDP1 is a detailed policy that seeks to secure a satisfactory standard of development. In respect of this appeal the Council makes specific reference to part a):
 - a) Ensure that built development in its scale, design and layout and in its use of materials and landscaping, accords with the character of the site and makes a positive contribution to the appearance of the nearby locality.
- **H5 Housing in the Countryside**
Policy H5 states that “Outside of defined settlement limits new dwellings will only be permitted where:
 - a) The proposal is for the conversion or sub-division of an existing building, or is for affordable housing where there is a proven need for such a development; or
 - b) The proposal comprises infill; or
 - c) The proposal is needed to house a key worker”.
- **CLF5 Open Space requirements**
Policy CLF states that “New development of ten dwellings or more must provide public open space within the site at a minimum level of 0.4 ha per 50 dwellings...”

- **EC5 Special Landscape Areas**

Within Special Landscape Area, priority will be given to the conservation and enhancement of the landscape. Development other than for agriculture, small scale farm based and other rural enterprises...will be strictly controlled. Development will be required to conform, to a high standard of design and landscaping, and special attention will be paid to minimising its visual impact both from nearby and distant viewpoints.

- 4.4 The ILDP2 2013-2028 will eventually replace the UDP, and that plan is in the process of being prepared. The timescales for its preparation and delivery is given as follows:

Key Stages and Timetable

Stage	Date
Delivery Agreement(DA)	Approved by Welsh Government - 10th December 2014
Call for Candidate Sites	Thursday 29th Nov 2012 – Thursday 28th Feb 2013 
Issues and Options	Stakeholder Consultation 2nd March – 10rd April 2015
Preferred Strategy	October – November 2015
Deposit Local Development Plan	November – December 2016
Alternative Sites Consultation	January – March 2017
Submission to Welsh Government for Examination	June 2017
Public Examination	Autumn 2017 (dependent upon Planning Inspectorate)
Publication of Planning Inspector's Report	Winter 2017 (dependent upon Planning Inspectorate)
Adoption	March 2018 (dependent on Planning Inspectorate)
Monitoring	Annually

Details of the full delivery agreement is available on the Council's web site.

- 4.5 The new LDP for the area i.e. LDP2, is in the process of being prepared, and at this stage no firm decisions regarding the suitability of various candidate housing sites (of which this is one) have been made.

5.0 THE COUNCIL'S CASE

- 5.1 UDP policy PS1 directs new housing development to land within defined settlement limits. The appeal site lies outside of the settlement limit for Penley and therefore the proposals conflict with policy PS1. Whilst the UDP does not entirely prevent residential development

outside of settlement limits, in accordance with policy H5 it is only likely to be permitted where proposals are for the conversion of a suitable building, the subdivision of an existing dwelling, small scale affordable housing on sites adjacent to a settlement limit and key rural worker housing. None of these exceptions to the otherwise strict control over housing developments on sites outside of settlements apply to the appeal proposals. The proposed development therefore does not accord with policy H5.

- 5.2 The Council acknowledges that it is only required to determine applications in accordance with the adopted UDP unless material considerations indicate otherwise. The lack of a 5 year housing land supply is a relevant material consideration.
- 5.3 Wrexham does not currently have a 5 year supply of land for housing. The most recent Joint Housing Land Availability Study (JHLAS) (2014) found that Wrexham has a housing land supply of 3.1 years. Furthermore 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.
- 5.4 The Wrexham Local Development Plan Preferred Strategy, which is currently subject to public consultation (closing 1st April 2016), identifies a requirement for 11,715 new homes to meet the housing needs of the County Borough over the period of 2013-2028. Taking into account existing supply this equates to a requirement for sufficient land to be brought forward for 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. The Council also accepts that it is likely that most of the additional need will be met via sites outside of settlement limits.
- 5.5 The Council recognises that where a JHLAS shows a land supply below the 5 year requirement, TAN1 advises that the need to increase supply should be given considerable weight when dealing with planning applications, but **only** where the development would otherwise comply with development plan and national planning policies. However it does not automatically follow that every site proposed for housing should be granted permission. The Council contends that the proposed development represents a clear departure from both local and national planning policies and as such, residential development of the site is not considered acceptable despite the pressing need for additional land for housing in the County Borough.
- 5.6 The Council acknowledges that paragraph 2.7.1 of Planning Policy Wales advises that development plan policies be given decreasing weight when they are outdated or superseded. However whilst the UDP plan period has now expired, its use of settlement limits (as part of a settlement strategy) remain broadly consistent with Planning Policy Wales. As such policies PS1, PS2, PS3 and PS4 are not considered

to be out of date. The Council contends that these policies should continue to be afforded considerable weight.

- 5.6 The proposal is to develop a Greenfield site for housing which has not been previously developed and is Grade 3 agricultural land. The development would not therefore accord with UDP Policy PS3 and Para 4.9.1 of PPW also confirms that wherever possible, brownfield sites should be used in preference to Greenfield sites.
- 5.7 The selection criteria for choosing new housing sites is raised in para 9.2.9 of PPW, and it confirms that the following should be examined:
- the availability of previously developed sites and empty or underused buildings and their suitability for housing use;
 - the location of potential development sites and their accessibility to jobs, shops and services by modes other than the car, and the potential for improving such accessibility;
 - the capacity of existing and potential infrastructure, including public transport, water and sewerage, other utilities and social infrastructure (such as schools and hospitals), to absorb further development, and the cost of adding further infrastructure;
 - the scope to build sustainable communities to support new physical and social infrastructure, including consideration of the effect on the Welsh language (see 4.13), and to provide sufficient demand to sustain appropriate local services and facilities;
 - the physical and environmental constraints on development of land, including, for example, the level of contamination, stability and flood risk, taking into account the possible increase of such risk as a result of climate change (and see Chapter 13), and the location of fragile habitats and species, archaeological and historic sites and landscapes (Chapters 5 and 6);
 - the compatibility of housing with neighbouring established land uses which might be adversely affected by encroaching residential development; and
 - the potential to reduce carbon emissions through co-location with other uses.

The Council considers that some of these items are not satisfied by the proposed development.

- 5.8 Para 4.7.8 of PPW confirms that, new housing development should be located adjoining existing settlements. Though the appeal site does adjoin the settlement limit it would, due to the extent of land proposed for development, represent an illogical extension to it. The development would significantly reduce the gap between the existing settlement limits which this land currently separates. Development of the site would not maintain the existing settlement pattern and character which tapers out to low level and low density buildings along this stretch of Ellesmere Lane. There is definite transition along

Ellesmere Lane from built development into the countryside and to allow this development would introduce a large number of houses adjacent to low density buildings housing, contrary to UDP Policy PS4.

- 5.9 The Council considers that the development will cause an unacceptable visual intrusion because it introduces large scale development within the Special Landscape Area (SLA) where priority is given to the conservation and enhancement of the landscape, and where development is strictly controlled. LANDMAP Summary Document and Character Area 13b provides information of the landscape context and can be found at Appendix 2. Development on such a scale cannot be sufficiently minimised from both nearby and distant viewpoints. WAs such the development would be contrary to UDP Policy EC5. The Development would not make a positive contribution to the appearance of the locality, or accord with the character of the site, and would detrimentally affect the openness of the countryside contrary to Policies PS2 and GDP1 of the UDP.
- 5.10 Planning permission has recently been granted on a nearby site on Tudor Drive (planning reference P/2014/0738 – see appendix 3). Whilst the presence of the site within an SLA is not specifically referenced in the report to planning committee, that is not to say that this was not considered. The Council does not assert that development for housing will not be permitted, but that it should be strictly controlled. This 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. The presence of these hedges results in the land not being visually read in context with the rest of the open countryside and SLA and preserves the character and appearance of the locality maintaining its semi-rural appearance, and eases the integration of the new development into its surroundings. This site is much smaller than the appeal site as is the scale of the proposed built development which, together with its more discreet location, ensures that there is not a significant intrusion into the countryside and SLA.
- 5.11 The site layout, though indicative only at the outline application stage, does not make provision for any public open space within it. The Council considers it very unlikely that 26 no. dwellings can be erected on site together with the 0.2 ha of POS as is required by policy. This would at the very least require significant changes to the submitted site layout on the basis of which approval of access is sought. The Council is not convinced that suitable onsite POS can be achieved and in the absence of such space the recreational needs of the future occupiers would not be met contrary to UDP policy CLF5.

6.0 SUMMARY

- 6.1 The main issue to consider is whether the development represents inappropriate development outside of the settlement limit, and whether the benefits of development outweigh the harm. In this instance, whilst

it is acknowledged that recent evidence demonstrates the Council's deficit in a 5 year land supply to which the proposed development would make a contribution, this is not sufficient to warrant the grant of permission. The development would not maintain the existing settlement pattern and would not accord with the character of the site or make a positive contribution to the appearance of the locality. Development of this scale would be materially detrimental to the amenities of the countryside, representing an undesirable visual intrusion into the Special Landscape Area which conflicts with Policies PS1, PS2, PS3, PS4, EC5, H5, PS2 and GDP1.

7.0 CONCLUSION

7.1 The Council is of the opinion that the housing development is not justified for this location, and the Inspector is therefore respectfully requested to dismiss the appeal. Should the appeal be allowed, the following planning conditions are suggested:

7.1.1. Approval of the following details shall be obtained from the Local Planning Authority before any part of the development is commenced:

- a. the layout of the building(s)
- b. the scale of the building(s)
- c. the appearance of the building(s)
- d. the landscaping of the site.

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

7.1.2 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.

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

7.1.3 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.

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

7.1.4 No part of the development shall commence until an appropriate Dust Management Scheme has been submitted to and approved in writing by the Local Planning Authority. The dust mitigation measures as are approved shall be fully implemented for the entire duration of the construction phase.

Reason - To protect the amenities of the occupiers of nearby properties.

- 7.1.5 No part of the development shall commence until a scheme detailing the construction of the following has been submitted to and approved in writing by the Local Planning Authority:
1) Detailed layout, design, drainage, lighting and construction of the proposed new estate roads and footways.
The scheme as is approved shall be fully implemented prior to first use of the development.
Reason - In the interests of highway safety.

- 7.1.6 No part of the development shall commence until a Construction Traffic Management Plan including provisions for contractor parking has been submitted to and approved in writing by the Local Planning Authority and the Plan as is approved has been fully implemented.
Reason - In the interests of highway safety.

- 7.1.7 A final travel plan shall be submitted to and approved in writing by the Local Planning Authority within 1 year of first occupation of the development.
Reason - In the interests of highway safety.

- 7.1.8 No part of the development shall commence until details of the proposed Reasonable Avoidance Measures (RAMs) have been submitted to and approved in writing by the Local Planning Authority. The details shall include the following:
- a) Details of a tool box talk on the identification and ecology of great crested newts to be made available to all construction staff employed on the project;
 - b) Details of an artificial amphibian hibernacula to be constructed adjacent to the site (Details of the design can be found in great crested newt mitigation guidelines - August 2001);
 - c) Details of a walk over survey of the site prior to commencement of development, and a destructive search (under the supervision of a licensed great crested newt handler) made of any potential great crested newt habitat (such as rubble piles or sheet materials that are on the site) on the site. Any amphibians found should be relocated to the artificial hibernacula;
 - d) Details of storage of material on pallets off the ground, and bulk materials which are to be delivered on site and used within the day of delivery.
 - e) Confirmation that excavated trenches will be covered over at the end of each working day with plywood and the edges sealed with sand or soil. Trenches are to be checked each morning for any amphibians. Any amphibians located are to be moved to the artificial hibernacula.

The development shall be carried out in strict accordance with the RAMs as are approved.

To protect named species/habitats/biodiversity which would otherwise be damaged/lost by the development hereby permitted.

- 7.1.9 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.

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

- 7.1.10 All works in relation to the implementation of this permission, including deliveries to and / or leaving the site, shall be undertaken only between the hours of 7.30 and 18.00 Monday to Friday, and 08.00 to 14.00 on a Saturday, and at no time on a Sunday or a Bank Holiday.

Reason - To protect the amenities of the occupiers of nearby properties.

- 7.1.11 The contents of the indicative site plan submitted in support of this application shall not be regarded as representing an approved site layout or scale of development.

Reason – To ensure that all matters are reserved for further consideration

7.1.12 Prior to first use of the development hereby approved the vehicular access shall provide visibility splays of 2.4 metres x 43 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction above the level of the adjoining carriageway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.
Reason - To ensure that adequate visibility is provided at the proposed point of access to the highway.

APPENDICIES

Appendix 1

P/2014/0264 OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT (66 DWELLINGS) AND NEW VEHICULAR ACCESS ONTO ELLESMERE LANE. Permission refused on 05/09/2015

Appendix 2

LANDMAP Summary Document and Character Area 13b

Appendix 3

P/2014/0738 APPLICATION FOR OUTLINE PLANNING PERMISSION FOR RESIDENTIAL DEVELOPMENT OF 7 NO. DETACHED DWELLINGS AND NEW ACCESS POINTS ONTO TUDOR DRIVE (LAYOUT AND ACCESS NOT RESERVED) Permission granted on 15/01/2016