

Land off Tudor Drive, Penley.

Proposed development of up to 17 dwellings with all matters reserved except access.

Statement of Evidence on behalf of the Appellant,

Mr J Sadowski.

the
Planning
C o n s u l t a n c y

1. Introduction.

1.1. This appeal has been submitted following the decision of Wrexham County Borough Council (the LPA) to refuse outline planning permission for the erection of up to 17 dwellings on the appeal site which comprises part of a former wartime hospital site on land off Tudor Drive, Penley.

1.2. The background to the appeal site is important in this case and is outlined as follows:

1.2.1. In January 2020, the Planning Committee considered an application for residential development on a greenfield site on the edge of Penley, Members were concerned about the principle of granting approval for development on a greenfield site when there was clearly a great deal of brownfield land still available in the Village, the appeal site was specifically referred to with the Chairman commenting that in his view the Committee would look favourably upon the site if it was to be proposed for development, officers supported this view.

1.2.2. Attached as Appendix One is a letter that was sent to the Chief Planning Officer after the Committee meeting, the comments of the Committee in relation to this site coincided with the comments of the LDP Inspectors expressing concern with regard to the proposed supply of housing land within the Deposit LDP, it was felt that the appeal site might not only assist in meeting the current shortfall of housing land, but may also assist in meeting the need for additional housing land within the LDP.

1.2.3. The letter was passed to a senior planning officer for consideration with whom a meeting was held at the end of January. Notwithstanding the comments of Committee, he was not persuaded of the sites merits, feeling that it might not be regarded as previously developed land and may be too detached from the settlement. Nevertheless, he agreed to visit the site in order to get a better

understanding of its characteristics, indicating that he would make contact to arrange access etc, however, no such contact was ever made. It is not clear that the Planning Officer or, indeed, the Council's Arboricultural and Biodiversity Officers ever went on to the appeal site in connection with the appeal application as they never made contact in order to arrange a visit to the site which cannot properly be understood from outside its boundaries.

1.2.4. It was decided, despite the comments of the Planning Officer, that an application should be submitted because, after all, it was the Committee who had expressed their support for development on this site and it was hoped that, whatever the Officer might think, they would maintain their position when it came to determining an application.

1.2.5. The application was submitted with a detailed planning statement and reports relating to both arboriculture and ecology. The case on behalf of the appeal proposal is, of course, set out in detail within the application Planning Statement, but in very brief terms it was as follows:

1.2.5.1. The application site was a previously developed site immediately adjoining the settlement boundary, in the circumstances of a significant housing shortfall, it was clearly an appropriate location for residential development.

1.2.5.2. Whilst there were trees on the site, and despite the LPA having recently made the woodland, of which the application site formed a small part, a TPO, these were of no significant value because of the way in which they were, in almost all cases, growing through or between concrete slabs in shale, they had very poor root structures and, as they grew, so they would increasingly become top heavy and fall, as had already begun to be the case.

1.2.5.3. So far as ecological interest was concerned, a detailed survey revealed that there was nothing of significance on the site and that, in association with an ecological enhancement area that was proposed on land also within the control of the Appellant, there would be a net gain in terms of biodiversity.

1.2.6. The above case appeared to present a strong argument in favour of development and, alongside the comments of the Committee, it was hoped that the application would be supported.

1.2.7. The appeal application was never reported to Committee, Covid-19 intervened and the Council introduced extended delegated powers for the determination of applications. Notwithstanding the changed delegated powers, it is extraordinary that this application was not reported to the Committee who had, effectively, invited its submission and that the local Member did not even bother to comment on it, let alone refer it to the Committee (the local Member was a member of the Committee that had discussed the site in January 2020).

1.2.8. Nevertheless, enclosed within Appendix Two is a small bundle of correspondence relating to the appeal application. In his e-mail dated 22.12.20 the Planning Officer had indicated his intention to refuse the application for reasons relating to conflict with the UDP policies (it was not stated which ones) and because the site was outside the settlement limit. The response dated 23rd December set out why this appeared to be an illogical approach in the light of previous decisions and particularly having regard to the fact that he had no consultation responses at the time from either the Arboricultural or Biodiversity Officers that might, depending on what they said, provide justification for refusal.

1.3. A copy of the Officer's report is enclosed as Appendix Three. The details of the LPA's approach to refusing the appeal application are commented upon in more

detail in the subsequent sections of this Statement. However, the Planning Officer received, very brief, consultation responses in relation to both arboriculture and ecology and these, seemingly, were considered sufficient to support a refusal of planning permission, despite the comprehensive reports submitted on behalf of the Appellant.

- 1.4. The LPA have, therefore, refused planning permission for three reasons and these give rise to the following issues upon which, it is considered, a decision should be based in these circumstances:

1.4.1.Issue One – Is the appeal proposal in conflict with UDP policies that direct development to sites within settlement limits and, if so, are there other considerations that outweigh the policy conflict?

1.4.2.Issue Two – Would the appeal proposal result in an undesirable intrusion of development into the rural area, having particular regard to the fact that the existing trees are protected by a TPO?

1.4.3.Issue Three – Would the proposal have a materially detrimental impact on the local wildlife site and upon protected species?

- 1.5. The above issues are considered in detail in the next sections of this Statement.

2. Issue One – Is the appeal proposal in conflict with UDP policies that direct development to sites within settlement limits and, if so, are there are other considerations that outweigh the policy conflict?

2.1. Relevant extracts of the UDP are included in Appendix Four. The Plan time–expired in 2011, it is, therefore, entirely predictable that, in order to maintain any semblance of an adequate housing land supply some ten years later, there would be a need to consider sites that did not comply in their entirety with the UDP.

2.2. Nevertheless, the LPA’s first reason for refusal relies on two policies:

2.2.1. Policy PS1 indicates that new development for a variety of uses will be directed to sites within defined settlement limits.

2.2.2. Policy H5 relates specifically to housing in the countryside and indicates that new dwellings will be limited to change of use and sub–division, infilling, and those related to essential need.

2.3. It is agreed that the appeal proposal conflicts with the above policies. However, there are material circumstances that, in these circumstances, firmly outweigh the policy conflict.

2.4. Enclosed within Appendix Five are two recent appeal decisions relating to other development proposals in Penley:

2.4.1. The first relates to land to the rear of Brookfield Close. The Inspector observed that, given its age, the Plan attracted less than full weight (para7), nevertheless, the proposal conflicted with Policies PS1 and H5 (the policies relied upon by the LPA in this appeal) and that this carried significant weight against the appeal (para 9). However, the Inspector also noted that the shortfall in housing was in excess of 1500 dwellings, equating to nearly 50% of the requirement (para 26) and that this carried significant weight in favour of

the proposal. At para 38, the Inspector concluded that, although the UDP policies carried significant weight, this was outweighed by the positive benefits in terms of housing land supply and biodiversity, planning permission was, accordingly, granted.

2.4.2. The second appeal relates to a site of Penley Hall Drive which, coincidentally, was also previously developed as part of the wartime hospital development in Penley. The Inspector identified the conflict with policies PS1 and H5 (para 9) and observed that, although the development was only for a small number of dwellings (nine), the contribution that these would make to a healthy supply of housing land carried significant weight (para 24), given that the Average Annual Requirement for housing had not been met since 2008. At para 36 the Inspector concluded that the policy conflict carried moderate weight, but that this was outweighed by the positive benefits in terms of additional housing in a sustainable location on a brownfield site.

2.5. The above two appeal decisions provide a clear precedent in that the need to improve the housing land supply carries significant weight and that it should be viewed as outweighing the conflict with UDP policy.

2.6. Further weight can be attached to the seriousness of the housing land supply position by reference to the letter included within Appendix Six. The letter is from a local firm of estate agents who comment on market conditions in Penley itself, they confirm that all properties on the Brookfield Close development have been reserved 'off plan' and that there is a waiting list of other interested parties. It is apparent that there have been housing land supply issues in the County Borough and in the immediate area for some time and that it is only through the release of additional housing sites that this problem will be eased.

2.7. The report in relation to the appeal proposal adopts an unusual approach to the issue of the housing land shortfall. The Officer was aware of the Brookfield Close

decision when he came to write his report (the other decision had not been issued at the time), but did not make any reference to it in his report, despite its relevance having been pointed out in the e-mail dated 23rd December (Appendix Two). In considering housing land supply, it is noted that the delivery of housing land since 2013 has only been half that required by the emerging LDP, but this issue is seemingly ‘watered down’ by reference to the emerging Development Plan and the assertion that this will provide a development plan led solution to the shortfall in housing land supply. It is not at all clear what weight was attached to this consideration, but it is clear that appeal decisions need to be made by reference to material considerations at the time of the decision and not on the basis of speculation as to what may, or may not, be the case in the future. It is possible that the Council’s longstanding housing land supply problem may be resolved by the LDP once adopted, but it is equally possible that it may not be adopted at all, or that, despite adoption, it may not address the requirement to demonstrate delivery of the AAR over the five year period (and given knowledge of delays in relation to a number of sites, this is a distinct possibility), speculation as to what the circumstances might be in the future really does not assist.

2.8. It is the case that at one point in the report it is acknowledged that the land supply consideration is of significant weight, but that is never seemingly taken forward as a material consideration in its own right to be balanced against other material considerations. In commenting on the emerging LDP, it is again acknowledged that the UDP is time expired and there is a shortfall in housing provision, and that both matters are significant material considerations, however, again, this conclusion is downplayed by the assertion of continuity between the UDP policies relating to the appeal site and those in the emerging plan.

2.9. Within the report there is a very obvious reluctance on the part of the Planning Officer to acknowledge that the housing land supply position is a material consideration weighing heavily in favour of the grant of planning permission, this has been the approach of appeal inspectors and there is absolutely no reason why

it should not be the LPA's starting point for assessing the appeal proposal. The Officer's report repeatedly comments that the housing land supply position does not of itself justify the grant of planning permission, this has never been contested by the Appellant, indeed, the principle was very clearly acknowledged in the 23rd December e-mail to the LPA. The simple question by reference to the first reason for refusal is whether there are material considerations which are of sufficient weight to outweigh the conflict with policies PS1 and H5.

2.10. It is, of course, the case that since the appeal proposal was refused and the two appeal decisions in Appendix Five were issued, PPW has been revised and the requirement to maintain a minimum of a five year land supply has been removed. There remains, however, a requirement to deliver the housing requirement which should be measured against the housing trajectory in the adopted development plan, the difficulty in Wrexham is that they do not have an adopted development plan with a housing trajectory, but in the light of the clear requirement to be able to demonstrate that sufficient housing is being delivered, it is clearly not the case that this issue ceases to be relevant. In these particular circumstances the conclusions of the appeal Inspectors within Appendix Five relative to the significant under – provision of housing within Wrexham over recent years clearly remains a relevant consideration.

2.11. Furthermore, the Emerging Development Plan proposes an annual requirement of 516 dpa (this figure remains the subject of objections with a number of objectors considering that it needs to be significantly raised), against this requirement completions in the 2013 – 2019 (the first six years of the Plan period) averaged just 216 dpa. Therefore, it is clear that, however one looks at housing delivery, there has been a significant failure to provide sufficient housing, the scale of the shortfall is one that the adoption of the development plan, if and when it happens, cannot realistically address.

2.12. For the above reason, whilst the proposal does conflict with Policies PS1 and H5, it is clear that the housing land supply position is a consideration of significant weight which outweighs the conflict with policies which are, in any event, now some ten years beyond their intended end date. In conclusion, whilst the other reasons for refusal give rise to issues that need to be considered on their individual merits, it is clear that the first reason for refusal is not justified.

3. Issue Two – Would the appeal proposal result in an undesirable intrusion of development into the rural area, having particular regard to the fact that the existing trees are protected by a TPO?

3.1. The LPA assert that the application proposal would result in an unacceptable intrusion of development into the rural area.

3.2. Within the Officer's Report it is stated that there is currently a clear edge to the existing built up area beyond which the "extensive tree coverage" on the site appears to have more in common with the rural landscape surrounding the Village, with there being very little evidence of the previous use from outside the site itself. The above is the case, but the fact that the previously developed character of the site may not be particularly visible from outside the site does not negate the fact that the site is extensively developed with a water tower, concrete roadways, building slabs, the remnants of some buildings and a network of, often open, drains; this is not a site that, putting aside its private ownership, the public might hope to enjoy, it is a potentially dangerous, derelict, site for which an answer needs to be found (see the submitted topographical survey plan).

3.3. The Report includes two photographs taken from outside the site looking generally in its direction, the location of the site itself is barely visible behind the existing houses in the photograph from the north-west and is not visible at all in the photograph from the south with the far more extensive woodland of which the appeal site forms a very small part dominating the view and screening the site itself to a large extent. Nevertheless, the report concludes that the development would significantly alter the character of the site and the wider area covered by the TPO. These two propositions are commented on below, but before doing so, it is necessary to place the assessment in the correct context.

3.4. When a site is designated as part of a woodland TPO, there may be an initial assumption that the woodland is of value (although when the Committee indicated

support in principle for development on this site, they clearly didn't think so). However, in this case the true position is more complex. It was clear from the arboricultural report submitted with the application that all of the trees should be classified as unsuitable for retention given that they were fundamentally unstable given the shale and concrete through which they were growing, there were clear signs that the larger trees were already falling as they became top heavy with inadequate root structures to support them and this process has continued with trees falling of their own volition, others being accepted for removal under five day orders due to their condition, and even Scottish Power removing several to clear power lines. The wooded character of the site is evolving and it is clear to see that tree cover is becoming more sparse over time and will continue to do so.

3.5. Within the Officer's report the classification of the trees is acknowledged and not contested, but it is then said that this fails to take account of the collective value of the trees as a woodland feature within a wider landscape context. This approach fails to take account of the fundamental characteristic of the trees on the appeal site, namely that they are already failing as described, therefore, an assumption that they will remain and contribute to the landscape in the long term is without any justifiable basis.

3.6. The Arboricultural Officer's consultation response is brief, to say the least:

3.6.1. There is absolutely no reference to the submitted arboricultural assessment within which the trees are all classified as unsuitable for retention.

3.6.2. Instead the trees are described as being an 'established young woodland', which has 'substantial and increasing amenity value'.

3.7. The Appellants Arboricultural Consultant has commented in detail on the Arboricultural Officer's approach in his response attached as Appendix Seven. The

failings of the approach of the LPA to the trees on the appeal site is clear to see, they have concluded without any evidence whatsoever, that the trees on the site have a long term future, whereas the evidenced reality is completely to the contrary, any woodland contribution from the site is essentially short-lived and, therefore, the assessment of the LPA cannot reasonably provide justification for refusal.

3.8. The LPA identify four policies that it is suggested justify their second reason for refusal, these are commented upon as follows:

3.8.1. Policy PS2 indicates that development must not “materially detrimentally affect countryside...or the quality of the natural environment”. This is a consideration to be weighed against others in considering any proposal beyond the identified settlement boundaries in just the same way as the two appeal proposals in Penley (Appendix 5) were considered to be acceptable.

3.8.2. Policy GDP1(a) requires development to be in accordance with the character of the site and to make a positive contribution to the appearance of the locality. It is not entirely clear how this Policy might be said to be relevant to the current outline proposal, it would be more relevant to a future reserved matters proposal, although the indicative proposal for a mix of two storey housetypes, together with an open space area, peripheral woodland planting and an ecological enhancement area would appear to be consistent with the Policy’s objectives.

3.8.3. Policy EC4 looks to protect, amongst other things, woodland. The Policy indicates that:

Development which results in the loss of significant damage to valuable trees, important hedgerows or ancient woodland sites will not be permitted.

As the arboricultural report and indicative layout make clear, all trees of any significance on the site are proposed to be retained, it is only those that are unsuitable for retention that it is proposed to remove. The woodland on the site is not ancient woodland and, therefore, the protection afforded by the Policy to such areas is not applicable in this case.

Notwithstanding the above, the explanation of the Policy indicates that development may be acceptable if mitigation can be provided. The Appellants have proposed an ecological enhancement area which would include, amongst other things, new tree planting and management of existing trees, and the indicative layout illustrates new tree planting along both the eastern and western boundaries, which would be appropriately rooted once the concrete and shale had been removed and the ground properly prepared, these proposals are not mentioned in the Officer's report.

Finally, it is important to emphasise that it is not the development that is removing the trees presently on the site, that is happening as a result of the conditions within which they have been attempting to grow and will continue whether the development proceeds or not. The material question is what do you do with a site where this is happening, bearing in mind that the site will still be extensively covered in concrete and shale, the Appellants view is that a development which addresses the housing need, clears the debris from the site and also proposes significant new planting is the only realistic option that brings benefit.

3.8.4. Finally, Policy EC5 relates to the Special Landscape Area and looks to strictly control development and minimise its visual impact. The Policy does not, therefore, preclude all development, as evidenced by the Brookfield Close appeal decision. If, in overall terms, the appeal proposal is considered to be acceptable and, insofar as there is any harm to landscape character it is

concluded not to be significant, then the Policy would not stand in the way of development proceeding.

3.9. Having regard to the above assessment of policies, the visual impact of the appeal proposal should be considered on its merits as follows. A copy of the definitive rights of way map is attached as Appendix Eight:

3.9.1. Land levels fall away quite significantly from the appeal site towards PEN/1 running east/west to the south of the site. The illustrative layout confirms that the group of oak and sycamores that sit between the proposed development and the Appellants land ownership boundary would be retained, thereby screening the development from view.

3.9.2. Depending where one was standing on PEN/3 there would be views towards the appeal site, however, views of development would be obscured, either by the roofs of the existing two storey dwellings on Tudor Drive (which from a perspective point of view would screen similar height houses behind), or by woodland with a depth of in excess of 100 metres in the foreground (which is where the Appellant proposes an ecological enhancement area).

3.9.3. From PEN/30 the depth of woodland between the onlooker and the appeal site would be even greater with a depth of approximately 200 metres.

3.9.4. From Ellesmere Lane there would be approximately 200 metres of two storey built development between the onlooker and the appeal site.

3.10. It is therefore concluded that the development would have no material impact on the character of the area as viewed from surrounding viewpoints.

3.11. It is, of course, the case that the character of the appeal site itself would be changed, that is a feature of almost all developments. However, bearing in mind the derelict character of the site at ground level and the rapidly declining trees on the site, the appeal proposal would result in an attractively designed, logical extension to the immediately adjacent residential area and, in the context of the housing land shortfall, that should be seen as of positive benefit.

3.12. For the above reasons it is concluded that there is no basis for the second reason for refusal. Notwithstanding the TPO, the trees on the site are of no significant value and are in rapid decline, no evidence from the LPA has suggested otherwise. It is clear that the proposed development on the site would have no significant impact on views from surrounding public viewpoints and, as a consequence the development would have no material impact on the character of the Special Landscape Area, nor would the other policies referred to by the LPA be offended. The second reason for refusal is, therefore, unjustified.

4. Issue Three – Would the proposal have a materially detrimental impact on the local wildlife site and upon protected species?

4.1. The appeal application was supported by an ecological study that set out the results of extensive ecological surveys, in particular, the following conclusions were reached:

4.1.1. Trees on the site were growing tall and spindly due to their growing conditions, many had been coppiced in the past, a number had been lost in the storms prior to the survey.

4.1.2. Approximately 60% of the site is comprised of concrete pads or paths, ground flora is not diverse.

4.1.3. A small colony of Great Crested Newts were found in a pond some 250 metres from the appeal site, but given the excellent habitat available within the woodland generally and between the site and the pond it was considered unlikely that GCN would be found on the site itself.

4.1.4. No evidence of roosting bats was found within the buildings or within trees on the appeal site, very little bat activity was recorded within the site.

4.2. Despite the appeal site amounting to approximately 5.7% of a designated local wildlife site, its ecological value was low and no significant ecological value was identified within the appeal site and it was on this basis that it was concluded, subject to the provision of an ecological enhancement area and other mitigation proposals, the proposals would provide a net gain to ecological interest.

4.3. The consultation response from the Council's Ecologist does not mention the submitted ecological report at all. Instead, the response relies upon a previous visit

when ancient woodland indicators were seen to still exist, however, it is not clear whether this reference relates to the application site or the wider woodland. The Appellants survey only recorded one of the ancient woodland species within the application site itself, but as the history of the site is well known, it is clearly not ancient woodland. Despite the conclusions of the ecological survey relating to GCN, the response suggested that it was likely that an offence had already been committed within what she described as “the disturbed area” which may or may not be the application site (which, in the absence of any specific evidence, did not appear to be an entirely impartial view) and that without a detailed mitigation scheme, which was never requested, planning permission could not be granted.

4.4. The Ecologist’s response does not question any of the detailed findings of the Appellants ecological report, instead it makes a couple of unsubstantiated assertions that cannot reasonably justify the refusal of planning permission. The response ends by indicating that, if there was an appeal, she would expand on her comments. The Appellants were concerned with the suggestion that, if there was an appeal, further concerns might be forthcoming and, consequently, enclosed within Appendix Nine is further correspondence with the Officer within which she states that the issues are the Local Wildlife Site, GCN, badgers and bats. Badgers and bats were not even mentioned in her original response, but both are addressed in the submitted ecological report and concluded not to be issues of significance in relation to the appeal proposals. It would be wholly unreasonable for the LPA to pursue either of these matters within any appeal statement that they might submit and, if they did, then it would potentially be a matter for a costs application.

4.5. Enclosed within Appendix Ten is a statement from the Appellants Ecological Consultant which addresses each of the ecological concerns that have been raised in detail.

4.6. It will be clear from the above that the Appellants have significant concerns about the ‘evidence’ that the LPA have used to reach a conclusion in relation to ecological matters that is contrary to the findings of a detailed ecological report by experienced ecologists on behalf of the Appellants; if such documents are to be disputed then there must be detailed and fully justified reasons for doing so, but in this case they are not even referred to.

4.7. Within the Officer’s report, there is reference to the trees that would be lost as a result of the appeal proposal proceeding which are stated as having potential for bats, this observation fails to have any regard to the condition of the trees and the fact that they are being progressively lost in any event, indeed, several have fallen or have had to be felled since the survey was undertaken. Nor does it have regard to the conclusions of the survey on bats, or the fact that the application site is, in any event, only a small part of a much more extensive area of woodland. The report goes on to observe that no detailed mitigation/compensation proposals have been submitted and, therefore, it was not possible to conclude that this would adequately off-set the harm (which the report had concluded was not significant).

4.8. In relation to GCN, it was observed that the site (which is a minimum of 250 metres from the pond) was “likely to offer foraging, dispersal and sheltering opportunities for GCN”, this ‘conclusion’ is the direct opposite of the findings of the submitted ecological report, but, again, there is no informed basis for the view taken. It is of note, however, that the specific reference to ‘foraging, dispersal or sheltering’ appears to be taken from the NRW consultation response, however, they did not say that it was ‘likely’ that GCN would be present on the site, rather, they said it was ‘possible’ and, furthermore, made clear that the matter was one that could be addressed by means of a condition.

4.9. The Officer’s report concludes that in the absence of sufficient information relating to mitigation, particularly in relation to GCN, it would be inappropriate to impose a

condition relating to ecology – this approach in these circumstances conflicts with the clearly stated view of NRW and, to some extent, with the views of the Council’s Ecologist who commented that “it is usually possible to mitigate the impacts of a development on GCN”. Neither the ecological or arboricultural responses were made available to the Appellants prior to the application being determined, nor were they posted on the LPA website, the question, therefore, arises as to why the Appellant was not contacted prior to the decision being made and given an opportunity to respond and, potentially, provide the additional information that the LPA considered was necessary, notwithstanding the fact that neither the Applicant, or NRW, felt that it was necessary as it could have been conditioned, it would potentially have resolved the matter.

4.10. It has been considered necessary to go through the ecological background in some detail, but the bottom line appears to be that both the Appellants, through their ecological consultants, and NRW, consider that the ecological issues can be satisfactorily addressed by means of a condition, the LPA consider that there will be a detrimental impact on ecological interests, but provide no evidence to justify this approach. For these reasons it is clear that the LPA’s ecological objection to the appeal proposal is unjustified.

4.11. However, without prejudice to the above, although it is concluded that the LPA’s objection to the appeal proposals is unjustified, the basis of the ‘harm’ that appears to be alleged is that the balance between that which would be lost and the enhancement that could be provided would not be sufficient to justify development proceeding. The Appellant had anticipated that there might be discussion as to the extent and detail of the ecological enhancement area proposed, but unfortunately the opportunity to do this was never provided with the appeal application being refused even before the ecological consultation response was made public. Nevertheless, a revised plan is included within Appendix 11 showing, hatched in green, an extended ecological enhancement area compared to that proposed in the

application itself. In order to try and address the ecological concerns of the LPA the Appellant would be prepared to identify this extended area for ecological enhancement, it will surely be accepted that the benefits arising from the management of this larger area would, on any basis, alter the balance of ecological considerations in favour of the appeal proposal and, in the Appellants view, make the case in favour of the appeal proposal from an ecological perspective even more conclusive than it was before. The Appellants would be prepared to accept a condition requiring details of the establishment and management of the ecological enhancement area to be submitted and approved in writing by the LPA prior to the commencement of development.

- 4.12. The ecological enhancement area would not only provide for an enhancement of biodiversity value within the woodland as a whole, but it would also resolve any outstanding concerns expressed with regard to the visual impact of the proposed development as viewed from the north (see para 3.9 above).

5. Conclusions.

5.1. Having regard to the evidence within the preceding sections of this Statement and, in particular, within Appendices 7 and 10, the case on behalf of the Appellant is as follows:

5.1.1. The policies of the adopted UDP time-expired ten years ago, in these circumstances it is inevitable that in order to maintain any semblance of an adequate housing land supply it will be necessary to release land for housing beyond existing settlement boundaries. Consequently, whilst the appeal proposal does conflict with Policies PS1 and H5 of the UDP, this is a matter that is capable of being outweighed by other material considerations.

5.1.2. It is clear that there has been a prolonged and consistent under-delivery of housing within Wrexham over many years and it is not a problem that any future adoption of the LDP can put right. In these circumstances, considerable weight should be attached to the benefit of providing additional housing on the appeal site.

5.1.3. The appeal site has had planning permission for residential redevelopment in the past, it represents a logical extension to the existing settlement on a site where development would not be of material detriment to the character of the area.

5.1.4. Although the appeal site forms part of a woodland area that is the subject of a TPO, the great majority of the trees upon the site are failing and falling of their own accord due to them being largely rooted in concrete and shale, this is an ongoing process and such 'value' that the site has will progressively reduce. The site itself is, therefore, of no significant value from an arboricultural perspective. The legacy of previous development on the site in

terms of extensive areas of concrete, shale and former structures means that the site is largely derelict and will never regenerate in an adequate fashion.

5.1.5. The ecological interest within the appeal site is extremely limited, it is difficult to understand on what basis it was ever justified for designation as a Local Wildlife Site. However, it is clear that the appeal proposals, far from resulting in harm to ecological interest will, in association with the proposed ecological enhancement area, result in an enhancement of long term ecological value.

5.2. For the above reasons it is clear that none of the three reasons for refusal are justified. The appeal proposal provides an opportunity to provide much needed additional housing on an appropriate site immediately adjoining the settlement boundary without detriment to the character of the area, it will address the problems of dereliction on the site, provide for new tree planting in appropriate ground conditions, and deliver ecological enhancement. The balance of material considerations is weighted firmly in favour of planning permission being granted and it is, therefore, hoped that the Inspector will uphold the appeal and grant permission subject to appropriate conditions.