

Appendix One

Letter to Chief Planning Officer.

28th January 2020

L Isted Esq
Chief Officer Planning and Regulatory
Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Dear Lawrence

Re: The Camp, Llanerch Panna.

I have been approached by Mr James Sadowski who owns the above site and have written to you specifically because the issues appear to straddle both development control and strategic planning functions.

Mr Sadowski purchased the site in December 2019, as you may know, the site was originally developed as a US Army hospital during the Second War, it then became a Polish hospital, before closing in 1949. Whilst we have not yet surveyed the site in detail, although many of the buildings have been removed or have fallen down, it is clear that it was previously developed on a very significant scale and there remains a network of concrete roadways and paths across the whole site which would have linked all of the wards etc, the concrete bases for which also still remain.

The question of what should happen to this site in the future appears to have come unexpectedly to attention this month for two reasons:

First of all, the site was discussed at Planning Committee on the 6th January in the context of the consideration of an application for residential development on a greenfield site on the edge of Penley (ref: P/2019/0312, rear of Brookfield Close). Several Committee Members referred specifically to my Clients site and asked why the Committee was considering releasing greenfield land for development when there was so much brownfield land available.

In response, the Chairman commented that there was nothing to stop brownfield sites coming forward and he further commented that in his view the Committee would probably look favourably on this particular site although he couldn't, of course, guarantee that the site would come forward.

David Williams also commented that brownfield sites may well be more appropriate, but that they may have constraints.

As I explain further below, this brownfield site is very much available for development.

The second consideration is, of course, the present position in relation to the LDP. Whilst I am not about to suggest how you might respond to the Inspectors most recent "significant concerns" about the housing topic, it certainly seems to me that, whether one looks at the requirement or the supply, the consistent theme is that the Inspectors believe that the Plan needs more housing.

It seems to me that these two issues come conveniently together at the present time, there is a need for more housing on a Borough-wide basis, here we have a brownfield site that is available for development and can, therefore, contribute to that objective, but at the same time it could avoid the need to develop on a greenfield site locally which Members are clearly concerned about.

Having only acquired the site relatively recently, and with the housing issues having arisen unexpectedly, my Client has had only limited time to investigate the main characteristics of the site. However, there are a number of points that are already very apparent:

1. The percentage of the site that is under concrete is very significant, there is no realistic potential for the site to 'return to nature' in anything other than a superficial fashion and it, certainly, could not be used for agriculture. In our minds, it is clear that some kind of development will inevitably take place on the site and the immediate juxtaposition of the site to housing at Llanerch Panna, accessed via Tudor Drive, a residential road, makes residential use the most appropriate option.
2. In our view it is unfortunate that it was recently considered appropriate to impose a Provisional Woodland TPO on the site (we hope that it won't be confirmed), there is no public right of access which limits the amenity value that can be attached to the trees on the site, but the majority of the trees are self-seeded trees that have sprung up through cracks in the concrete or in the thin margins between the concrete slabs etc, the lifespan of many of them is, therefore, limited. I emphasise, however, that it is not our intention to disregard the woodland.

3. We have also noted that the site is designated as a Local Site of Nature Conservation Importance, we have not yet investigated this in detail, although our impression is that the ecological significance of the site is limited by the fact that not much grows or thrives on concrete!

In taking forward proposals for this site, it is, of course, our intention to proceed with detailed survey reports on arboricultural and ecological matters and to develop proposals having full regard to the conclusions/recommendations in these reports.

However, our 'vision' at this very early stage is of a residential development within a woodland setting, where both arboricultural and ecological interest is properly managed and safeguarded and, ideally, enhanced (we are not thinking about a housing estate covering the whole site). In addition, my Client was brought up in Penley, he would like the development to, not only provide houses, but also contribute positively to Penley itself through the provision of enhanced facilities, these could be on the site or, potentially, in the centre of the Village where another local landowner has also expressed interest in making brownfield land available for this purpose, there is much that this development could deliver in terms of benefit to Penley (including, of course, affordable housing).

All of the above makes us think that there are significant opportunities in relation to this site and that now is very much the time to be discussing those opportunities and, hopefully, taking the site forward. We, therefore, wonder whether you, or a colleague on your behalf, would be interested in meeting to discuss the prospects? We would suggest that the first thing to do might be to visit the site because it is only by doing this that you will get a full understanding of the extent of development.

We look forward to hearing from you.

Yours sincerely

M GILBERT

Appendix Two

Correspondence with Planning Officer.

Matt Gilbert

From: Matt Gilbert
Sent: 23 December 2020 14:53
To: Matthew Phillips
Subject: RE: P/2020/0748

Matthew

Thanks for letting me know your current thinking on the Llanerch Panna application, but I am sure you will not mind my putting an alternative approach to you that, in the circumstances, I find more appropriate.

I comment on the various points you make as follows:

Contrary to UDP policies The UDP time-expired in 2011, it is inevitable that the LPA needs to consider, as it has been doing over several years, sites that are outside identified settlement boundaries. Indeed, the Brookfield Close site is a classic example of this and there have been a whole series of appeal decisions where this principle has been accepted. Your own report in relation to the Top Road, Summerhill site accepted this principle and, of course, the Inspector's subsequent appeal decision, that I refer to below, does not dispute this general principle.

Therefore, whilst I fully accept that the policies of the UDP are still a material consideration to be taken into account, many of them are outdated and capable of being outweighed by other material considerations.

LDP Settlement Limit is a material consideration. Once again, I accept that the emerging LDP is a material consideration to be weighed in the balance, but it is not a document which should be afforded significant weight at this time. I would remind you that at this time the Council accepts that it does not include sufficient land to meet the housing requirement, the Inspector's may well resolve this, but at the same time the delivery of KSS2 has also been brought into question, so housing land supply is not quite the 'fait accompli' that it might, otherwise be. Moreover, the Inspector's are still considering their position in relation to the Gypsy/Traveller issue and it may well be that this will result in significant further delays to the Plan, even assuming it is not found to be unsound.

It would be wrong in my view to attach any significant weight to the LDP in determining the application at this time.

The Brookfield Close appeal decision Your e-mail does not specifically mention this appeal decision, but it seems impossible to conclude that this decision does anything other than support the principle of development on the application site. I referred to this decision in my e-mail dated 11th December, but, to summarise, that site was outside the settlement boundary and in the Special Landscape Area, and yet it was approved. These are the same two policies that principally apply to the current application and so the logic would be that they are similarly capable of being outweighed by the land supply considerations.

The Top Road, Summerhill appeal decision The key point about this decision is that, contrary to your own view, the Inspector found that considerations in relation to green barrier and agricultural land quality, both important National policy objectives, outweighed the significant weight she applied to the under-delivery of housing.

The balance of considerations I do not for one moment suggest that there is not a balance to be struck in this case between the factors that, on the one hand, weigh in favour of the grant of planning permission and those which, on the other hand, dictate against the development. However, what we can say in this case is that the particular National policies that were found to justify the Summerhill proposal being dismissed are not relevant considerations in relation to the Llanerch Panna site and the considerations that were outweighed in granting permission for the Brookfield Close site are precisely the same considerations that apply to the Llanerch Panna site. It seems to me that on this basis the two appeal decisions, far from indicating that planning permission should be refused, actually set out an approach which would indicate that permission should be granted.

However, I also accept that both ecology and arboriculture are material considerations that, in principle, are capable of outweighing the considerations weighing in favour of permission being granted, the planning application has fully acknowledged the importance of these matters through the submission of detailed assessments of both – in which it is concluded that they are not factors that should be seen as weighing against the grant of planning permission. Thus far, the only consultation response that I can see you have received on these matters is one from NRW in which they don't object to the proposal. Your own internal consultees may, of course, reach a different conclusion (although it is difficult to imagine what their justification for such an approach might be given the very detailed survey information submitted), but the one thing that is clear is that, until you receive any such response, any conclusion that such factors outweigh the material considerations weighing in favour of permission being granted is, at best, premature.

It is on the above basis that I find your indication that you are minded to recommend refusal of the application difficult to understand, the two appeal decisions appear to establish an approach in principle that would clearly suggest that permission should be granted unless significant site-specific factors were concluded to outweigh the policy principles – there is no consultation response at the present time that indicates this will be the case and the detailed information submitted with the application strongly indicates that this will not be the case.

I hope that you find my assessment above useful and, of course, on reflection, I hope you will agree with the approach that I have adopted.

Matt Gilbert B.Sc (Hons) MRTPI

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Office: 01948 770620

Mobile: 07768 470941

From: Matthew Phillips <Matthew.Phillips@wrexham.gov.uk>

Sent: 22 December 2020 15:41

To: Matt Gilbert <matt@mattplan.com>

Subject: RE: P/2020/0748

Matt,

To my mind, the two appeal decisions I have forwarded to you would suggest to me that this current application should be refused as being contrary to UDP policies but also the fact the site is outside of the LDP settlement limit is also a relevant material consideration. Whilst I appreciate that the Summerhill site was also Green Wedge, the decision there would seem to suggest that the deficit in housing delivery over the 2013-2020 period would necessarily be an overriding factor to sites that conflict with policy, particularly as a development plan led means of delivering additional supply is likely to be in place in a comparatively short period of time.

Whilst I am waiting for a number of consultation responses – internal Tree and Ecology comments in particular, I am minded to recommend refusal for the proposals. Unless the application were subject to a local member 'call in' then this would be a delegated decision.

Regards

Matthew

From: Matt Gilbert [<mailto:matt@mattplan.com>]

Sent: 11 December 2020 10:51

Matt Gilbert

From: Matthew Phillips <Matthew.Phillips@wrexham.gov.uk>
Sent: 22 December 2020 15:41
To: Matt Gilbert
Subject: RE: P/2020/0748

Matt,

To my mind, the two appeal decisions I have forwarded to you would suggest to me that this current application should be refused as being contrary to UDP policies but also the fact the site is outside of the LDP settlement limit is also a relevant material consideration. Whilst I appreciate that the Summerhill site was also Green Wedge, the decision there would seem to suggest that the deficit in housing delivery over the 2013-2020 period would necessarily be an overriding factor to sites that conflict with policy, particularly as a development plan led means of delivering additional supply is likely to be in place in a comparatively short period of time.

Whilst I am waiting for a number of consultation responses – internal Tree and Ecology comments in particular, I am minded to recommend refusal for the proposals. Unless the application were subject to a local member 'call in' then this would be a delegated decision.

Regards

Matthew

From: Matt Gilbert [mailto:matt@mattplan.com]
Sent: 11 December 2020 10:51
To: Matthew Phillips
Subject: RE: P/2020/0748

Hi Matthew

Thanks for your e-mail, the additional information you require in relation to PAC is as follows:

1. I have attached copies of the two notices used, the first was served on adjoining occupiers, the Community Council and Cllr McCusker whilst the second was served on Specialist Consultees – Welsh Water and Wrexham Highways
2. The list of persons notified is as follows:

14 and 19 Tudor Drive

20 and 23 West Way

24 Hill Crest, together with the owner of the plot of land between the site and 23 Hill Crest – Abbeygate House, Millbrook Lane, Bangor on Dee.

The owner and tenant of agricultural land to the south – 30 Meaux Road, Wawne, Kingston upon Hull, and Halghton Lodge, Whitchurch Road, Bangor on Dee.

Site notices were erected on all three of Tudor Drive, West Way and Hill Crest.
3. Neither Cllr McCusker or Wrexham Highways responded, the responses from Welsh Water and the Community Council are attached. I was disappointed with the response of the Community Council, but think

it would probably be best to respond once they have commented on the application itself (although the full application was, of course, available to them at the PAC stage).

I hope that the above resolves the issues with the PAC, but please let me know if you need anything else.

The Brookfield Close appeal decision is clearly a material consideration in relation to the current application and, therefore, I highlight a number of points arising from it that seem to me to be useful:

- a. Even though the site was in the Special Landscape Area, and it was a greenfield site, the Inspector did not conclude that this was a reason why planning permission should be dismissed given that the development would accord with the character of the local area. These are comments that, we say, can equally be applied to the potential impact of our proposal, the key difference being that the current application site is not a greenfield site and, therefore, as the Inspector notes, it is the type of site that should be developed in preference to greenfield sites.
- b. The Inspector also concluded that Penley was an appropriate location for residential development having regard to sustainability considerations.
- c. In relation to housing land supply the Inspector concluded that there was a significant shortfall in housing land and that the Brookfield Close site, albeit a relatively small site, would help to address the shortfall and this consideration carried significant weight in favour of the proposal. Our current proposal can of course make a similarly useful contribution to addressing the shortfall and, therefore, significant weight should be attached to this consideration.

These are all matters that are addressed in our Planning Statement, but it is pleasing to see that the Inspector in this case has adopted a similar approach to these general principles.

Finally, you mentioned that the application is one, were the Council to resolve that permission should be granted, that would need to be referred to WG in accordance with Circular 01/2020. We obviously accept this requirement, but in a sense look forward to the process because it would mean that the Council was supportive of the proposal.

We will keep an eye on the website for any representations (we note that NRW have recently indicated that they don't object, subject to conditions), but if you have any particular concerns or queries, please let me know.

Matt Gilbert B.Sc (Hons) MRTPI

the
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Office: 01948 770620
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From: Matthew Phillips <Matthew.Phillips@wrexham.gov.uk>
Sent: 09 December 2020 09:15
To: Matt Gilbert <matt@mattplan.com>
Subject: P/2020/0748

Matt,

Further to my email yesterday, having reviewed the PAC report I don't think it fully complies with the statutory requirements. It is missing a list of people notified, copies of all notices given to community and specialist consultees and copies of the responses from specialist consultees.

Matt Gilbert

From: Matthew Phillips <Matthew.Phillips@wrexham.gov.uk>
Sent: 09 December 2020 09:34
To: Matt Gilbert
Subject: FW: P/2020/0748
Attachments: Appeal Decision - 3249747.pdf; Costs Decision - 3249747.pdf; Call-In Major Residential.pdf

From: Matthew Phillips
Sent: 08 December 2020 16:34
To: matt@mattplan.com
Subject: P/2020/0748

Matt,

Hope you are well.

I am still in the early stages of looking at the above application so I haven't reached a firm conclusion in terms of recommendation as yet. From recollection it may well have been this site that was mentioned in committee when the Brookfield Close application was discussed at committee in January. We have just had the appeal decision through for that site today – the appeal was allowed and costs were awarded as well.

In terms of procedure, the application you have submitted would, as things stand, only automatically go to committee if I were minded to refuse the application. However if I was minded to recommend refusal, it would only go to committee if the following requirement has been met:

The Chair of Planning Committee has agreed to a written request that the application be reported to committee made by an Elected Member representing a ward that the site lies wholly or partially within. The request must be made within 21 days of the date of the notification letter sent to that Elected Member and must provide sound planning grounds for the application to be determined by committee

One other thing, if Members did resolve to grant permission, this application would now fall within the provisions of Circular 001/2020, which is attached. So far we have only had one application that has required us to notify Welsh Government (P/2020/0072) and that was subsequently called in. I am not sure of the timescales for a decision on that one, but it is likely to be early in the new year.

Regards

Matthew Phillips
Arweinydd Rheoli Cynllunio/Planning Control Lead
Cynllunio a Rheoleiddio/Planning and Regulatory

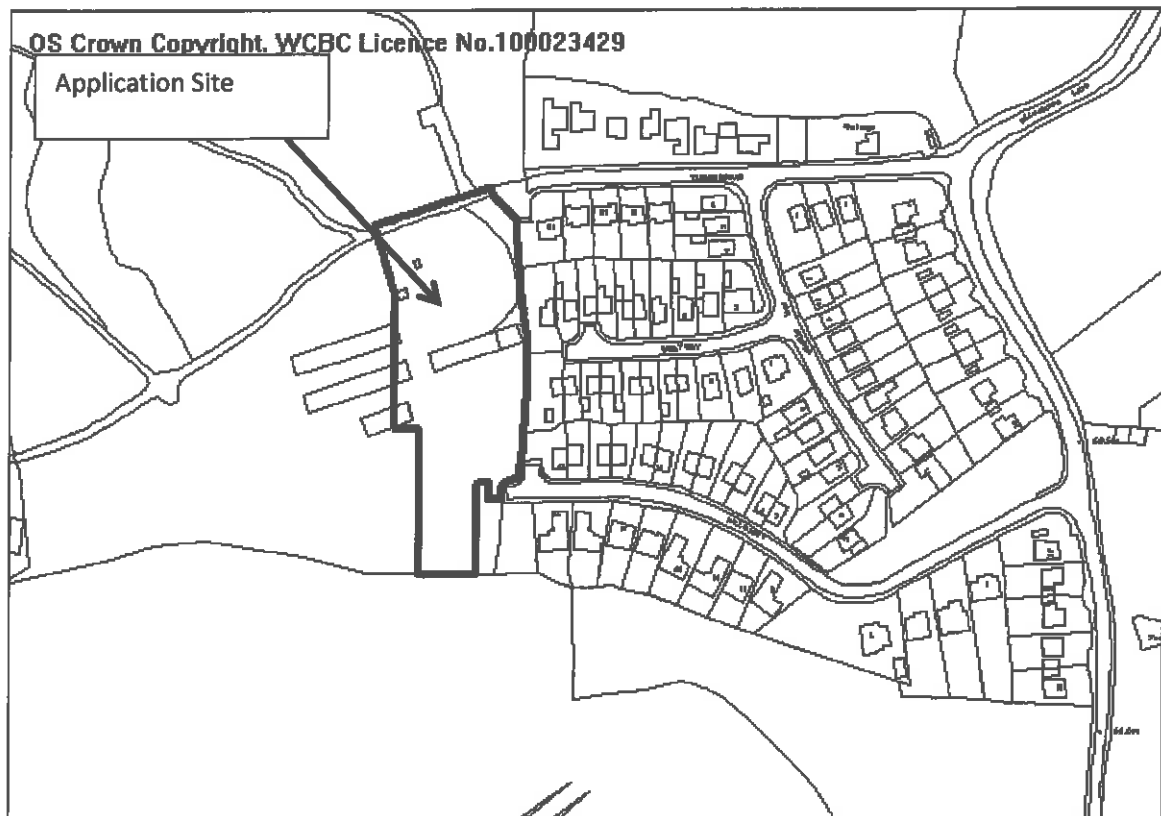


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Appendix Three

Officer's Report.

THE SITE



PROPOSAL

Outline planning permission is sought together with approval for access. Appearance, landscaping, layout and scale are reserved for subsequent approval.

HISTORY

Wrexham Maelor RDC Decisions

- | | |
|--------|---|
| M/183 | Use of land for residential development. Granted 10.12.1960 |
| M/844 | Proposed layout of 17 dwellings. Granted 29.4.1971 |
| M/1178 | Proposed layout of streets and trains for future residential development. Granted 28.8.1973 |
| M/1212 | Proposed layout and erection of 36 dwellings at Phase 2. Approved 6.8.1973 |

Wrexham Maelor BC Decisions

MAE 16935 Residential Development. Refused 31.8.1989

MAE 17628 Residential Development. Refused 12.2.1990 Appeal dismissed 21.5.1990

MAE 20133 Erection of 3 dwellings with integral garages and construction of new vehicular and pedestrian access. Refused 6.4.1992

MAE 20141 Erection of three dwellings with integral garages and construction of new vehicular and pedestrian access. Granted 8.3.1993

DEVELOPMENT PLAN

The site lies outside of the settlement limit, with a Special Landscape Area, is designated a Local Wildlife Site (W420 - Llanerch Panna & Penley Bank). and subject to Tree Preservation Order WCBC 287/2019. Policies PS1, PS2, GDP1, GDP2, EC4, EC5, H5, CLF5 and T8 apply.

CONSULTATIONS

Community Council:

Object for the following reasons:

1. Penley is a small settlement situated approximately 12 miles from Wrexham town centre in open countryside where farming and other rural activities predominate. Oswestry and Whitchurch lie at somewhat similar distances in Shropshire, with the smaller but closer Ellesmere town located to the south. Future housing need in Wrexham County Borough to 2028 should be addressed through the planning system by further housing development in those places where it is most needed, where there is substantial employment and where services can most efficiently be provided. As the only town in the Borough and having, by far, the largest population, Wrexham is the logical choice for further residential development. In contrast, Penley has only a modest number of jobs on a low-key industrial estate and there is little prospect of additional employment being provided. We have recently seen one of the larger businesses located on the industrial estate close its office and warehouse making several residents redundant. There is little evidence of future employment being provided in the village in the foreseeable future. The owner of the estate has alerted us to the fact that they he has difficulty in attracting new business as the village has poor public transport links for prospective

employees and the movement of manufactured goods. Putting substantial new housing development into this inappropriate and remote village location would be unsustainable in the extreme and detrimental to the economy and proper planning of the Borough as a whole.

2. Penley has received more than its fair share of new residential development over the last few years with much of it concentrated, quite properly, onto the former Penley Hospital brownfield site now known as Penmere Park. That development, by Morris Homes Ltd, has been completed and yielded in excess of 110 units of accommodation. We have also had a further 30 houses built within the village and work has just started on the Big Green Farm, Ellesmere Lane site to build another 13 dwellings. We have also received notification that the Welsh Planning Inspectorate are currently considering appeals for a further 24 houses within Penley. This we believe meets all local needs, with quite a few of these houses currently on the market. If further residential development is essential in Penley, then there is brownfield land immediately adjacent to Penmere Park on its north-eastern flank at **Tupa, Penley Hall Drive (PENL05CS – 1ha)**, being the site of other redundant hospital buildings, as well as other brownfield land at **Penley Hall Industrial Estate (North) (PENL001UCS – 1.1ha)**.
3. The essential character of Penley village derives from its relatively low density and spread out form. It features several concentrations of built development separated by grassy fields but there is no defined village center. Most importantly the proposal site lies outside the settlement limit and within an area of Local Designated Site of Nature Conservation.
4. Turning to policy matters. We are still awaiting approval of the 2013-2028 LDP and we accept that the weight given to the previous Wrexham Unitary Development Plan (UDP) 1996-2011 must be tempered by its age, and other material considerations - particularly national planning policy, housing land supply (already addressed in these objections) and the objective of achieving sustainable

development. But these planning policies are important in providing a framework against which to test the application proposals. The application (P/2020/0748) performs badly when measured against many of the policies cited. In particular:

- Policy EC5 (Special Landscape Area). The development would have an adverse impact on the landscape and wildlife of this woodland area. The development would not blend into the built environment but would extend it to the detriment of the open character of Penley.
- Policy PS1 (Settlement Limits). This site is patently outside the carefully thought out settlement limits of the village.
- Policy PS2 (Development and the environment). Development of this woodland site would materially and detrimentally affect countryside, landscape character, open space and the quality of the natural environment.
- Policy S3 (Brownfield land). As we have already indicated, there is still brownfield land available for development in Penley. There is no urgent need for further housing land at this time, in advance of a thorough review of competing sites assessed through the local plan process.
- Policy PS4 (Settlement pattern). This development would not maintain the existing settlement pattern and character, and would not help reduce the overall need to travel. Many of the new residents would be likely to travel by car to distant places of employment.
- Policy T8 (Parking, transport). The No 146 bus service between Wrexham and Whitchurch/ Whitchurch and Wrexham is limited to 4 services per day with no evening or Sunday service. There is no public bus service to Ellesmere or Oswestry.
- Policy GDP1 (Development objectives). Built development here would not accord with the open character of the site and would not make a positive contribution to the appearance of the locality.
- Policy GDP2 (Capacity of infrastructure and community facilities). There is no need for

further housing development hereto support community facilities. More than 153 new dwellings have been built in the village in recent years, the primary school has had to accept a higher number of village children under appeal into the nursery year. The secondary school is believed to be at or beyond capacity. Both schools have been told there is no money available from the authority for capital building projects. Unlike some rural villages Penley is NOT threatened by a loss of population.

- It is common knowledge that there is not a 5-year supply of available housing land in the Wrexham authority area. However, the Minister clarified the Welsh Government's policy on this in a letter to the Heads of Planning in each Council on the 18th of July 2018. The letter said that the Minister had decided to dis-apply paragraph 6.2 of Technical Advice Note (TAN)1(Joint Housing Land Availability Studies), which refers to attaching "considerable" weight to the lack of 5-year housing land supply as a material consideration in determining planning applications for housing. Instead, the Minister said it would be a matter for decision makers to determine the weight to be attributed to the need for increase housing supply where a Council has a shortfall in housing land. There is no shortfall or need for extra housing in Penley as indicated already in paragraph 2.
5. As a community council we already have grave concerns regarding the infrastructure within the village.
- The sewerage system is at or above its planned capacity with sewerage having to be pumped out of the system and transported by road on a regular basis to free and unblock the system.
 - The approach road to the new development is narrow and the houses currently built have, because of design, to park a second or third car on the roadside. Tudor Drive can not be widened because of housing development on both sides of the road.

In summary, we believe it would be wrong to approve further housing development on this site.

Local Member:
Public Protection:
Highways:

It would deprive Wrexham town of a proper and fair share of housing land based on its population size and level of economic activity. It would harm the rural character of the area and the particular settlement characteristics of Penley. Such a decision would add to the feeding frenzy of landowners and developers wishing to get their own share of the action (and profit) before the doors are closed with the publication of a Deposit Local Plan.

Notified 20.11.2020.

Conditions and advisory notes recommended.

Have made the following comments:

Access

- The proposal includes plans for two new access points: a new junction off Tudor Drive, serving 15 dwellings and a shared driveway onto Hill Crest, serving 2 dwellings.
- Both the new junction and Hill Crest access are acceptable as presented on the Proposed Site Plan.
- It would be preferable to provide a turning head at the western end of the extended Tudor Drive to reduce the need for vehicles to reverse.

Traffic Generation

- It is not considered that the traffic generated by the development would have a significant impact on Tudor Drive, Hill Crest or the surrounding road network.

Conclusion

- There are no highways concerns to raise, in respect of these proposed access, if you are mindful to grant permission. The following recommendations would form the conditions of that permission:
 - i. The design of the extension to Tudor Drive and the new access junction should be as presented on the submitted site plan.
 - ii. Tudor Drive is to no less than 5m in width
 - iii. Footways should be provided along the frontage as indicated on the submitted plans.
 - iv. A turning head should be provided at the end of Tudor Drive, to avoid unnecessary travel in reverse gears.

Education:
Contaminated Land:
Rights of Way:

Consulted

Conditions required

The development affects on or more claimed footpaths.

NRW:

We have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if you attach the following conditions to the permission.

Otherwise, we would object to this planning application.

- Condition 1: Great Crested Newts: No development or phase of development, including site clearance, shall commence until an Amphibian Conservation Plan has been submitted to and approved in writing by the Local Planning Authority.
- Condition 2: Biosecurity: No development, including site clearance, with the potential to impact on invasive species, shall commence until a site wide Biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority.

We also advise that the following report is included in 'approved list of plans / documents' condition within the decision notice should consent for the project be granted.

Welsh Water:

SAB approval required. Sewer located close to site boundary. Condition recommended in respect of foul drainage.

Press Notice:

Expired 23.12.2020

Site Notice:

Expired 17.12.2020

Neighbours:

The owners/occupiers of 20 nearby properties notified@@

22 objections received expressing the following concerns:

- Impact upon the character of the village/LLanerch Panna
- Limited services in the village;
- Limited public transport;
- Lack of infrastructure;
- Capacity of local schools;
- Increase in traffic;
- Loss of woodland – the wood is covered by a TPO;
- Impact upon ecology/wildlife
- Width of Tudor Drive and existing on-street parking;
- Lack of green/open spaces
- Other build developments recently completed in the area and another pending.
- Asbestos;
- Japanese knotweed;

- Right of way application has been lodged for pathways in the woods;
- There has been building in the village but there has been little/if any infrastructure improvements;
- Noise;
- The housing applied for is large 4 bedroom houses, not affordable housing for local people;
- Localised flooding;
- Visibility off Tudor Drive to cul-de-sac is poor;
- Damage to the road during construction;
- Construction traffic;
- Noise, dust and building waste;
- Loss of privacy;
- Highway safety;
- Pedestrian safety
- Conflict with UDP

1 representation expressing no objection but having the following concerns:

- Width of Tudor Drive and existing on-street parking;
- Highway safety;
- Would be opposed to further development on the remainder of the land. The village doesn't have the infrastructure and services;
- Been assured the building would be conducted in a considerate manner to minimise impact on local residents.

7 representations in support for the following reasons:

- Site has been left to grow;
- Site is not a safe place;
- Most of the infrastructure is there;
- The land may be sold again to somewhere who does not care what happens to it;
- Development will enhance the area;
- The development has followed the original Penley District Plan from 1989
- Proposals would utilise brownfield site;
- Potential for other uses if the site is not developed;
- Would make great use of the disused woodland;

- National shortage of housing;
- Penley has obvious attributes and potential for further development;
- Priority should be given to site such as this rather than on green fields;
- The development would be undertaken by people from the village who will have the interests of the village in mind;

SPECIAL CONSIDERATION

Policy: The site lies outside of the settlement limit of Wrexham and is situated within a Special Landscape Area as defined in the UDP. Given the site number of units proposed the development does not accord with policy H5 which only permits small scale residential development on sites outside of settlement limits. The proposals therefore conflicts with that policy as well as PS1 and EC5. I will discuss later in the report whether or not the site is previously developed land.

Notwithstanding the above, section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the development plan in force in the area unless material considerations indicate otherwise.

Housing Land Supply

Following the revocation of Technical Advice Note 1 and amendment to Planning Policy Wales (PPW) and published Development Plans Manual Edition 3 (DPM3), the requirement for Council's to maintain a 5 year housing land supply has now been removed. Nevertheless, the delivery of housing is still a key national planning policy requirement and therefore a significant material consideration in the determination of the application. Delivery is now to be monitored, in Wrexham's case, using the Average Annual Requirement (AAR) as set out in a Local Development Plan.

It is acknowledged that the LDP has yet to be adopted and currently still subject to Examination in Public. Paragraph 9.4.8 of the Development Management Manual (DMM) advises that certainty regarding the content of an LDP will only be achieved when the Inspector delivers their binding report, which takes place following the completion of an Examination in Public (EiP). Paragraph 9.4.9 of the DMM does however acknowledge that the evidence underpinning an emerging LDP could be used as a material consideration when making planning decisions.

The deposit LDP identifies a requirement for 7,750 homes to be built over the 2013-2028 period. I have not been given any indication that LDP Inspectors that this will be substantially amended, and given the advanced stage of the LDP examination. The need to deliver 7750 homes by 2028 equates to an annual average requirement (AAR) for 517 dwellings. The actual rate of completions over the 2013-2019 period has been half of this.

It is clear that meeting the LDP housing requirement requires the release of land outside of UDP settlement limits, indeed 13 of the LDP allocations are situated

outside of UDP settlement limits. These sites are expected to deliver 40% of the total LDP housing requirement. In addition to dwellings delivered by allocations, the LDP housing requirement is expected to be met from a number of other different components, including development that has already been completed and from committed supply – i.e. sites that have planning permission but have yet to be built out. Since 2013, sites that are not proposed for allocation in the LDP but also situated outside of the settlement limit have already been developed, are in the process of being developed or have extant planning permissions. When these sites are taken into account then over half of the housing requirement will be met by sites outside of UDP settlement limits.

Notwithstanding the above, it does not automatically follow that proposals for sites outside of settlements will be supported. The Local Development Plan is likely to be adopted in the next 12 months offering a development plan-led solution to the shortfall in housing land supply. That being the case, whilst the under delivery of housing land supply since 2013 is a material consideration of significant weight, it does not, in itself, justify the granting of planning permission.

Emerging Local Development Plan: The application site is not proposed for allocation in the LDP and is to remain outside of the settlement limit. The Special Landscape Area designation will also remain.

The fact that a considerable proportion of the LDP housing supply will be delivered on land outside of the UDP settlements does mean that policy PS1 is now out of date. Nevertheless, even though no certainty exists in respect of the LDP at this point, the fact that there are no changes to the settlement limit to include the application site are proposed in the LDP means there would continue to be a presumption against residential development should the Plan be adopted in its current form.

Until the LDP Inspectors confirm otherwise, it is possible that in order for the LDP to be found sound, additional sites may need to be allocated in order to ensure the housing requirement can be delivered. The Council's LDP hearing statement M3.01R¹ identifies a number of reserve sites. Representations by a number of interested parties have also been made to the Deposit Plan and the EiP promoting a number of alternative sites. The application site is not on the reserve sites list nor is it amongst the sites promoted through the Deposit Plan consultation and EiP processes. The site was also not submitted as a Candidate Site prior to the preparation of the Deposit Plan. It is therefore highly unlikely that this site be one of any additional sites allocated.

The boundaries of the SLA within the LDP are informed by EBN03: Special Landscape Areas Study (the Study). In determining which areas of the County Borough should be designated as SLA, the Study referred to LANDMAP (paragraphs 3.2.1-3.2.5) and, in particular, to the spatial data sets for five topic areas:

- Cultural Landscape
- Geological Landscape

¹ M3.01R Wrexham County Borough Council's response to Action points 1 and 2 from Matter 3: Housing Provision. <https://wrexham-consult.objective.co.uk/file/5500687>

- Historic Landscape
- Landscape Habitat
- Visual and Sensory

LANDMAP provided an overall assessment of the quality of the landscape for each of the five topic areas.

The site falls within the proposed Maelor Special Landscape Area. Of specific relevance to this application, The Study identifies scenic quality to be high in the area *with a relatively high proportion of accessibly viewed scenes of attractive rolling traditional farming landscape afforded throughout the area. Views are often framed by, or over, mature hedgerow and woodland fringes and where viewed within settlements and villages are often of traditional village centres with an attractive array of traditional and older buildings in the distinctive brick and stone pattern of the area.*

It is noted above that Paragraph 9.4.9 of the DMM acknowledges that the evidence underpinning an emerging LDP could be used as a material consideration when making planning decisions. I consider the Study to be relevant to the considering of this application due to it being a relatively recent assessment of landscape quality within the County Borough. The proposed SLA boundaries serve to confirm the landscape value of the countryside surrounding Penley and lends weight to both the existing UDP and proposed LDP SLA designation as well as the case for protecting the SLA from inappropriate development.

Whilst acknowledging that the UDP is time expired and the shortfall in housing provision are both significant material considerations, they are not, in themselves, valid reasons for granting planning permission and instead must be weighed against a number of other considerations. In my opinion the degree of continuity between it and the LDP in respect of this site is a factor that weighs against the development. There are also a number of other factors, which I will discuss below, that also weigh against the development to the extent that housing land supply is not a sufficient reason to grant permission for a development that conflicts with UDP policies.

Previously Developed Land: The supporting statement considers the site to be previously developed land. The site has undoubtedly been developed previously, having been used as a wartime hospital between 1943 and 1948 with evidence of the past use still apparent on site, including the remains of hard surfaces, footprints of buildings and a small number of extant structures. Despite this, through a process of natural colonisation, the area has seen the emergence of a young vibrant woodland which, when viewed from beyond its boundaries, ensures the site appears as an integral part of the countryside surrounding Penley.

PPW10 confirms land where the remains of any structure or active have blended into the landscape over time so that they can reasonably be considered part of the natural surroundings. In my opinion the site has, when viewed externally and in the context of the countryside setting of Penley, blended into the landscape so that it can be considered as part of the natural surroundings. Indeed as noted above, the SLA Study found that views framed woodland fringes are characteristic of the Maelor

SLA. Accordingly it is my view that the site does not fall within the definition of previously developed land as set out in PPW.

Even if the site is considered previously developed land, then paragraph 3.51 recognises that not all such and is suitable for example because of, for example habitat or protected species.

Sustainability: Planning Policy Wales paragraph 3.35 advises that development in rural area should be located in settlements which have relatively good accessibility by non-car modes and should offer good active travel connections to the centres of settlements to reduce the need to travel by car for local journeys.

LDP Background Paper BP02b: Settlement Hierarchy and Development Potential (BP02b) identifies settlements in Wrexham as falling within one of 5 tiers based on an assessment of the availability of employment, local services and accessibility by non-car modes:

Tier 1: Primary Settlement
Tier 2: Key Settlement
Tier 3: Local Service Centres
Tier 4: Minor Villages
Tier 5: Hamlets.

The application site is effectively an urban extension to Wrexham. Penley is identified as a Tier 3 Local Service Centre, Primary Settlement, or a settlement which has relatively good accessibility by non car modes and a range of local services. This is reflective of the fact that Penley has a small industrial estate, a primary and secondary school, local shop and a bus services and as such it does act as a service centre for the surrounding rural area. Penley has an allocation in the forthcoming LDP, the majority of which now benefits from permission for 15 dwellings recently allowed on appeal: P/2019/0312, land to the rear of Brookfield Close. It is therefore an appropriate settlement for modest sized development, indeed the Inspector. Whilst this site is further from the village centre than the Brookfield Close development, I do not consider the additional distance to be such that the proposals would be unacceptable by comparison in sustainability terms. As such the proposals would broadly accord with paragraph 3.35 of PPW.

Ecology: The site lies occupied part of the local wildlife site W420 - Llanerch Panna & Penley Bank.

W420 site a woodland and associated grassland areas, with the majority of the site being woodland within the grounds of an old hospital. There are some ancient woodland indicators, such as field maple, bluebell, wood melick and dog's mercury. The development would inevitably have a detrimental impact upon the local wildlife site given that it would require extensive vegetation and tree clearance within the site. The ecology report accompanying the application identifies that three trees with high potential for and 35 trees with moderate potential for bats will be felled. The report also acknowledges the loss of foraging and community habitat for bats. The site also provides opportunities for nesting birds.

Whilst the ecology report recommends measures such as the provision of artificial bat roosts and bird boxes in the adjacent woodlands and the implementation of a woodland management plan, no details mitigation/compensation proposals have been submitted. It is therefore not possible to conclude that these will adequately off-set the impacts arising from the development of the site, in particular the extensive loss of woodland coverage, or how this would ensure protect the integrity of the remainder of the local wildlife site.

In addition to being a local wildlife site, Great Crested Newt has been recorded in areas around the site, including in a pond adjacent to land owned by the applicant but lying outside of the application site. The site itself, as well as adjoining land is also likely to offer foraging, dispersal and sheltering opportunities for GCN and therefore the development poses a risk.

NRW have advised that a conservation plan is required that details avoidance and mitigation measures, as well as a long term management plan that includes habitat creation and enhancement. Their response suggests that this can be secured by condition, however the details provided in the Ecology Report are limited in detail in terms of the mitigation proposed. Technical Advice Note 5 advises that planning permission should not be granted unless the Local Planning Authority is satisfied that the development would not adversely impact upon a European Protected Species. In the absence of more detailed proposals in respect of mitigation, I do not believe it is possible to conclude that the development will not adversely impact upon GCN. It would, in my opinion, also be inappropriate to impose a condition to require such a scheme because to do so would be to accept the principle of development without being confident that its impacts can be adequately mitigated.

On the basis of the above, the proposals conflict with EC6.

Visual Impact: There is currently a very clear a well defined edge to the built up area of Llanerch Panna/Penley, which broadly coincides with the curtilage boundaries of the western most properties in Tudor Drive, West Way and Hillcrest. Despite there being signs of the previous use when standing within the application site, these are less apparent when the site is viewed from adjacent land, even from vantage points close to the site boundary on Tudor Drive and Hillcrest. The existence of a palisade type fence/gate at the site entrance does little to change the impressions of a very clear and distinct urban age.

Because of the extensive tree coverage, the site appears to have more in common with the rural landscape surrounding the village. This is particularly apparent when traversing the footpath to the north of the site as well as from vantage points to the south. Indeed, from outside of the site, there is very little, if any evidence of the site having once been developed. It appears as a large wooded area within a rural landscape.



Photograph from the north-west of the application site



Photograph from south of the application site

The trees within the site are subject to a 'Woodland' Tree Preservation Order. The Arboricultural Report accompanying the application identifies individual trees as Category U, in other words, they are not worth of retention. However this fails to take into account the collective value of the trees as a woodland feature within a wider landscape context. Viewed in a broader context, the woodland makes a significant contribution to the character of the landscape. Woodland areas are, as the SLA Study confirms, important features of the proposed Maelor SLA. The trees, as discussed above so also have an ecological value.

The development of the site would result in the extensive clearance of seedlings, saplings, young and semi-mature trees of which all are afforded protection under the TPO. Such clearance would significantly alter the woodland character of the site and indeed with wider area covered by the TPO. The development itself would also inevitably result in an intrusion of urban development into the rural landscape, to the detriment of the character of the area and to the detriment of the Special Landscape Area. The retention of trees to the north of the site (i.e. outside of the application site) and, as indicated on the indicative site plan, within the curtilage of a dwelling to the south, would not be sufficient to mitigate the harm arising from this intrusion. The harm arising as a result of the development results is in conflict with policies PS2, GDP1, EC4 and EC5 of the UDP, and is not outweighed by the benefits derived from a comparatively modest increase in housing land supply.

Highways: The indicative plans suggest 15 dwellings would be accessed from Tudor Drive, with the remaining 2 accessed from Hillcrest. There are already 17

properties with direct access off Tudor Drive at present. Tudor Drive also serves as the sole means of vehicular access to a further 40 properties on Oak Drive and West Way, making 57 properties in all.

Tudor Drive is 5.75m wide at its eastern end and 5.4m wide at its western end. Whilst I am aware that there is some on-street parking, this is not unusual in a residential area. The road is of a sufficient standard to cater for the traffic generated by the development, which in the context of the existing residential development in Tudor Drive Oak Drive and West Way and the number of units proposed, is unlikely to be significant. The junction of Tudor Drive and Ellesmere Lane also has adequate viability in both directions.

Hillcrest serve as access 24 properties at present and is modern estate road of adequate width and layout. The addition of 2 dwellings will result in only a small increase in traffic using the road.

Tudor Drive, Hill Crest and Ellesmere Lane are provided with pedestrian footways thus affording safe pedestrian access into Penley.

The layout in the estate road(s), footways and on-site parking provision are matters to be dealt with a reserved matters stage, although I have no reason to doubt that they could be satisfactorily addressed though an appropriate site design.

Taking all of the above into account I am satisfied the proposals do not pose a highway safety risk and that acceptable means of vehicular and pedestrian access can be provided to the site.

Open Space: The indicative plans make provision for a modest amount of on-site open space or approximately 300 sq.m. In accordance with CLF5 provision of around 850 sq.m would be required. Given that there is limited open space in the vicinity, as well as fact the site would, essentially form the boundary between the built up area of the village and the open countryside, it would be appropriate for a policy compliant amount of open space to be provided on site to provide a degree of amenity to future occupiers. If well positioned and laid out it would also be beneficial to the appearance of the development. Were permission granted, this matter could be addressed by a condition requiring the layout details submitted at reserved matters stage to include provision for on-site open space. Long term management of onsite open space could be secured by way of a Planning Obligation. I therefore do not anticipate a conflict with policy CLF5.

Amenity: Layout is a matter reserved for subsequent approval. Nevertheless I am satisfied that there is sufficient scope to provide a layout that accords with LPGN21 and as such I do not anticipate undue harm to the standard of amenity afforded to occupiers of existing nearby properties by way of loss of light, privacy or visual over dominance. I am also satisfied that there is sufficient scope to ensure adequate provision for the amenity of future occupiers of the development, having regard to advice in LPGN21.

Noise has been raised as a concern by some objectors. Noise arising from the occupation of dwellings is a matter related to the behaviour of future occupiers rather than the use of land, and as such is a matter outside of the scope of planning control.

It is inevitable that there would be some short term disruption arising from construction. It would not be a valid reason to withhold planning permission and, if necessary, measures such as limiting working hours could be secured by condition in order to minimise disruption.

Other Matters: Concerns have been expressed about the pressure the development will place on local infrastructure. Based on the formulae in LPGN27 and the house type mix down on the indicative plans, the development is likely to generate 4 pupils of primary school age and 4 of secondary school age. Education have not responded therefore I am unable to conclude whether local schools have adequate provision for the comparatively limited number of children that the site is likely to generate. However if there were insufficient school places, in accordance with LPGN27 this matter could be addressed by way of a financial contribution secured via a Planning Obligation.

CONCLUSION

The proposals represent a clear conflict with UDP policies PS1 and H5 in respect of housing in the countryside. It is acknowledged that there is a very clear need to deliver additional housing land supply, particularly in light of a significant under deliver since 2013 when measured against the LDP AAR. The benefits of increasing supply in this instance are, however, very clearly outweighed by the harm to the Special Landscape Area, the loss of TPO trees, the harm to a local wildlife site and lack of sufficient information to demonstrate that the proposals could take place without harm to Great Crested Newts, which bring the development into conflict with policies PS2, GDP1, EC4, EC5 and EC6.

RECOMMENDATION: Permission is **Refused**