

The Planning Inspectorate

PLANNING APPEAL FORM WALES (Online Version)

WARNING: The appeal **and** essential supporting documents **must** reach the Inspectorate within the appeal period. **If your appeal and essential supporting documents are not received in time, we will not accept the appeal.**

Appeal Reference: APP/H6955/A/20/3263516

A. APPELLANT DETAILS

The name of the person(s) making the appeal must appear as an applicant on the planning application form.

Name

. . Barratt Homes, Bloor Homes North West, John Raymond Jones

Company/Group Name

and the Trustees of the Wrexham (Parochial) Education Foundation

B. AGENT DETAILS

Do you have an Agent acting on your behalf?

Yes

☒ No

☐

Name

Mr Dan Ingram

Company/Group Name

Barton Willmore

Your reference

23774

C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority

Wrexham County Borough Council

LPA reference number

P/2019/0005

Date of the application

04/01/2019

Did the LPA issue a decision?

Yes

☒ No

☐

Date of LPA's decision

27/07/2020

D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address?

Yes

☐ No

☒

Does the appeal relate to an existing property?

Yes

☐ No

☒

Address

Land South of Holt Road
Wrexham
Grid Ref Easting: 335861
Grid Ref Northing: 351572

Is the appeal site within a Green Belt?	Yes	☐ No	☒
Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site?	Yes	☐ No	☒

E. DESCRIPTION OF THE DEVELOPMENT

Has the description of the development changed from that stated on the application form? Yes ☐ No ☒

Please enter details of the proposed development. This should normally be taken from the planning application form.

Outline application for the construction of up to 600 dwellings, with associated landscaping, public open space and on-site infrastructure, with all matters reserved except from the northern site access.

Area (in hectares) of the whole appeal site [e.g. 1234.56] 28.52 hectare(s)

F. REASON FOR THE APPEAL

The reason for the appeal is that the LPA has:

1. Refused planning permission. ☒
2. Granted planning permission for the development subject to the conditions to which you object. ☐
3. Refused approval of the matters reserved under an outline planning permission. ☐
4. Granted approval of the matters reserved under an outline planning permission subject to conditions to which you object. ☐
5. Refused to approve any matters required by a condition on a previous planning permission. ☐
6. Failed to give notice of its decision within the appropriate period (usually 8 weeks) on an application for permission or approval. ☐

G. PREFERRED PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations ☐
2. Hearing ☐
3. Inquiry ☒

You must give detailed reasons below or in a separate document why you think an inquiry is necessary. The reasons are set out in

☒ the box below

The development proposal for which this Appeal related pertains to the development of 600 new dwellings, and will make a significant contribution to meeting the housing needs of Wrexham. The Appeal Site is identified within the Council's emerging Local Development Plan, which is at an advanced stage, as being a Key Strategic Site allocated for significant development. Despite the support that is afforded to the development of new housing, and a recommendation from the Council's officers that the application should be approved, the application was refused by the Council on the grounds that it was contrary to its significantly out-of-date Unitary Development Plan, that it had not followed the sequential approach with regard to preserving the best and most versatile agricultural land and that it had failed to consider the impact of the development upon health provision locally.

The Appeal will have to address disputes on material factors in relation to planning policy (and its proper interpretation) and will necessitate the presentation of expert opinion through on such matters as the weight to be afforded to adopted and emerging policy, the related evidence base and technical evidence relating to the impact of the proposed development on health facilities. The Appellants will need to be provided with the opportunity to formerly cross-examine witnesses for the Local Planning Authority and is instructing Counsel to do so. A hearing would not allow the Appellants to test the evidence by way of cross-examination, and will not provide the Inspector with all of the steps of an inquiry (including preparation of proofs of evidence) for the Inspector to hear evidence about these issues. The Inquiry structure will allow all parties to present and rebut evidence in a fair way given the issues at stake.

For the reasons already identified, it will also be necessary to make legal submissions on the interpretation and application of policy. The Appellants will call upon Counsel to make those submissions.

It is clear given the issues raised and the need for submissions, that the Appeal cannot be dealt with in a day through the hearing procedure and is likely that a bespoke timetable will be required.

The application was subject to a number of objections from local residents and community groups. It is to be expected that a number of third parties will wish to engage in the Appeal and the Inquiry procedure is considered to be the most appropriate means of ensuring this can happen. In summary, this Planning Appeal raises multiple and complex matters that can only be adequately dealt with through the Inquiry procedure.

(a) How long do you estimate the inquiry will last?

8 day(s)

(b) How many witnesses do you intend to call?

4

(c) How long would they need to give their evidence?

1 day per witness subject, plus cross-examination of Council and any third party witnesses. Also discussions around costs, conditions, legal agreement and other matters which may arise.

(d) Is there any further information relevant to the inquiry which you need to tell us about?

Yes

☐ No



H. GROUNDS OF APPEAL

The grounds are set out in

☐ the box below

☒ [see 'Appeal Documents' section](#)

Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal?

Yes

☒ No



I. COSTS

Do you intend to submit a costs application with this appeal?

Yes

☒ No



Details of the costs application are set out in

☒ the box below

In accordance with Section 322C (Costs: Wales) of the Town and Country Planning Act 1990, and with the Section 12 Annex (Award of Costs) of the Development Management Manual, this Appeal is accompanied by an application for full costs. Annex 12 of the Development Management Manual confirms that costs will be awarded where a) a party has acted unreasonably; and b) where

unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense.

The Appellants consider that the Council has acted unreasonably and that this has directly resulted in the incursion of significant and unnecessary expense. The reasons for the application for costs are threefold, and are outlined below. The Appellants reserve the right to supplement this submission as required during the course of the Appeal.

Firstly, the Appellants consider that the Council's failure to recognise and give substantial weight to its own emerging Local Development Plan, and the evidence base which underpins it, amounts to unreasonable behaviour. The Appeal Site is identified within the emerging Local Development Plan as a key strategic development site, intended to deliver a significant quantity of new market and affordable homes to meet existing and future development needs. The emerging LDP is at an advanced stage. The Council has undertaken various consultations over a number of years and has prepared significant evidence to justify its LDP, which it has submitted to Welsh Government and defended at Examination as a Plan which it considers to be sound and robust. The Council's Members have consistently voted, since 2014, to include the Appeal Site as a key strategy site in the LDP. The Appellants have worked with Council officers, consultees and stakeholders investing considerable time and expense to support the Council in its proposed allocation of the Site for housing, in the knowledge that the Council wishes to see the Site developed. That was the very basis for the planning application. In addition, Council officers advised its Members very clearly on Development Plan Manual (DPM) guidance relating to prematurity. Paragraph 7.7 of the DPM was clearly quoted to Members, and in refusing planning permission Members failed to indicate clearly how the grant of permission for the development would prejudice the outcome of the LDP process. Without such evidence the Council's failure to give significant weight to the emerging LDP amounts to unreasonable behaviour.

Conversely, and unreasonably, the Council has elected to give full weight to its UDP. The Wrexham UDP was adopted in 2005 and covered the period 1996-2011. It is time-expired by nearly 10 years and its evidence base is some 20 years old. It bears no relation whatsoever to the present development needs of the County Borough. The Appellants consider that this represents unreasonable behaviour and have incurred significant, wasted costs as a result.

Secondly, in its determination of the planning application, the Council considered that the proposed development had not assessed the need for or made suitable provision for improvements to healthcare facilities, and as a result refused the planning application on this basis. The Officer's Report to the Planning Committee is clear however that contributions to such provision were not justified. The Council itself had made an assessment of the justification or otherwise for the proposed development to contribute towards health facilities in the area. As a consequence the Appellants were not requested to either assess the need themselves or indeed to make such a contribution. The planning application was essentially refused for not providing something that it had not been asked to provide, with Officers confirming that such provision was not required. The Council has failed to provide any evidence to substantiate its claim that the impact of the proposed development upon health care provision in the area justifies either further assessment or a financial contribution. The Appellants consider that this represents unreasonable behaviour and again have incurred significant unnecessary costs as a result.

Finally, in its determination of the planning application The Council considered that the sequential approach to preserving the best and most versatile (BMV) agricultural land, had not been applied to the development proposal, contrary to Planning Policy Wales (PPW), and that as a result, the proposed development was unacceptable. This point is linked to the first substantive reason for the costs application detailed above, in that the Appellants consider that in reaching this conclusion, the Council has failed to consider the emerging Local Development Plan, or the evidence base which underpins it. As set out above, the Appeal Site has been proposed within the emerging Local Development Plan as a key strategic allocation for new housing. In reaching this position the Council, as part of the formulation of its evidence base, has already undertaken the required sequential test and concluded that there is an overriding need for the Site to be developed for much needed housing. Whilst the application itself did not provide a detailed sequential assessment with the planning application, it was not required to do so because the basis for the planning application was the advanced, emerging housing allocation which itself was supported by the Council's assessment under paragraph 3.55 of PPW. This was not considered during the determination of the application, nor was the emerging Local

Development Plan afforded the appropriate level of weight in the planning balance. Had proper regard being given to these facts the only conclusion is that this reason for refusal is baseless and the Appellants necessity to pursue an appeal on this basis has resulted in unnecessary and significant costs being incurred. The Council has therefore acted unreasonably.

In summary therefore, it is the Appellants contention that the Council has behaved unreasonably in relation to all three reasons for refusal, by ignoring the professional advice of its Planning Officers and having little or no regard to its emerging LDP, which is at an advanced stage. On this basis, the Appellants seek a full application for costs.

J. (part one) SITE OWNERSHIP CERTIFICATES

Which certificate applies?

CERTIFICATE A

I certify that, on the day 21 days before the date of this appeal, nobody, except the appellant, was the owner of any part of the land to which the appeal relates;

☐

CERTIFICATE B

I certify that the appellant (or the agent) has given the requisite notice to everyone else who, on the day 21 days before the date of this appeal, was the owner of any part of the land to which the appeal relates, as listed below:

☒

Owner's Name:

Wrexham County Borough Council - Highways Department

Date the notice was served:

19/11/2020

CERTIFICATE C and D

If you do not know who owns all or part of the appeal site, complete either Certificate C or Certificate D and attach it below.

☐

J. (part two) AGRICULTURAL HOLDINGS

We need to know whether the appeal site forms part of an agricultural holding.

(a) None of the land to which the appeal relates is, or is part of, an agricultural holding.

☒

(b)(i) The appeal site is, or is part of, an agricultural holding, and the appellant is the sole agricultural tenant.

☐

(b)(ii) The appeal site is, or is part of, an agricultural holding and the appellant (or the agent) has given the requisite notice to every person (other than the appellant) who, on the day 21 days before the date of the appeal, was a tenant of an agricultural holding on all or part of the land to which the appeal relates, as listed below.

☐

K. SUPPORTING DOCUMENTS

01. A copy of the original application form sent to the LPA.

☒

02. A copy of the site ownership certificate and ownership details submitted to the LPA at application stage (this is usually part of the LPA's planning application form).

☒

03. A copy of the LPA's decision notice (if issued).

☒

04. A site plan (preferably on a copy of an Ordnance Survey map at not less than 10,000 scale) showing the general location of the proposed development and its boundary. This plan should show two named roads so as to assist identifying the location of the appeal site or premises. The application site should be edged or shaded in red and any other adjoining land owned or controlled by the appellant (if any) edged or shaded blue.

☒

05. A list (stating drawing numbers) and copies of all plans, drawings and documents sent to the LPA as part of the application. The plans and drawings should show all boundaries and coloured markings given to those sent to the LPA.

☒

06. A list (stating drawing numbers) and copies of any additional plans, drawings and documents sent to the LPA but which did not form part of the original application (e.g drawings for illustrative purposes). ☒
07. A copy of the design and access statement. ☒
08. Additional plans or drawings relating to the application but not previously seen by the LPA. ☐
09. Any relevant correspondence with the LPA. ☐
10. (a) If the appeal is against the LPA's refusal or failure to grant permission for 'details' imposed on a grant of outline permission, enclose the relevant outline application. ☐
10. (b) If the appeal is against the LPA's refusal or failure to grant permission for 'details' imposed on a grant of outline permission, enclose all plans sent at outline application stage. ☐
10. (c) If the appeal is against the LPA's refusal or failure to grant permission for 'details' imposed on a grant of outline permission, enclose the original outline planning permission. ☐
11. If the appeal is against the LPA's refusal or failure to decide an application which relates to a condition, we must have a copy of the original permission with the condition attached. ☐
12. If the appeal is against the LPA's failure to decide an application, please supply a copy of the letter registering your application. ☐
13. A copy of any Environmental Statement plus certificates and notices relating to publicity (if one was sent with the application, or required by the LPA). ☐

L. ADDITIONAL INFORMATION

- | | |
|---|---|
| Is flooding an issue? | Yes ☐ No ☒ |
| Does the development affect the setting of a listed building? | Yes ☐ No ☒ |
| Is the appeal site within an Area of Outstanding Natural Beauty (AONB)? | Yes ☐ No ☒ |
| Does the site lie within a Conservation Area? | Yes ☐ No ☒ |
| Does the site lie within green wedge? | Yes ☒ No ☐ |

M. OTHER APPEALS

- | | |
|---|---|
| Have you sent other appeals for this or nearby sites to us which have not yet been decided? | Yes ☐ No ☒ |
|---|---|

N. NOW SEND

Send a copy to the LPA

Send a copy of the completed appeal form, personal details form and any supporting documents not previously sent as part of the application to the LPA. If you do not send them a copy of these forms and documents, we may not accept your appeal.

To do this by email:

- open and save a copy of your appeal and personal details form
- locating your local planning authority's email address:
<http://gov.wales/topics/planning/appeals/make-an-appeal/sending-a-copy-to-the-council/?lang=en>
- attaching the saved forms including any supporting documents

To send them by post, send them to the address from which the decision notice was sent (or to the address shown on any letters received from the LPA).

When we receive your forms, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

You may wish to keep a copy of the completed form for your records.

O. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type.

Please ensure that anything you do send by post or email is clearly marked with the reference number.

The documents listed below were uploaded with this form:

Relates to Section:	GROUNDS OF APPEAL
Document Description:	A copy of the grounds of appeal.
File name:	23774.A3.DI.VR - Statement of Case (v6) FINAL- 201119.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	01. A copy of the original application form sent to the LPA.
File name:	CD5.16 - Planning Application Forms @A4.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	02. A copy of the site ownership certificate and ownership details submitted to the LPA at application stage (this is usually part of the LPA's planning application form).
File name:	CD5.16 - Planning Application Forms @A4.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	03. A copy of the LPA's decision notice (if issued).
File name:	CD8.3 - Decision Notice @A4.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	04. A site plan (preferably on a copy of an Ordnance Survey map at not less than 10,000 scale) showing the general location of the proposed development and its boundary. This plan should show two named roads so as to assist identifying the location of the appeal site or premises. The application site should be edged or shaded in red and any other adjoining land owned or controlled by the appellant (if any) edged or shaded blue.
File name:	CD5.21 - Site Location Plan @A3.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	05. Copies of any additional plans, drawings and documents sent to the LPA but which did not form part of the original application (e.g. drawings for illustrative purposes).
File name:	CBO-0322-011 Revised Alignment Plan @A2.pdf
File name:	Covering Letter @A4.pdf
File name:	Draft Illustrative Concept Layout @A3.pdf
File name:	Air Quality Assessment @A4.pdf
File name:	Agricultural Land Classification and Soil Resources @A4.pdf
File name:	Ecological Assessment Report @A4.pdf
File name:	Landscape and Visual Impact Assessment @A4.pdf
File name:	Heritage Assessment @A4.pdf
File name:	Ground Investigation Report @A4.pdf
File name:	Parameter Plan @A3.pdf
File name:	Noise Assessment @A4.pdf
File name:	Planning Application Forms @A4.pdf
File name:	Planning Statement @A4.pdf
File name:	Landscape and Visual Impact Assessment Appendix A @A4.pdf
File name:	Site Location Plan @A3.pdf
File name:	Landscape and Visual Impact Assessment Appendix B @A4.pdf
File name:	Transport Assessment @A4.pdf

File name: Pre-application consultation Report @A4.pdf
File name: Sustainability Assessment @A4.pdf
File name: Welsh Language and Welsh Communities Impact Assessment and Action Plan @A4.pdf
File name: Topographical Survey @A1.pdf
File name: Travel Plan Framework @A4.pdf
File name: Preliminary Arboricultural Impact Assessment @A4.pdf
File name: Transport Assessment Figures and Appendices @A4.pdf
File name: Prior Extraction Assessment @A4.pdf
File name: Flood Consequences Assessment @A4.pdf
File name: Design and Access Statement @A4.pdf
File name: 23774 - Holt Road, Wrexham - Document List (As Submitted) - 200930.pdf

Relates to Section: SUPPORTING DOCUMENTS

Document Description: 06. Any other relevant plans, drawings and documents sent to the LPA, but which did not form part of the application (eg drawings for illustrative purposes).

File name: CBO-0322-017 Roundabout Interim Improvement Scheme Plan @A2.pdf
File name: 661B 05C Parameter Plan (002).pdf
File name: Appellant letter to WCBC 23.07.20 @A4.pdf
File name: Acknowledgement Letter @A4.pdf
File name: SUDS Strategy Statement @A4.pdf
File name: Archaeological Evaluation Report @A4.pdf
File name: Geophysical Survey Report @A4.pdf
File name: Transport Assessment Addendum @A4.pdf
File name: Stage 1 Land Contamination Assessment (Merged) compressed @A4.pdf
File name: 23774 - Holt Road, Wrexham - Document List (Post Submission) - 200930.pdf
File name: WREXHAM PRE COMMITTEE BRIEF compressed @A4.pdf

Relates to Section: SUPPORTING DOCUMENTS

Document Description: 07. A copy of the design and access statement.

File name: CD5.5 - Design and Access Statement @A4.pdf

Completed by MR DAN INGRAM

Date 19/11/2020 15:33:34