

PLANNING APPEAL STATEMENT

Prepared on behalf of Mr A.O. Jones

In support of an Appeal against the refusal of
planning permission for

**RESIDENTIAL DEVELOPMENT AND
ASSOCIATED WORKS**

Land at

**BOTTOM ROAD
SUMMERHILL
WREXHAM
LL11 4TR**

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1.0 INTRODUCTION.

1.1

This Planning Appeal is made in response to the refusal of planning permission by Wrexham County Borough Council (WCBC) as Local Planning Authority (LPA) under reference No. P/2020/0151 on the 30th of July 2020.

1.2

The decision was made under delegated powers.

1.3

The description of development is as follows :-

“Outline application for residential development and associated works.”

1.4

The reasons for refusal are set out below :-

Reason 1 – ***“The proposal for residential development lies outside Gwersyllt settlement limit and does not meet the criteria set out within UDP Policy H5 where housing outside settlement limits will be allowed. The proposal would encroach into open countryside, harming the character and appearance of the area and conflicting with UDP Policies H5, PS2 and GDP1. The proposal is not considered to represent sustainable development as set out in Planning Policy Wales and there are no material considerations associated with the scheme to warrant its approval.”***

Reason 2 – ***“The proposal would conflict with UDP Policy CLF5 by virtue of the shortfall in Public Open Space provision associated with the scheme.”***

Reason 3 – ***“It has not been demonstrated that a SuDS scheme compliant with the Statutory Standards can be delivered for the site, therefore it has not been demonstrated that the development can progress without a detrimental impact on flood risk either to the development site or locally. The proposal has not demonstrated compliance with UDP Policy EC13.”***

Reason 4 – ***“The proposal would not accord with the character of the area and would make no positive contribution to the appearance of the locality, detrimentally affecting the countryside and landscape/townscape character, conflicting with UDP Policies GDP1 and PS2.”***

1.5

This statement sets out the Appellant's Grounds of Appeal to be read in conjunction with the information set out in the Appeal Form.

1.6

The list of application documents are set out below.

Application Pack –

1. Dwg No. 10083-01 – Location Plan.
2. Dwg No. 10083-05 – Proposed Site Layout Plan.
3. Dwg No. 10083-06 – Proposed Outline Elevations.
4. Doc No. 10083-DAS – Planning, Design and Access Statement.
5. Doc No. C415/1.0 – Ecological Appraisal.
6. Doc No. 10083-PaCR – Pre-application Consultation Report.

2.0 SITE AND CONTEXT.

2.1

The application site comprises a generally rectangular shaped parcel of land located immediately adjacent to the northern edge of the settlement of Summerhill and to the east of Bottom Road and with extensive frontage to this road near to the junction with Summerhill Park immediately to the south, and New Road and Chestnut Avenue further to the south. The site is generally flat but slopes very gently from west to east and comprises agricultural land which is grazed. The site amounts to approximately 1.2 Hectares or 2.9 Acres.

2.2

The application site is located outside but adjacent to and adjoining the settlement of boundary of Summerhill as defined by the Adopted Wrexham Unitary Development Plan. The site is undesignated and therefore has no statutory protection in planning terms other than being located outside the settlement boundary. The site lies adjacent to the northern extremity of the settlement of Summerhill and to the existing built development in this location. The site is well related to the existing development to the south and comprises

a logical extension to the village of Summerhill which would not unduly harm the openness of the open countryside in this location.



Extract from the Adopted UDP – Application site edged red.

2.3

The site is served by a substantial frontage to Bottom Road. Bottom Road is well served by public transport services with bus stops being located a short walk to the south on New Road and Beech Street. The site can therefore clearly be shown to occupy a most sustainable location.

2.4

The site comprises improved grassland with the eastern and western boundaries being defined by established hedgerows. The southern boundary is defined by a stock-proof fence adjacent to the public footpath GWE/9 and by screen fences and walls to separate the adjoining property, Greenacres. The northern boundary of the application site is as yet undefined and has been selected to effectively bridge the gap between hedgerows running in an east to west direction and which define the northern boundaries of the adjacent agricultural field parcels which are easily accessed from the Appeal

site. These field parcels could provide significant future development potential subject to planning permission if the Appeal herewith submitted is allowed.

2.5

The existing Public Footpath GWE/9 runs adjacent to the southernmost boundary of the application site and links the site with public footpath GWE/14 providing pedestrian access to Bryn Alyn School, Gwersyllt and Bro Alun School in Bradley thereby providing a safe walking route to school for future residents. Pedestrian access for residents is also available via this footpath to the Gwyn Evans Leisure Complex. Both Alyn Waters Country Park and the Moss Valley are within walking distance.

3.0 GROUNDS OF APPEAL.

3.1

This appeal is made against the decision of the local planning authority to refuse to grant planning permission in outline for residential development on the basis of an illustrative site layout plan which shows that the site has potential for the erection of up to 31 No. dwellings with all matters of detail reserved for further approval apart from access.

3.2

The application for planning permission was conceived in response to the lack of a 5 year supply of housing land in the County Borough and indeed acknowledged other recent decisions by the LPA to grant planning permission on sites within the Green Barrier due to the lack of a sufficient housing land supply.

3.3

This appeal will question whether the LPA are taking a consistent approach in dealing with applications for potential developments outside of settlement limits and / or within the Green Barrier.

3.4

The LPA set out four reasons for refusal of the application and this statement will deal with each ground in turn below :-

Reason 1 – ***“The proposal for residential development lies outside Gwersyllt settlement limit and does not meet the criteria set out within UDP Policy H5 where housing outside settlement limits will be allowed. The proposal would encroach into open countryside, harming the character and appearance of the area and conflicting with UDP Policies H5, PS2 and GDP1. The proposal is not considered to represent sustainable development as set out in Planning Policy Wales and there are no material considerations associated with the scheme to warrant its approval.”***

It is clear that the application site is indeed located outside the existing settlement boundary and development will encroach in to open countryside. However, the perceived harm to the character and appearance of the area needs to be weighed against the urgent and pressing need to increase housing land supply. The Adopted Unitary Development Plan (UDP) only covers the period of 1996 to 2011 and it would appear that Wrexham County Borough will not have an adopted Local Development Plan in place until 2021 at the earliest.

Where a 5 year housing land supply does not exist, TAN1 indicates that the need to increase supply should be given considerable weight when dealing with planning applications.

Whilst the appellant acknowledges that the proposals represent a departure from policies within the UDP, the development of this site is justified due to the special circumstances of the lack of a 5 year housing land supply.

In terms of the application site, there are very exceptional circumstances sufficient to outweigh the adopted Policy objections to the development but in her report, the Planning Officer has failed to attribute sufficient weight to the lack of a 5 year housing land supply.

Under the heading “Housing Land Supply”, the Officer states *“I consider that the need to boost the Council’s housing land supply therefore weighs significantly in favour of the scheme.”*

Further, under the heading “Affordable Housing”, the Officer states that *“25% affordable housing..... would equate to 8 units for this 31 unit scheme, which would weigh in favour of the application.”*

Under the heading “Site Context and Landscape Impact”, the Officer states that *“The development, by its very nature, would alter the character and appearance of the site, which currently forms part of a larger field which extends northwards along Bottom Road.”* The Appellant agrees that the development would, as the Officer states, alter the character and appearance of the site but this alteration would not harm the character and appearance of the area to the extent that planning permission should be refused.

It is the Appellant’s position that the planning balance weighs significantly in favour of the lack of a 5 year housing land supply and this outweighs the limited change to the character and appearance of the area which would result from the development. The Appellant is of the opinion that the Officer has misjudged the weight which should be properly attached to each consideration and the decision to refuse planning permission is therefore unfounded and unreasonable.

3.5

Reason 2 – ***“The proposal would conflict with UDP Policy CLF5 by virtue of the shortfall in Public Open Space provision associated with the scheme.”***

The site layout plan submitted with the application for planning permission was purely illustrative and did not seek approval to the siting, design or external appearance of the development. The siting and size of the area annotated as Public Open Space / SUDs on the plan is therefore arbitrary and would be subject to further negotiation and detailed design if planning permission is granted. Accordingly, Reason 2 is not a valid reason for refusal of planning permission and is easily dismissed because such matters can be addressed through the approval of reserved matters process.

3.6

Reason 3 – ***“It has not been demonstrated that a SuDS scheme compliant with the Statutory Standards can be delivered for the site, therefore it has not been demonstrated that the development can progress without a detrimental impact on flood risk either to the development site or locally. The***

proposal has not demonstrated compliance with UDP Policy EC13.”

The Appeal site previously formed part of a larger site for which outline planning permission was sought but refused in 2017 under LPA Reference No. P/2016/0738. The Appeal was subsequently dismissed but the Inspector, in his decision, determined that Sustainable Drainage Issues were not a valid reason to oppose the development. On the matter of sustainable surface water drainage, the Inspector concluded that :-

“27. At the appeal stage, the appellant provided a Flood Consequences Assessment (FCA) and outlined drainage proposals for the appeal proposal. These have confirmed how sustainable drainage principles would be applied, the limitations for surface water drainage on the appeal site and, the discharge solution agreed with Welsh Water. If this appeal were to be allowed, the Council has indicated that it would accept a planning condition to deal with this matter. Information provided confirms that given the scale of the appeal site, its circumstances and the nature of the development proposed, it should be possible to deliver a drainage scheme of a suitable design and performance through a planning condition.

28. Accordingly, it is evident that the appeal scheme would have an acceptable impact on the water environment to comply with UDP Policy EC13 and accords with the advice in TAN 15.”

In accordance with the above summation, the LPA should have no objection to the proposed development of the site in terms of sustainable drainage matters. Accordingly, Reason 3 is not a valid reason for refusal of planning permission and is easily dismissed because such matters can be addressed through the detailed design process and approval of reserved matters, as acknowledged by the Inspector in the previous case.

3.7

Reason 4 – ***“The proposal would not accord with the character of the area and would make no positive contribution to the appearance of the locality, detrimentally affecting the***

countryside and landscape/townscape character, conflicting with UDP Policies GDP1 and PS2."

The Appellant acknowledges that the proposed development would alter the character and appearance of the area but denies that this would cause harm sufficient to justify the refusal of planning permission when all other relevant factors are taken into account.

In her delegated report, the Officer considers that *"The proposal would not relate well to the existing pattern of development to the south of the site and along Bottom Road, where housing predominantly fronts onto the highway."* It is agreed that there is a significant proportion of dwellings set along Bottom Road which front the highway but this is not the only form of existing built development and not of itself, a reason for refusal. When considering residential development, a key first principle is to consider the creation of a strong and pleasing street scene where this is possible and where other factors do not outweigh the need to follow the existing, general pattern of development. This issue was considered in this case and it was determined, in preparation of the illustrative site layout proposals, that protection of the existing, mature hedge which fronts Bottom Road was a fundamental consideration in this case. Accordingly it was the judgement of the designer that a form of development similar to and in keeping with the nearby Summerhill Park, was the most appropriate form of development in the circumstances. The loss of an extremely limited section of hedge to create a single point of access to the appeal site was seen as an acceptable compromise in this case.

Furthermore, the site layout plan submitted with the application for planning permission was purely illustrative and did not seek approval to the siting, design or external appearance of the development. Approval of the access however was sought. Accordingly, the siting, design and appearance of the dwellings including the suggested internal road layout on the plan is therefore arbitrary and would be subject to further negotiation and detailed design if planning permission is granted. Accordingly, Reason 4 is not a valid reason for refusal of planning permission and is easily dismissed because such matters can be addressed through the approval of reserved matters process.

4.0 PRECEDENT APPLICATIONS / APPEALS.

4.1

Whilst planning appeals and applications are considered independently and on an individual basis, there are several recent decisions made under similar circumstances in the Wrexham area that act as a strong precedent in favour of development and are evidence of the strong requirement for new housing in the borough. The comparable attributes of these sites are the outside of settlement boundary locations and therefore conflict with adopted local plan policies. A table displaying the sites is set out in Appendix A.

The sites at Boozey Field, Summerhill Road and Rossett Road all had the added protection of being located within the Green Barrier, which designation does not apply to the Appeal site.

4.2

This raises the question of the consistency or potential lack of same exhibited by the LPA in considering applications for sites which are situated outside settlements limits where development is proposed in order to contribute to the lack of a 5-year housing land supply. It is quite clear that development of the Appeal site is sustainable, will not lead to issues of flooding, is well related to the existing pattern of built development at the northern extremity of Summerhill and does not cause planning harm. The case for granting planning permission for residential development is therefore sound and will make a significant contribution to housing land supply locally and in the County Borough as a whole.

4.3

In the matter of Home Farm, Llay, the Inspector concluded that *“the case, in essence, goes no further than a complaint about built development on greenfield land beyond the settlement boundary. The argument rests on*

Gresford Road being the logical boundary to development and that settlement boundaries should remain static and once a boundary is established that is the boundary for all of time”.

There are similarities between the decisions referred to and the Appeal site and it appears that the same weight has not been attributed to the current zero land supply by the Case Officer in this matter than was found by Officers and Inspectors in these other cases.

5.0 SUMMARY AND CONCLUSION

In summary, the proposed development identified as part of this appeal against the refusal of planning permission can be undertaken in accordance with National Planning Policy Guidance, specifically Planning Policy Wales, paragraph 9.2.3 where the lack of a 5 year housing land supply is an overriding consideration in this matter which outweighs locally adopted planning policies which would otherwise resist such a development.

Additionally, TAN1 sets out how an authority must act when it does not have a 5 year land supply: ***“The housing land supply figure should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5-year requirement or where the local planning authority has been unable to undertake a study (see 8.2 below), the need to increase supply should be given considerable weight when dealing with planning applications...”*** (Paragraph 6.2).

- The development would represent a logical and appropriate extension to the pattern of development of the settlement.
- Development to this extent and in the general manner proposed on the attached layout proposals would preserve and enhance the character and appearance of the locality.
- There would be social benefit from the scheme through the provision of new market and affordable homes, the support that occupiers of the dwellings would provide for local services, proposed improvements to

the local highway/public rights of way network and, proposed on-site recreation facilities.

- There would be economic benefit from the construction and occupation of the dwellings.
- This opportunity to link the public footpath No. GWE/9 to bridleway No. GWE/46 in order to significantly extend the safe pedestrian route to Ysgol Bryn Alyn.
- Provision of much needed market and affordable dwellings which will make a significant contribution to housing land supply.

Accordingly the Inspector is respectfully urged to uphold this appeal and thereby grant planning permission for residential development in accordance with the application which forms the basis of this appeal.

D.S. Jones & Co. September 2020.

For and on behalf of Mr A.O. Jones.

SECTION 106 / UNILATERAL UNDERTAKING.

Because of the way that the application was dealt with and refused by delegated powers and without recourse to the Planning Committee nor any discussions between the officers and the applicant or his agent during consideration of the application, the following matters were not discussed nor agreed :-

1. Provision of Affordable Housing.
2. Contributions to Education Provision.
3. Management of the Public Open Space.

The Appellant will, in due course, provide a Unilateral Undertaking under Section 106 of the Town and Country Planning Act which will secure the following obligations in the event that this Appeal is upheld and planning permission subsequently granted :-

Schedule 1.

Provision of Affordable Housing in accordance with Adopted Local Planning Guidance Note 28, comprising of 25% of the development together with a mechanism to control the provision of Affordable Housing in perpetuity.

Schedule 2.

Contributions to both Primary and Secondary Education provision secured in accordance with the Formula outlined in Local Planning Guidance Note 27.

Schedule 3.

The setting up of a Public Open Space or Resident's Management Committee in order to secure the long term maintenance and upkeep of the proposed area of Public Open Space and the Habitat Corridors proposed to be provided on the site.

