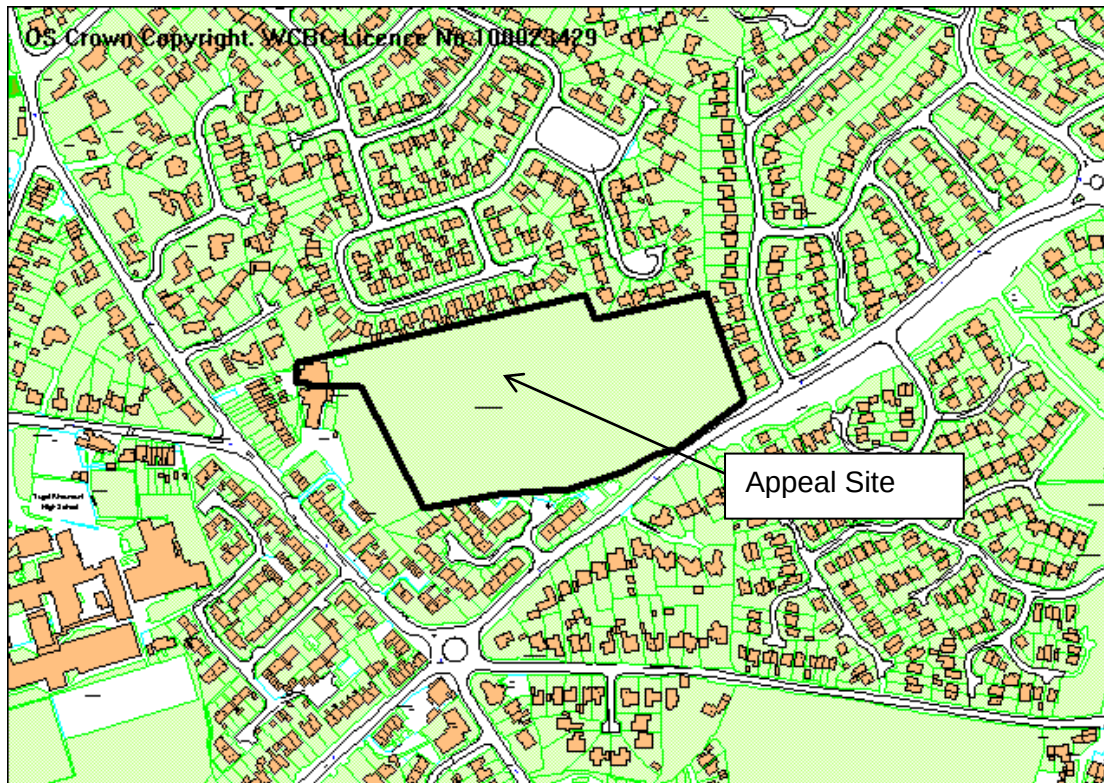


**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 APPEAL AT
Land North of Holt Road Wrexham**

COUNCIL'S STATEMENT OF CASE

**PLANNING REF: P/2018/0673
PINS REF: 3238470**

1.0 THE SITE



2.0 PROPOSAL

- 2.1 The appellant seeks outline permission for a maximum of 74 dwellings. All matters are reserved for subsequent approval.

3.0 NATIONAL PLANNING POLICY

- 3.1 The following are relevant to the appeal proposals:

- Planning Policy Wales Edition 10
- Technical Advice Note 1: Joint Housing Land Availability Studies
- Technical Advice Note 5: Nature Conservation and Planning
- Technical Advice Note 12: Design
- Technical Advice Note 16: Sport Recreation and Open Space
- Technical Advice Note 18: Transport

4.0 DEVELOPMENT PLAN

- 4.1 The site lies outside of the settlement limit and within a Green Barrier in the adopted Unitary Development Plan. Policies PS1, PS2, GDP1, GDP2, EC4, H5, H7, CLF5 and T8 apply.
- 4.2 The following supplementary planning guidance is also considered relevant: Local Planning Guidance Notes 16 – Parking Standards, 17 – Trees and Development, 27 - Education Contributions, 28 - Affordable Housing and 30 - Residential Design Guide.

5.0 COUNCIL'S CASE

Loss of Public Open Space

- 5.1 The appeal site is an area of open space and whilst it is acknowledged that the land is currently enclosed by a fence that prevents public access to it, this was erected only relatively recently, in 2019. The land is devoid of any built development and clearly retains the appearance of open space. It also arguably continues to make a contribution to the amenity of the area by providing a visual break between surrounding built development.
- 5.2 The land has a long established use for both formal and informal recreation. The aerial photograph below dated from 2009 shows that a football pitch occupied the land and paragraph 2.4 of the appellant's Planning Statement dated June 2018 confirms that *'The site is currently open land, which is maintained as a sports pitch'*. Organised football matches took place on the land until 2019. Informal recreational use is also evident by the fact that a number of residential properties bordering the site have gates in rear garden boundaries that facilitate pedestrian access directly onto the land. Prior to the erection of the boundary fence the site could also be accessed from the Council owned land immediately to the west, which in turn can be freely accessed from Dean Road.



- 5.3 PPW10 paragraph 4.5.4 advises that playing fields, irrespective of ownership, should be protected from developed except where:
- facilities can best be retained and enhanced through the redevelopment of a small part of the site;

- alternative provision of equivalent community benefit is made available locally, avoiding any temporary loss of provision; or
- there is an excess of such provision in the area.

5.4 Further advice on the value and need to protect playing fields and open space is set out in paragraphs 3.5 to 3.12 of TAN16.

5.5 Despite the fact that the UDP plan period expired in 2011, Policy CLF4 sets out broadly similar requirements to PPW10 and TAN16 in terms of protecting playfields and open space. Accordingly it can be afforded significant weight in the determination of this appeal. The appeal proposals are therefore considered in light of the criteria a), b) and c) of the policy below:

a) redevelopment of only a small part of the site would allow the retention and enhancement of that existing facility;

5.6 It is acknowledged that the appellants propose to retain an area of land for recreational use on the western edge of the site. The indicative layout plan shows a new football pitch being laid out partially on the appeal site and partially on the adjoining land owned by the Council. Despite this, the built development would occupy approximately 70% of the appeal site. The proposals therefore do not result in the development of only a small part of the site nor do they result in the retention and enhancement of existing facility to a sufficient extent to off-set the loss of the majority of the site. The proposals are therefore clearly in conflict with this part of the policy.

b) the long term requirement for the facility has ceased and it would not lead to, or increase an existing shortfall of that facility in the immediate locality;

5.7 The appeal site was identified as a playing field in the 2009 public open space survey. The relevant extract from this for the Acton Community Council area (which the site lies within) can be found at Appendix 1. This identified a significant 8.7 hectare deficit of playing field provision. The same survey also identified deficit of over 3 hectares of children's equipped playgrounds and deficit of nearly 5 hectares in respect of outdoor sports facilities.

5.8 The Council has undertaken a more recent assessment of open space provision as part of the preparation of the Wrexham Local Development Plan 2013-2028: EBNB02, Wrexham Open Space Audit and Assessment of Need Report (March 2016)¹. The site (including the adjoining Council owned land) is categorised as an amenity greenspace. Page 42 of ENB02 clearly advises that sites rated as high quality and high value should be viewed as being key forms of open space provision.

5.9 Whilst EBNB02 (page 301) identifies that there is sufficient amenity greenspace in the Rhosnesni ward, it is also very evident that there is very little in the way of outdoor sports facilities. There is also a deficit of provision for children and young people. Furthermore, in the context of Wrexham town

¹ <http://wrexham-consult.objective.co.uk/file/5112500>

as a whole, EBNB02 (page 197) identifies that there will be an excess provision of amenity greenspace in 2028 of just over 1ha. The development of the site would result in the loss of more than 1ha of amenity greenspace however, thus resulting in a deficit of this type of provision in the town as a whole. Furthermore it is also clear that there is a need for additional provision for children and young people in the town up to 2028.

- 5.10 The fact that the appellants judge the land to be surplus to their requirements is a fundamentally different matter to whether the land is surplus to requirements in terms of meeting a need for recreational purposes. Even if it were accepted that the land is not needed or is deemed unsuitable for use as formal outdoor sports facility, in accordance with TAN16 paragraph 3.7 playfields may be used to help meet the need for informal recreational or amenity land in the wider community. Taking into account the findings in EBNB02, it is clear that there is a need for additional play areas for children and young people, both at ward level and across Wrexham town as a whole.
- 5.11 TAN16 paragraph 3.6 advises that the use of open space spaces may be affected by factors such as landform, landscape features, their relationship with adjacent land uses, access and levels of security. In the case of the appeal site however, there are no fundamental constraints to prevent continued use as open space. It is a large, flat, open piece of land. Whilst it is surrounded primarily by residential properties, the Council does not consider this to present any major issues in terms of compatibility. The land is large enough to accommodate recreational uses, both formal and informal, whilst leaving a sufficient buffer to nearby properties so as to prevent significant disturbance. It benefits from a reasonable degree of natural surveillance so as to deter anti-social behaviour. Finally it is also readily accessible on foot from surrounding residential areas.
- 5.12 The appeal site is clearly suitable for use as a recreational facility and could readily accommodate a range of facilities in addition to or instead of a football pitch, such as children's play areas, multi-use games areas and provision for informal recreation. It should be noted that TAN16 paragraph 3.5 emphasises the importance of the health and environmental benefits for the community of all forms of open space. The retention and use of the site as an outdoor sports facility and/or for other formal or information recreational purposes would enable such benefits to be secured for the local community.
- 5.13 The appeal site is identified as a Candidate Site in the Local Development Plan site register – see Appendix 2. The site is not proposed for allocation for residential development in the LDP. The site was ruled out for allocation having been judged to fail Stage 1 of the Candidate Site Assessment Process, with the loss of open space being one of the reasons for this. The site assessment methodology is set out in LDP Background Paper 4a². It is therefore clear that when preparing the LDP, the Council considered that there was a long term requirement for the land to remain as open space over the plan period up to 2028.

² <http://wrexham-consult.objective.co.uk/file/5113349>

c) the loss can be replaced with an equivalent or greater provision in the immediate locality. Alternative sites should be within settlement limits or, in exceptional circumstances, adjacent to settlement limits provided that associated buildings, lighting, and parking facilities are not intrusive in the landscape and user accessibility is not reduced.

- 5.14 Whilst the appellants are proposing to retain part of the site for recreational use the development will nevertheless result in a considerable net loss of provision. There are no detailed proposals for any additional or equivalent off-site provision. It is recognised that the appellant proposes the provision of a new football pitch and whilst this is welcomed, even if it were of a better standard than the one that previously occupied the appeal site this improvement would be insufficient to off-set the loss of a significant area of land available for recreational use. Accordingly, it is not considered to deliver a significant improvement in the quality of local open space provision to justify the significant loss in quantity.

Highway Capacity

- 5.15 The development will inevitably result in additional traffic using Holt Road and in turn the Holt Road/Bryn Estyn Road/Cefn Road roundabout located approximately 200m from the indicative site access. In the Transport Assessment dated July 2018, the 2018 baseline analysis indicates Ratio to Flow Capacity (RFC) values of 0.81 in the morning peak and 0.95 in the evening peak in respect of Holt Road (North) arm of the roundabout. This arm of the roundabout is already therefore operating above the accepted maximum RFC of 0.85.
- 5.16 The 2025 baseline analysis indicates that the roundabout will exceed the typical maximum RFC of 0.85. The submitted figures indicate RFC values of 0.91 (morning peak) and 1.05 (evening peak) in respect of Holt Road (North). With the traffic generated by the development the TA indicates RFC values of 0.93 (morning peak) and 1.06 (evening peak) in respect of Holt Road (North).
- 5.17 The 2035 baseline analysis indicates that the roundabout will exceed the typical maximum RFC of 0.85. The submitted figures indicate RFC values of 1.04 (morning peak) and 1.19 (evening Peak) on Holt Rd (NE), 0.91 (morning peak) on Cefn Road and 0.91 (evening peak) on Holt Road (SW). With the development the submitted figures indicate RFC values of 1.05 (morning peak) and 1.19 (evening peak) on Holt Rd (NE), 0.92 (morning peak) on Cefn Road and 0.92 (evening peak) on Holt Road (SW).
- 5.18 The Council has recently conducted a traffic count on a relatively new housing development which has similar characteristics to the proposed development site. This produced the following information trip rates.

	Ave Trip Rates (weekday)					
	AM Peak (08:00-09:00)			PM Peak (17:00-18:00)		
	Arrive	Depart	Total	Arrive	Depart	Total
Trip Rate	0.124	0.476	0.6	0.482	0.259	0.741

- 5.19 The above figures equate to daily vehicle movements of 7.6 trips per dwelling compared with daily vehicle movements of 5.124 per dwelling in the TA. The appellant subsequently submitted a Highways Addendum report dated 3 December 2018 which incorporated these figures. These indicate that using the 2035 baseline plus the traffic from the development, RFC values of 1.06 (AM peak) and 1.19 (PM Peak) on Holt Rd (north-east), 0.92 (morning peak) on Cefn Road and 0.92 (evening peak) on Holt Road (south-west).
- 5.20 Given the existing and projected capacity issues at the Holt Road/Bryn Estyn Road/Cefn Road roundabout, it is clear that the traffic generated by the development will unacceptably exacerbate the existing congestion / queuing experienced in this location, resulting in significant delay and inconvenience to local road users.

6.0 CONCLUSION

- 6.1 The proposed development would result in the loss of a playing field in an area deficient of such provision. As no alternative provision of equivalent community benefit is made available, its loss would be detrimental to the amenity offered to the community, contrary to Wrexham Unitary Development Plan policy CLF4 and Welsh government TAN 16
- 6.2 The additional traffic generated from the proposed development will have an adverse impact upon the Holt Road/Bryn Estyn Road/Cefn Road roundabout, which already operates beyond its design capacity. To allow the development would be contrary to Wrexham Unitary development Plan policy GDP1 (d).
- 6.3 The Council respectfully request the appeal be dismissed.

7.0 CONDITIONS AND OBLIGATION

- 7.1 In the event of the appeal being allowed the Council respectfully requests that the planning permission be subject to conditions set out in the schedule included below.
- 7.2 The development will need to be subject to a planning obligation to secure financial contributions to primary school provision, affordable housing and the management of on-site public open space.
- 7.3 In respect of school capacity, the likely number of pupils generated has been calculated using an assumed mix of 15 x 2 bedroom dwellings, 37 x 3 bedroom and 22 x 4 bedroom dwellings. Using the pupil generation rates set out in Local Planning Guidance Note 27, the site is likely to generate 17

primary aged pupils. The table below sets out the capacity of the nearest County primary school and faith primary schools:

School	Capacity of School	Numbers of Roll
Borras Park	420	415
St Anne's Catholic	168	168

- 7.4 Education consider a schools to be full when there is 10% or less of the total number of spaces available. The table above demonstrates that the number of places available at Borras School is only 1% of the total capacity of the school and St Anne's is operating at capacity. Both schools are therefore judged to be full. The Council therefore considers it to be justified to request a financial contribution towards the provision of additional primary school capacity in the locality.
- 7.5 No contributions to secondary schools are sought. Using the same house type mix discussed above and the secondary aged pupil generation rates set out in LPGN27, the site is likely to generate 13 secondary aged pupils. The nearest secondary school, Rhosnesni High School has a capacity for 1200 pupils with 828 currently on the rolls. Whilst this is projected to increase to 1113 (93%) in 2022, given the relatively small number of pupils generated there does not appear to be a case to require contributions towards secondary school provision at this time.

APPENDICIES

Appendix 1: Extract from 2009 Public Open Space Survey.

Appendix 2: Extract from LDP Site Register.

SCHEDULE OF SUGGESTED CONDITIONS IN THE EVENT OF THE APPEAL BEING ALLOWED

CONDITIONS

1. Approval of the following details shall be obtained from the Local Planning Authority before any part of the development is commenced:
 - a. the layout of the building(s)
 - b. the scale of the building(s)
 - c. the appearance of the building(s)
 - d. the means of access to the site and building(s)
 - e. the landscaping of the site.
2. Plans and particulars of the reserved matters referred to in condition 1 (above) shall be submitted in writing to the Local Planning Authority before the expiry of three years from the date of this permission. The development shall only be carried out in strict conformity with such details as are approved.
3. The development hereby approved shall be commenced before the expiry of five years from the date of this permission or before the expiry of two years from the

date of approval of the last of the reserved matters required to be approved, whichever is the later.

4. The development hereby approved shall be limited to 74 dwellings.

5. The landscaping and layout reserved matter to be submitted for the approved development pursuant to the requirements of condition 1 above shall include a scheme for all areas of open space and green space to be provided within the development site, including public amenity space and equipped children's play areas. The scheme shall be implemented in accordance with the approved details prior to the first occupation of the dwellings.

6. Vehicular access to the site shall only be made from Holt Road (A534).

7. All works in relation to the implementation of this permission, including deliveries to and / or leaving the site, shall be undertaken only between the hours of 7.30 and 18.00 Monday to Friday, and 08.00 to 14.00 on a Saturday, and at no time on a Sunday or a Bank Holiday unless the prior written approval of the Local Planning Authority has been obtained.

8. No part of the development shall commence until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in strict accordance with the Method Statement as is approved. The Method Statement shall include the following:

a) A specification for tree protection fencing and ground protection measures that comply with British Standard 5837:2012;

b) A Tree Protection Plan showing the location of the trees to be removed and retained with their crown spreads, Root Protection Areas, Construction Exclusion Zones, and location of protective fencing and ground protection measures accurately plotted;

c) A full specification for any access, driveway, path, underground services or wall foundations within retained tree Root Protection Areas or Construction Exclusion Zone, including any related sections and method for avoiding damage to retained trees;

d) Details of general arboricultural matters including proposed practices with regards to cement mixing, material storage and fires;

e) Details of the frequency of supervisory visits and procedures for notifying the findings of such visits to the Local Planning Authority;

f) Method for protecting retained trees during demolition works;

g) Details of all proposed tree works, including felling and pruning.

9. No part of the development shall commence until full details for the arboricultural supervision of tree protection measures and any ground works within retained tree(s) Root Protection Areas, as specified by BS5837:2012 or as shown on a Tree Protection Plan have been submitted to and approved in writing by the Local Planning Authority. The supervisory works shall be carried out in strict accordance with the details as approved.

10. No part of the development shall commence until a Bio-Security Risk Assessment has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with any recommendations that may be forthcoming within the approved assessment.

11. No part of the development shall commence until a scheme for the comprehensive and integrated drainage of the site indicating provision for foul water, surface water and land drainage has been submitted to and approved in writing by the Local Planning Authority. Prior to the submission of those details, an assessment

shall be carried out into the potential for disposing of surface water by means of Sustainable urban Drainage Systems (SuDS) in accordance with the principles of sustainable drainage systems set out in Technical Advice Note 15: Development and Flood Risk, and demonstrating compliance with the Sustainable Drainage Systems Standards for Wales. The results of the assessment shall be submitted in writing to the Local Planning Authority. Where a SuDS scheme is to be implemented, the submitted details shall:

- i) Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of receiving ground water and/or surface waters;
- ii) Specify the responsibilities of each party for the implementation of the SuDS scheme, together with a timetable for that implementation; and,
- iii) Provide a timescale for implementation, management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

12. The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:

- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 25% of housing units;
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider;
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

REASONS

- 1. To comply with the provisions of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012
- 2. To comply with Section 92 of the Town and Country Planning Act, 1990.
- 3. To comply with Section 92 of the Town and Country Planning Act, 1990.
- 4. To define the terms of the planning permission and to ensure that the development has been assessed adequately in terms of the impact upon the local highway infrastructure. This will accord with the requirements of policies GDP1 and T8.
- 5. In the interests of providing for a high standard of development for the future amenity of the occupiers of the site in accordance with policies GDP1 and CLF4 of the Wrexham Unitary Development Plan.
- 6. To ensure that the development makes provision for a safe and convenient access to the site in accordance with policy GDP1 of the Wrexham Unitary Development Plan.

7. To protect the amenities of the occupiers of nearby properties in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
8. To ensure the work is carried out to accepted arboricultural practices for the long term wellbeing of the tree(s) in accordance with Policies GDP1, PS2 and EC4 of the Wrexham Unitary Development Plan.
9. To ensure the work is carried out to accepted arboricultural practices for the long term wellbeing of the tree(s) in accordance with Policies GDP1, PS2 and EC4 of the Wrexham Unitary Development Plan.
10. In order to ensure that the development will not cause harm to species which are protected through the planning system in accordance with policy GDP1 of the Wrexham Unitary Development Plan.
11. To ensure satisfactory drainage of the site and to avoid flooding in compliance with policy EC13 of the Wrexham Unitary Development Plan.
12. In order to ensure that the development provides for an adequate mix of housing type and tenure you cater for the needs of the locality and to ensure compliance with policy H7 of the Wrexham Unitary Development Plan

NOTE TO APPLICANT

You must comply with your duties in section 71ZB (notification of initiation of development and display of notice: Wales) of the Town and Country Planning Act 1990. The duties in that section include the following:

Notice of initiation of development

Before beginning any development to which this planning permission relates, notice must be given to the Local Planning Authority in the form set out in Schedule 5A to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The forms set out the details that must be given to the Local Planning Authority to comply with this duty.

Display of notice

The person carrying out development to which this planning permission relates must display at or near the place where the development is being carried out, at all times when it is being carried out, a notice of this planning permission in the form set out in Schedule 5B of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details that the person carrying out development must display to comply with this duty.

The person carrying out development must ensure that the notice is:

- a) Firmly affixed and displayed in a prominent place at or near the place where the development is being carried out;
- b) Legible and easily visible to the public without having to enter the site; and
- c) Printed on durable material. The person carrying out development should take reasonable steps to protect the notice (against it being removed, obscured or defaced) and, if need be, replace it.