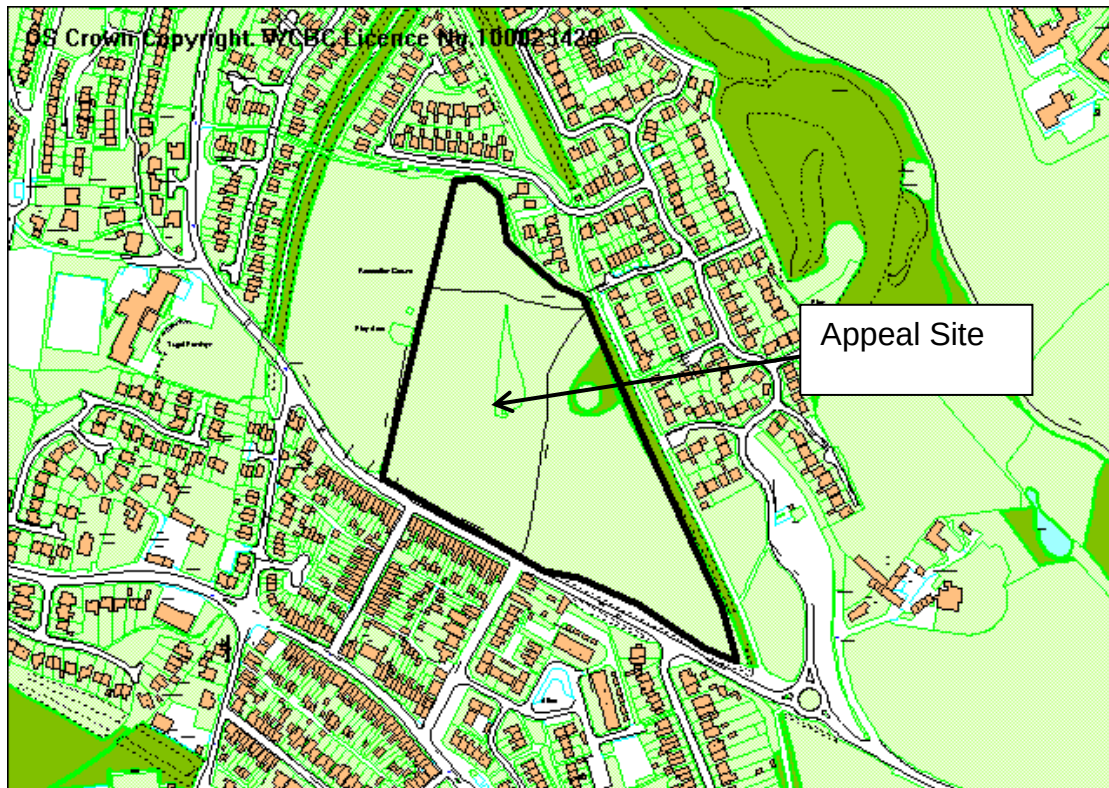


**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 APPEAL AT
Land North of Gatewen Road, New Broughton Wrexham**

COUNCIL'S STATEMENT OF CASE

**PLANNING REF: P/2018/0674
PINS REF: 3238474**

1.0 THE SITE



2.0 PROPOSAL

- 2.1 The appellant seeks outline permission for a maximum of 112 dwellings. Approval for access site sought at outline planning permission stage, all other 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 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, EC1, EC4, EC13, H5, H7, CLF5 and T8 apply.

- 4.2 The following supplementary planning guidance is also relevant: Local Planning Guidance Notes 16 – Parking Standards, 17 – Trees and Development and 21 – Space Around Dwellings

5.0 COUNCIL'S CASE

Highway Capacity

- 5.1 The application was accompanied by a Transport Assessment (July 2018), however after concerns were raised by the Council a Highway Addendum report was submitted dated 3rd December 2018. This included traffic generation figures that were based on assessment of traffic generated by the adjoining Gatewen Village development. It is on the basis of the latter that the Council concerns are discussed below.

Gatewen Rd (B5433) / Berse Road (B5101) junction

- 5.2 The 2020 baseline plus development analysis indicates that the junction will operate over capacity with a Ratio to Flow Capacity (RFC) of 1.01 at Gatewen Road – resulting in a predicted queue of 124 seconds for vehicles turning left out of Gatewen Road on to Berse Road – an increase of 75 seconds over the 2020 baseline. The 2035 baseline plus development shows left turn queues at this junction increase from 206 seconds to 443 seconds. The traffic generated by the development means the junction will be operating in excess of its capacity resulting in a significant increase in queue lengths/times. The appellant has not put forward any proposals to mitigate these queueing issues.

Berse Road (N) B5101 / Rhyd Broughton Lane / Berse Road (W) roundabout

- 5.3 There is already a queuing issue at Berse Road / Rhyd Broughton Lane roundabout every day during the morning and evening peak hours. The Council finds it surprising that the Transport Assessments do not reflect this with the Transport Assessment showing a queue of less than 1 on the Rhyd Broughton Lane approach to the roundabout in the evening peak. However traffic is generally queuing along Rhyd Broughton Lane back towards the Wrexham Maelor hospital. Any driver using Rhyd Broughton Lane at the evening peak would seriously question that there is only a 4 second delay with just a single car in the queue. There is no evidence that the existing traffic flows on Rhyd Broughton Lane and Berse Road have been revisited since this issue was first raised by the Highway Authority in July 2018.
- 5.4 Even if the information submitted is accepted as accurate, then it shows that with the addition of traffic generated by the development the queue approaching the roundabout from the west along Berse Road increases from 26 seconds to 55 seconds. The Arcady analysis will assume the roundabout is free flowing traffic, whereas the roundabout actually operates under severe overload due to traffic queuing back from Berse Road/Mold Road/Plas Coch roundabout to the north-east. This means that actual queues are significantly longer than suggested. The addition of traffic on to a system that is already

over capacity will result in queue lengths increasing incrementally more rapidly than if capacity hadn't been exceeded. Without mitigation measures the additional traffic is therefore likely to cause a significant detrimental impact on the highway network.

- 5.5 It should be noted that the appellants have also applied for outline permission for a maximum of 410 residential units on land that currently forms part of the Glyndwr University camps (reference P/2018/0671). Members resolved to grant permission for that development on 1 July 2018, subject to the completion of a Planning Obligation. A transport assessment should have been undertaken to assess the cumulative impact of that development along with the appeal proposals on the Berse Road/Mold Road/Plas Coch and junction 5 of the A483 (Mold Road / A483).

Policy

- 5.6 The site lies outside of the settlement limit and is situated within a Green Barrier and Special Landscape Area as defined in the Unitary Development Plan (UDP). The development therefore represents a significant departure from the UDP, conflicting with policies PS1, EC1.

Housing Land Supply

- 5.7 It is acknowledged that the UDP plan period expired in 2011. It is also acknowledged that the Council's emerging Local Development Plan (LDP) identifies a need for land to be brought forward for development to meet the Plan's housing requirements. The Plan proposes to make a number of allocations that are intended to contribute towards meeting the housing requirements, including the appeal site.
- 5.8 The Council submitted its LDP for Examination in Public (EiP) in November 2018. EiP hearings took place during September and October 2020, with further hearing sessions taking place in February and March 2020. It is unlikely that the plan will be adopted until mid to late 2020.
- 5.9 It is the Council's contention that the LDP housing requirements and the proposed allocation of the appeal site can only be given limited weight in the determination of the appeal. Paragraph 9.4.8 of the Development Management Manual advises that certainty regarding the content of the plan will only be achieved when the LDP Inspectors deliver their binding report. At the time of writing the Inspectors have not issued their binding report. It therefore remains a possibility that the LDP Inspectors may conclude that the housing requirement should change and/or that one or more of the proposed allocations, including the appeal site, should be deleted.

Green Barrier

- 5.10 The UDP Green Barriers serve the same purpose as Green Wedges as set out in paragraphs 3.63 and 3.64 of PPW. The appeal proposals constitute inappropriate development as defined by paragraph 3.71 of PPW and in

accordance with paragraph 3.70, such development should not be permitted within Green Wedges except in very exceptional circumstances where other considerations clearly outweigh the harm to the Green Wedge.

- 5.11 The development will represent a significant encroachment into the area of open land that currently separates existing built development on the south site of Gatewen Road from the recently completed Gatewen Village housing development lying to the north of the appeal site. The development will significantly harm the openness of the land between these two areas of built development. The development is therefore significantly at odds with the purpose of a Green Barrier/Wedge. In refusing planning permission, it is the Council's contention that no exceptional circumstances to justify allowing housing development in the Green Barrier have been identified.
- 5.12 Whilst the LDP proposes that the land subject to this application be allocated for housing with the Green Wedge amended accordingly, as already noted above the LDP Inspectors have not issued their binding report. The proposed changes to the Green Barrier/Wedge should therefore be afforded limited weight in the determination of the appeal.

6.0 CONCLUSION

- 6.1 The additional traffic generation from the proposed development will cause a significant detrimental impact upon the local highway network. This will result in significant queuing issues at the Gatewen road B5433 junction with Berse road (B5101) and Berse road (north) B5101/ Rhyd Broughton Lane/ Berse road (west) roundabout during morning and evening peak hour periods. The appeal proposals are therefore in conflict with policy GDP1(d) of the Wrexham Unitary Development Plan.
- 6.2 The proposed development lies outside defined settlement limits and represents inappropriate development for sites within Green Barriers and is therefore in conflict with Wrexham Unitary Development Plan policies PS1 and EC1.
- 6.3 For the reasons set out above, the Council respectfully requests that the Inspector dismisses the appeal.

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 22 x 2 dwellings, 56 x 3 bedroom and 34

x 4 bedroom dwellings. Using the pupil generate rates set out in Local Planning Guidance Note 27, the site is likely to generate 27 primary aged pupils. The table below sets out the capacity of the nearest English and Welsh Medium primary schools:

School	Capacity of School	Numbers of Roll
Penrhyn (EM)	210	195
Plas Coch (WM)	315	301

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 Penrhyn is only 7% of total capacity and the number of places available at Plas Coch is 4% of capacity. Both schools are therefore judged to be full.

7.5 No contributions to secondary schools are sought. Using the same house type mix and the pupil generation rate set out in LPGN27 the site is likely to generate 24 secondary aged pupils. The nearest secondary school, Clywedog High School, has a capacity for 1008 pupils with 700 currently on the rolls and therefore has sufficient capacity to accommodate the number of pupils generated by the development . No contributions to secondary education provision are required.

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 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 access hereby approved shall be laid out in accordance with the details shown on approved plan DWG-2627-401 Rev C.
5. The development hereby approved shall limited to 112 dwellings.
6. 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.

7. No part of the development shall commence until a Construction Traffic Management Plan including provisions for contractor parking has been submitted to and approved in writing by the Local Planning Authority and the Plan as is approved has been fully implemented.

8. Prior to first use of the development hereby approved the vehicular access shall provide visibility splays of 2.4 metres x 43 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction in excess of 1 metre in height above the level of the nearside edge of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.

9. Prior to the first occupation of the development hereby approved, a footway shall be provided along the site frontage from a point west of the vehicular access in accordance with details which have been submitted to and approved in writing by the local planning authority.

10. 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.

11. 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.

12. 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.

13. No development shall take place until a phased site investigation of the nature and extent of contamination has been carried out and submitted to and approved in writing by the Local Planning Authority. If any contamination is found during the site investigation, no part of the development shall commence until a scheme specifying the measures that will be taken to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The site shall thereafter be remediated in accordance with the approved scheme. If during the course of development any contamination is found that has not been identified in the site investigation, no further development shall take place on those parts of the site where that contamination has been found until an additional scheme of remediation has been submitted to and approved in writing by the Local Planning Authority for those parts of the site. The relevant parts of the site shall thereafter be remediated in accordance with the additional scheme of remediation.

14. Each part of the site subject to the remediation under the scheme(s) approved as part of condition 13 shall not be occupied/used until a Validation Report has been completed in respect of that part of the site and submitted to and approved in writing by the Local Planning Authority.

15. No part of the development shall commence until a sewerage scheme to satisfactorily accommodate the foul water discharges from the development has been submitted to and approved in writing by the local planning authority. The scheme shall include details of and be informed by a Hydraulic Assessment. No part of the development shall be occupied until the foul water system has been fully implemented and brought into use in accordance with the approved scheme.

16. 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.

17. 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.

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 in the interests of highway safety to ensure compliance with policy GDP1 of the Wrexham Unitary Development Plan.
5. 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.
6. To protect the amenities of the occupiers of nearby properties in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
7. In the interests of highway safety and in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
8. In the interests of highway safety to ensure compliance with policy GDP1 of the Wrexham Unitary Development Plan.
9. In the interests of pedestrian safety to ensure compliance with policy GDP1 of the Wrexham Unitary Development Plan.
10. 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.
11. 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.
12. To ensure satisfactory drainage of the site and to avoid flooding in compliance with policy EC13 of the Wrexham Unitary Development Plan.
13. In the interests of the amenities of the future occupants of the buildings in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
14. In the interests of the amenities of the future occupants of the buildings in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
15. To ensure that the development does not cause a detrimental overload to the public sewerage system in compliance with policy GDP1 of the Wrexham Unitary Development Plan.

16. 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.

17. 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.

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.