

**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 APPEAL AT
Land west of Bryn Isa, Vicarage Lane, Gresford.**

COUNCIL'S REBUTTAL OF THE APPELLANT'S COST APPLICATION

**PLANNING REF: P/2018/1063
PINS REF: 3240973**

1.0 COSTS APPLICATION REBUTTAL

1.1 It is accepted that the Planning Committee refused planning permission contrary to the recommendation of Officers. Paragraph 3.9 of Section 12 Annex: Award of Costs (Development Management Manual) confirms that Members are not bound to adopt the advice given by Officers.

1.2 The planning application was refused for two reasons:

Reason 1

The site lies outside of the settlement limit, within a Green Barrier and Special Landscape Area. The proposed development therefore conflicts with policies PS1, PS2, EC1, EC5 and H5 of the adopted Wrexham Unitary Development Plan.

Reason 2

Due to the lack of continuous pedestrian footway provision along Vicarage Lane and the increase in vehicular and pedestrian traffic that will be generated by the development the proposals will be detrimental to pedestrian safety and therefore conflict with Wrexham Unitary Development policy GDP1(d) and Welsh Government TAN 18. The Council also consider it to be consistent with the recent appeal decision at Pont Adam Ruabon Ref APP/H6955/A/14/2229577.

1.3 It is a matter of fact that the site lies outside of a settlement limit, within a Green Barrier and Special Landscape Area. It is therefore also a matter of fact that the development is in conflict with the policies identified in Reason 1.

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

1.5 It is a matter of judgement to be made on a case by case basis whether there are material considerations that justify departing from one or more development plan policy. In reaching their decision Members gave full consideration to all of the material considerations relevant to this case as set out in the Officer report, however they concluded that there were insufficient reasons to support the application in this instance.

1.6 In respect of Reason 2, the Highway Authority had expressed concern in the formal consultation responses regarding the lack of footway provision along Vicarage Lane. Therefore, including a reason for refusal on the grounds of pedestrian safety accorded with the advice given by a Council Officer.

Ward Member and statutory pre-application consultation

- 1.7 Whilst Part 1A of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (as amended) places a duty on applicants to consult with a ward member prior to the submission of a planning application, it does not impose any requirements for the ward member to respond to that consultation. It is therefore entirely at the discretion of the ward member to decide whether they wish to engage in pre-application discussions. The Council's decision to refuse planning permission cannot therefore be considered unreasonable because the local member did not engage in pre-application discussions.

Ability to address members at Planning Committee

- 1.8 This matter is not relevant to whether the Council has acted reasonably or unreasonably in refusing planning permission.

Officer recommendation of approval contrary to Highway Authority's views

- 1.9 The Highway Authority had expressed concern in each of the formal consultation responses received during the course of the application, regarding the lack of footway provision along Vicarage Lane and subsequent harm to pedestrian safety.
- 1.10 Therefore, including a reason for refusal on the grounds of pedestrian safety accorded with the advice given by a Council Officer. Committee Members are not bound to determine a planning application in accordance with the Planning Officer's recommendation.

Statement of Common Ground (SoCG)

- 1.11 The Planning Authority is not bound to agreeing a Statement of Common Ground with an appellant. In this instance, the appellant sought a Statement of Common Ground prior to the start date of the appeal being issued and prior to the Planning Inspectorate advising the Planning Authority of the method of appeal.
- 1.12 The appellant states in the Costs Application that had the Authority agreed to engage in the Statement of Common Ground process, certain issues could have been agreed and the appeal procedure might have involved a written representation.
- 1.13 The appellant would therefore appear to acknowledge that a Statement of Common Ground would not be required in the event of a written representation appeal procedure, for which the Inspectorate consider that this is the most appropriate way in which to proceed with this appeal (unless otherwise indicated).

2.0 CONCLUSION

- 2.1 The Council has acted reasonably in refusing planning permission for a development that conflicts with adopted Unitary Development Plan policies. It

therefore respectfully requests that the application for an award of costs be dismissed.