



Statement of Case
in support of an appeal against the refusal
by Wrexham County Borough Council
to grant planning permission for
demolition of existing bungalow and
erection of 2 dwellings and access arrangement
at Oakdale, Pant Lane, Gresford, Wrexham, LL12 8HB



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1. Introduction

- 1.1 This Statement of Case is produced in support of an appeal by the original applicant, Mr Mckinlay ('the Appellant'), against the decision by Wrexham County Borough Council ('the Council') to refuse to grant planning permission for the demolition of the existing bungalow and the erection of two dwellings and access arrangement at Oakdale, Pant Lane, Gresford, Wrexham, LL12 8HB ('the appeal site').
- 1.2 The local planning authority planning application reference number is GRE P/2018/0713.
- 1.3 Planning permission was refused by notice dated 26 October 2018, a copy of which is submitted as Appeal Form Document J-03¹.
- 1.4 In accordance with Welsh Government Guidance on planning appeals, this Statement of Case does not seek to rehearse all the planning merits of the proposed development. It focuses on those issues where there is disagreement between the Appellant and the Council. The Council accepts the proposed development is otherwise acceptable. The Statement of Case explains why the reasons for refusal are flawed and why therefore the appeal should be allowed and planning permission be granted.
- 1.5 The Statement of Case will also comment on matters raised by third parties and on some other significant planning issues. Notwithstanding this, the Council has already considered these other matters and did not find grounds to withhold planning permission other than for those set out in its reasons for refusal.
- 1.6 If any other planning considerations are considered to be potential grounds for withholding planning permission then the Appellant should be given the opportunity to comment on them before a final decision is made.

Amended Plans

- 1.7 Submitted with this appeal are additional plans, not seen previously by the Council or third parties.
- 1.8 The Appellant requests the appeal be determined on the basis of these amended plans.
- 1.9 The amendment comprises the relocation of the single storey projection on the rear elevation of the front house (Oakdale Cottage) from the north east corner to the north west corner. Doing so delivers the following two benefits.
- 1.10 It enhances the resulting level of residential amenity for the occupiers of Edge Croft and Oakdale Cottage. The occupier of Edge Croft had raised general

¹ Appellant document file name: MCB - AFD - J-03

concerns about the impact of the development on their property. Under the scheme as determined by the Council there would be facing windows in each respective property. The Council raised no objection to this and considered the relationship to be acceptable. The amendment will be an enhancement because the solid wall of the single storey projection will now face Edge Croft.

- 1.11 The amendment also moves the structure further away from T5, the holly tree in the rear garden of Langside. The Council raised no objection to the proximity of the structure to this tree and the assessment submitted with the application also found the current and future relationship to be acceptable². The amendment will be an enhancement, offering more space for the tree to continue to grow and mature over time, providing an improved setting to the tree and offering a more attractive outlook for the occupiers of Oakdale Cottage.
- 1.12 The scale of the amendment is minor, it improves upon the original layout and it does not touch upon any of the reasons given by the Council for refusing planning permission. The Council and third parties will have the opportunity through the appeal process to make comment on the change. Therefore, no prejudice will be caused to any interested party by accepting this amendment to the appeal scheme and determining the appeal on this basis.
- 1.13 For the avoidance of doubt, if it is decided the amendment cannot be accepted, the position of the Appellant is that the scheme, the subject of the decision by the Council, will not harm any interest of acknowledged importance, is in accordance with the development plan and should be granted planning permission.
- 1.14 The amended plans are:
- Block plan – dwg no 0-911 Rev C
 - Site plan – existing & proposed – dwg no 0-910 Rev B
 - Oakdale Cottage – Proposed ground & first floor plans - dwg no 2-110 Rev J
 - Oakdale Cottage – Proposed elevations – dwg no 2-120 Rev F
 - Oakdale Cottage – Artists impression – dwg no 2-199 Rev B
- 1.15 The superseded plans are:
- Block plan – dwg no 0911
 - Site plan – existing & proposed – dwg no 0-910

² Arboricultural Impact Assessment and Method Statement (May 2018), page 5, paragraph 8.2; Appellant document file name: MCB - AFD - J-05a (xiv)

- Oakdale Cottage – Proposed ground & first floor plans – dwg no 2-110 Rev H
- Oakdale Cottage – Proposed elevations – dwg no 2-120 Rev E
- Oakdale Cottage – Artists impression – dwg no 2-199.

2. Description of site and surroundings

- 2.1 The appeal site is an existing residential plot comprising a bungalow with detached garage and outbuilding. The plot has a generous front garden and a long back garden. The existing means of access is positioned in the south west corner with a driveway and car parking running alongside the western boundary. The front garden is laid mostly to lawn, with a hedge on the east side (and alongside the house) and a fence on the west side (and alongside the house). There are bushes, conifers and trees to the front, southern boundary, behind a low hedge. The rear garden is laid mostly to lawn, with a fence on the eastern boundary and a hedge on the western. The garden backs onto an area of woodland.
- 2.2 The appeal site lies within an established residential area. This section of Pant Lane forms two long sinuous curves from Winchester Way to the west to The Conifers to the east. The character and form of development on the north side of Pant Lane differs markedly from that on the south side. On the south side the density of development is higher and the pattern more regular. They are all low bungalows and have open frontages. On the north side the density is lower, the plots and properties are larger and the pattern more irregular. The pattern of development comprises a mix of bungalows, dormer bungalows and two storey properties and there is taller, more dominant planting to the frontages.
- 2.3 Adjacent to the rearmost eastern boundary of the appeal site is the more recent backland development, The Conifers³. This is a small cul-de-sac, of two bungalows and two detached houses, that curves round behind some of the properties which front Pant Lane. One house (no.3 The Conifers) and part of one of bungalow (no.2 The Conifers) share a boundary with the rear eastern boundary of the appeal site.
- 2.4 The other neighbours to the appeal site are Langside, a bungalow, and Edge Croft, a two storey house. The means of access to Langside is in the south east corner of its plot, away from Oakdale. The means of access to Edge Croft is in the south east corner of its plot, immediately adjacent to that for the appeal site. A new close boarded fence separates the two properties, and this tapers down in height closer to the road, before stopping 2.3m metres back from the edge of the carriageway. The means of access to these two properties have mutually overlapping visibility splays. Edge Croft has a low

³ See site location plan; Appellant document file name: MCB – AFD – J-04

front wall, on top of which a close boarded fence was erected in 2018 (see Planning History below).

- 2.5 There is a continuous pavement along the south side of Pant Lane. On the north side there is section of pavement from the junction with Winchester Way that stops when it reaches Dunholme (next door but one to the appeal site). There is no pavement in front of Dunholme, Edge Croft and Oakdale. The pavement starts again to the front of Langside and continues eastward to The Conifers and beyond.
- 2.6 The planning application was accompanied by an arboricultural assessment and method statement by Tree Solutions. Appendix One to the report sets out the tree survey schedule. The planting to the frontage to Pant Lane includes three yew trees (all category C) and there is a small ornamental magnolia tree within the front garden. There are no other trees of any note within the appeal site. Just outside of it is a category C holly in the rear garden of Langside, a category B cherry within the garden of Edge Croft and an area of woodland beyond the northern boundary of the appeal site.
- 2.7 The application was also accompanied by a bat survey and mitigation report. The survey confirmed the presence of bats (soprano pipistrelle and common pipistrelle) and of a bat roost in the roof of Oakdale.

3. Planning history

- 3.1 There is no relevant planning history relating to the appeal site itself. There is relevant planning history relating to other properties in the area.
- 3.2 In 2018 the owner of Edge Croft erected close boarded fencing to the front boundary to Pant Lane and to the eastern boundary with Oakdale (between their two driveways). This fencing on the frontage is an obstruction to visibility to vehicles exiting both Edge Croft and Oakdale. The fencing was the subject of a planning application, submitted in December 2018. Permission was refused by notice dated 4 March 2019; copies of the case officer report and the decision notice are provided at Appendix A to this Statement of Case⁴.
- 3.3 There was single reason for refusal of planning permission for the fence, which related to the impact on the street scene. Highway considerations were not a part of the reason for refusal. The case officer report to committee confirms, on pages 101 and 102, the absence of objection from Highways.
- 3.4 In 2009 the Council granted planning permission for a ‘tandem’ development further west on Pant Lane⁵.

⁴ Appellant document file name: MCB – 03 – Appendix A

⁵ Appellant document file name: MCB – 03 – Appendix C

4. Relevant planning policy

- 4.1 The current local plan is the Wrexham Unitary Development Plan 1996-2011 ('the UDP'), which was adopted in February 2005.
- 4.2 The case officer report on the planning application confirmed the site lies within the Gresford Settlement Limit and the principle of development is acceptable. The case officer report identified the following policies as relevant to the decision
- GDP1 – Development Objectives
 - EC4 – Hedgerows, Trees and Woodland
 - H2 – Residential Development (of Unannotated Land) within Settlements
- 4.3 The reasons for refusal referred only to Policy GDP1, to parts 'a', 'd' and 'f'.
- 4.4 The case officer report also referred to local planning guidance (Local Planning Guidance Notes - LPGN). These are guidance notes which do not have the status of supplementary planning guidance but are material planning considerations.
- No 7 – Landscaping and Development
 - No 16 – Parking standards
 - No 21 – Space Around Dwellings
- 4.5 The Council is in the process of preparing a replacement local plan, the Wrexham Local Development Plan 2 (2013-2028). A Deposit Plan was published for comment on 9 April 2018. It has been submitted for Examination. The Examination process is expected to commence later in 2019. The emerging plan was not referred to in the case officer report on the application nor in the decision notice.

5. Grounds of Appeal

- 5.1 On its planning merits, the proposed development should be granted full planning permission, for the following reasons.
- 5.2 In response to the grounds put forward by the Council, on the first reason for refusal
- a) The Council assessment of the highway issues was flawed and they have subsequently shown a more pragmatic approach in their assessment of the fence at Edge Croft.
 - b) The appeal scheme will deliver improvements which are more significant (and should therefore carry more weight) than the effects of the variance from the recommendations in TAN18. The guidance in TAN18 is a material consideration (not development plan policy) and the weight given to it should take account of site specific circumstances.
 - c) The Statement by Highway Planning Services⁶ (on behalf of the Appellant) explains why the evidence does not show the access would be unsafe or inconvenient. It can therefore be concluded the appeal scheme would provide safe and convenient vehicular access to and from the site and is in accordance with UDP Policy GDP1(d).
- 5.3 In response to the grounds put forward by the Council, on the second reason for refusal
- d) The pattern of development on Pant Lane, of houses fronting the highway, will be maintained by the presence of the new house at the front of the site (which the Council accept) and the proposed house to the rear will not detract from that.
 - e) The guidance relied upon by the Council in Planning Policy for Wales (edition 9, Nov 2016) has been withdrawn and is no longer a material consideration.
 - f) The proposed layout does reflect the local context, including topography. It will not detract from or otherwise cause any harm to the safety and attractiveness of Pant Lane. It is not therefore in conflict with TAN12 (Design).
 - g) The layout of the appeal scheme will accord with the character of the site and will make a positive contribution to the appearance of the locality, in line with UDP Policy GDP1(a).
 - h) The Council has approved ‘tandem’ development elsewhere on Pant Lane, under the same UDP Policy.

⁶ Appellant document file name: MCB – 03 – Appendix F

- i) The Council concluded the appeal scheme complies with the standards in Local Planning Guidance Note no.21 – Space Around Dwellings.
- j) The appeal scheme will safeguard the residential amenity of no.3 The Conifers and otherwise accords with UDP Policy GDP1(f).

5.4 Accordingly, the appeal should be allowed, and full planning permission be granted.

5.5 The following sections

- set out in respect of each of the main issues an amplification of the grounds of appeal
- address other key issues raised by relevant development plan policies
- respond to comments by the Community Council and third parties, and
- set out final conclusions.

6. Main Issue 1 – the provision of safe and convenient vehicular access to and from the development site

6.1 This relates to the first reason for refusal. The reason for refusal states the proposal would fail to accord with UDP Policy GDP1(d), which reads

... all new development should ensure safe and convenient pedestrian and vehicular access to and from development sites, both on site and in the nearby locality.

6.2 Based on the information provided in the case officer report and the comments made by Highways, the Council raise no objection on grounds related to pedestrian access. It is only the restricted visibility at the site access with Pant Lane which gave rise to the objection. Specifically, the Council is concerned there would be restricted visibility which would result in unsafe means of vehicular access onto the highway.

6.3 Following the decision by the Council to refuse planning permission on highway grounds, the Appellant commissioned an assessment by Highway Planning Services, which is submitted as Appendix F to this Statement of Case⁷. The following points are of particular note

- a) Pant Lane is relatively lightly trafficked (see paragraph 4.4)
- b) There have been no recorded traffic accidents on this section of Pant Lane over the last 19 years (see paragraph 4.11)
- c) The visibility splay to the east should be measured to the centreline of the road, the line of approaching traffic, and not to the nearside edge (see paragraph 4.8)
- d) The visibility splay to the west should be measured to a line 1m off the nearside edge of the road, the line of approaching traffic, and not to the nearside edge (see paragraphs 4.7 and 4.9)
- e) There is visibility to the east to more than 43m (see paragraph 4.16/2) (and see Appendix B to this Statement of Case⁸)
- f) There is visibility to the west between 60 and 90 metres, allowing a vehicle exiting the appeal site to see approaching traffic, albeit visibility is restricted between 15 and 60 metres (see paragraph 4.9) (and see Appendix B to this Statement of Case⁹)
- g) The level of visibility that will be available is comparable to that available at neighbouring properties (see table at paragraph 4.9)

⁷ Appellant document file name: MCB - 03 – Appendix F

⁸ Appellant document file name: MCB - 03 – Appendix B

⁹ Appellant document file name: MCB - 03 – Appendix B

- h) Council Highways raised no objection to the erection of the fence at Edge Croft (see paragraphs 2.6, 4.13 to 4.15) (and see also the case officer report at Appendix A to this Statement of Case¹⁰).
- i) The development will deliver an improvement upon the existing situation, by allowing vehicles to enter and leave in a forward gear, whereas currently there is no on-site turning (see paragraph 4.16/1)
- j) The development will improve visibility to the east for Oakdale and Edge Croft (see paragraph 4.16/2).

- 6.4 See also the conclusions to the Highways Statement at section 5.
- 6.5 The Council assessment of the highway issues was flawed and they have subsequently shown a more pragmatic approach in their assessment of the fence at Edge Croft.
- 6.6 The appeal scheme will deliver improvements which are more significant (and should therefore carry more weight) than the effects of the variance from the recommendations in TAN18. The guidance in TAN18 is a material consideration (not development plan policy) and the weight given to it should take account of site specific circumstances.
- 6.7 The Statement by Highway Planning Services explains why the evidence does not show the access would be unsafe or inconvenient. It can therefore be concluded the appeal scheme would provide safe and convenient vehicular access to and from the site and is in accordance with UDP Policy GDP1(d).

¹⁰ Appellant document file name: MCB – 03 – Appendix A

7. Main Issue 2 – the impact on the pattern and character of development in the area

- 7.1 This relates to the second reason for refusal. The reason for refusal states the proposal would conflict with UDP Policy GDP1 (a) and (f). Paragraph (a) relates to this second main issue. It reads

... all new development should ensure that built development in its scale, design and layout, and in its use of materials and landscaping accords with the character of the site and makes a positive contribution to the appearance of the nearby locality.

- 7.2 Based on the information provided in the case officer report and in the reason for refusal, the Council raise no objection on grounds related to scale, design, use of materials or landscaping, or to the siting of the front house. It is only the proposed siting of a second house to the rear of a first ('tandem' development) which gave rise to the objection. Specifically, the Council is concerned it would be at odds with the general pattern and character of development in the area.

- 7.3 In the fourth paragraph under the heading 'Design and Layout', the case officer report refers to the following

- development in the vicinity typically fronts onto the highway
- Planning Policy Wales advises against tandem development
- TAN12 (Design) advises that the design of housing layouts should reflect local context and that generally every effort should be made to orientate dwellings so they front existing roads and spaces.

- 7.4 The following submissions are made in response to those three points.

- 7.5 The existing pattern of development in the area, of dwellings fronting onto the highway, will be maintained. There will be no interruption of, degradation of, disturbance to, or other direct impact on the existing pattern of development in the area as a result of siting one house (Oakdale House) to the rear of the other (Oakdale Cottage). The house on the front of the site will maintain the existing rhythm and pattern of development. The case officer report acknowledges that the front house will broadly reflect the pattern of development in the locality (see third paragraph under the heading 'Design and Layout').

- 7.6 Oakdale House, to the rear, will not be readily visible, or will not be visible at all, in views from the public realm.

- 7.7 In views from the west along Pant Lane it will be screened from view by the two storey dwelling, Edge Croft.

- 7.8 In views from the immediate east along Pant Lane it will be largely if not wholly screened by the bungalows at Langside, Helm Rigg and Westmead, and by the mature planting within the grounds of some of those properties. This screening effect is the cumulative result of the following factors. Oakdale House will sit some distance beyond Langside and the other two bungalows. The ground level where Oakdale House will be sited is flat and relatively level with Pant Lane. The house is designed to respond positively to its context, with a low profile, in the form of a shallow mono-pitch roof. Currently, it is only possible to see the uppermost part of the two-storey house at no.3 The Conifers, behind Langside and Helm Rigg. The height to the highest part of the roof of Oakdale House will probably be about the same height as the height to the ridge of no.3 The Conifers, if not perhaps a little below it. In which case it is probably only the top south west corner of the house, and the chimney, which might be glimpsed behind Langside and Helm Rigg. At present no.3 The Conifers has little if any presence in views along Pant Lane. Oakdale House will be no higher, and what might be seen of it will be seen in context with the existing backland development at no.3 The Conifers.
- 7.9 In views slightly further east along Pant Lane, at the junction with The Conifers, Oakdale House will be screened from view by Westmead. It is worth noting again how little presence no.3 The Conifers has in the street scene at this part of Pant Lane.
- 7.10 In views from The Conifers, Oakdale House will be screened when on the access road by no.4 The Conifers, and when in the turning head by no.3 The Conifers. There may be one point, where the access road enters the turning head, from where part of the southern elevation might be glimpsed.
- 7.11 Oakdale House will be glimpsed in views up its own proposed access drive, from a position immediately opposite the access into the site.
- 7.12 Overall, Oakdale House will either not be visible from the public realm, or only a part of it might be glimpsed or the bits which might be glimpsed will be seen in context with the existing backland development of The Conifers. The house will have little if any material impact on the perception of the area as one where generally properties front the highway. Accordingly, it will not detract from or harm the overall character and appearance of the nearby locality.
- 7.13 The case officer report said Planning Policy Wales advises against tandem development. The report was referring to edition 9 (Nov 2016). This has now been replaced by edition 10 (Dec 2018), which includes no equivalent statement about tandem development. The reference in the case officer report has been superseded by the updated national guidance. The guidance the report referred to is no longer a material planning consideration and cannot be taken into account in deciding this appeal.
- 7.14 The third point raised in the case officer report referred to TAN12 (Design) (March 2016). The case officer report said the TAN advises that the design of housing layouts should reflect local context (TAN paragraph 5.11.3) and that

generally every effort should be made to orientate dwellings so they front existing roads and spaces (TAN paragraph 5.11.4). On the first point, the TAN refers to 'housing layouts and built form'. The case officer report refers only to layout. The Council had no concerns regarding the built form and local distinctiveness.

- 7.15 The proposed layout does reflect local context. The position of Oakdale Cottage will maintain the existing building line to Pant Lane and the existing rhythm and pattern of development on the north side of the Lane. The Council raise no objection to this front house.

- 7.16 The local context includes the development known as The Conifers. This is a backland development, sitting to the rear of Langside, Helm Rigg and Westmead. Oakdale House will sit alongside this existing backland development. The upper part of the roofs to the houses and bungalows of The Conifers can be glimpsed from bits of Pant Lane, revealing beyond Langside, Helm Rigg and Westmead (to those who care to look) the existence of this development in depth. To the extent it will be seen at all, Oakdale House will be seen alongside this existing backland development and will be perceived to be part of an existing area of development in depth behind Pant Lane. It will therefore integrate sympathetically with the existing context.

- 7.17 The layout responds positively to the topography of the area. The appeal site and its surroundings occupy relatively flat and level ground. The scale and design of Oakdale House responds positively to this topography, ensuring it takes full advantage of its set-back position, the topography and the screening provided by surrounding properties, so that it will be visually subservient.

- 7.18 The proposed layout does therefore reflect local context, including topography.

- 7.19 The guidance at TAN12 paragraph 5.11.4 (as it announces in the opening sentence) is about the location and definition of public and private space. The guidance, that every effort should be made to orientate dwellings so they front existing roads and spaces, is – it is submitted here – about ensuring new development creates or maintains public spaces that feel safe, attractive and welcoming. This will be accomplished, in relation to Pant Lane, by the proposed front house and in respect of which it must again be noted, the Council has no objection.

- 7.20 The rear house will not have a boundary with the public realm and will be set back sufficiently far that it will not have a meaningful interaction with the public realm; the accessway past the front house being private space, beyond the public-private threshold of the access off Pant Lane. The rear house therefore will not detract from or otherwise cause any harm to the safety and attractiveness of Pant Lane as a public space; its effect will be neutral. The TAN does not seek to stipulate that all new dwellings must be orientated to front existing roads and spaces. Its advice is more measured, setting out that 'in general' every effort should be made to do so, and therefore recognising there will be scenarios where an alternative approach is justified. It provides

examples of some scenarios which are illustrations of the need for flexibility and balance between competing objectives and is not an exclusive list of exceptions. Oakdale House will not detract from the safety and quality of the public realm on Pant Lane and as such it does not conflict with the guidance in TAN12.

- 7.21 In conclusion therefore, the layout of the appeal scheme will accord with the character of the site and will make a positive contribution to the appearance of the locality, in line with UDP Policy GDP1(a).
- 7.22 In addition, it should be noted the Council has supported ‘tandem’ development elsewhere on Pant Lane. Details of an example are provided at Appendix C to this Statement of Case¹¹ and can be viewed on the ground. It was approved following the adoption of the UDP. Given that layout was considered by the Council to comply with Policy GDP1(a) it is difficult to understand what if any justification exists for the different conclusion reached by the Council on the appeal scheme.

¹¹ Appellant document file name: MCB – 03 – Appendix C

8. Main Issue 3 – the impact on the amenity of the occupiers of no.3 The Conifers

- 8.1 This relates to the second reason for refusal. The reason for refusal states the proposal would conflict with UDP Policy GDP1 (a) and (f). Paragraph (f) relates to this third main issue.

... all new development should ensure the safety and amenity of the public and safeguard the environment from the adverse effects of pollution of water, land or air, hazards from industry and quarrying, and associated noise, odour or vibration arising from development.

- 8.2 Based on the information provided in the case officer report and in the reason for refusal, the Council raise no objection on grounds related to the safety of the public or to any adverse effects of pollution of water, land or air, hazards from industry and quarrying, or any associated noise, odour or vibration arising from the development. It is only the impact on the amenity of the public which gave rise to the objection. Specifically, the Council is concerned the occupiers of no.3 The Conifers would experience a loss of privacy.
- 8.3 At the bottom of page three of the case officer report there is a section on 'residential amenity'. The second paragraph identifies no.3 The Conifers as the adjacent building referred to in the reason for refusal. However, the case officer report makes this finding after concluding in the preceding paragraph that all relevant spacing standards to neighbouring properties are considered to be appropriate and the proposed development would comply with Local Planning Guidance Note 21 in terms of relationships between the proposed dwellings and habitable rooms located in adjacent properties.
- 8.4 There is a fundamental contradiction between these two paragraphs in the case officer report. There is insufficient information in the report to explain how, in light of the first paragraph, the conclusion in the second paragraph has been reached. This has left the Appellant unable to understand, in respect of this issue, why the Council refused the application. This is a grossly inadequate and unfair position for the Council to impose on the Appellant.
- 8.5 Local Planning Guidance Note (LPGN) no.21 – Space Around Dwellings sets out in its opening paragraph that it will form a material consideration in the determination of all relevant planning applications. It amplifies policies in the development plan on residential amenity. The second paragraph sets out the recognition, by the Council, that it is desirable to make the best possible use of land by increasing housing densities, as is proposed in this appeal. It goes on to set out that in doing so residents are entitled to enjoy a reasonable degree of space, privacy and day lighting in and around their homes. The note, it explains, sets out a series of guidelines to ensure new development protects residential amenity.

- 8.6 Developers rightly expect schemes which have been designed to comply with the LPGN will be found acceptable. The Council fully accept the proposed development complies with the LPGN and therefore that residential amenity will be protected. The Council should then have gone on to find the proposed development will ensure the amenity of the public and therefore that it complies with UDP Policy GDP1(f).
- 8.7 Absent any planning reason to find otherwise, this part of the second reason for refusal should be disregarded. If the Council subsequently come forward with additional reasons as justification for refusing the application on amenity grounds, then the Appellant reserves the right to make comment on those reasons at the time.
- 8.8 Without prejudice to the above, the following is of note with regard to the Council allegation that the rear house would give rise to a degree of overlooking of no.3 The Conifers from its first floor windows, that currently does not occur. This overlooking could not be to any windows in no.3 The Conifers because the proposed juxtaposition and orientation of the houses will not allow for that (see Appendix B to this Statement of Case¹²). Nor could it be as a result of a significant loss of privacy to private outdoor amenity space because, although there would be some overlooking of the area behind the garage to no.3 The Conifers, the principal private amenity space, to the immediate rear of the house itself, will not be overlooked. There will therefore be no significant harm, if indeed any material harm, to the amenity of the occupiers of no.3 The Conifers, and the proposal complies with UDP Policy GDP1(f). Furthermore, such harm as the Council might allege is outweighed by the benefit of securing more efficient use of existing land within the built-up area to provide a new home, contributing to the overall, unmet need of the Wrexham area for more housing¹³.

¹² Appellant document file name: MCB - 03 – Appendix B

¹³ In the last year for which a record is available on the Council website, the Council had zero years housing land supply; see 'The local planning authority's current housing land supply in years', under 'Plan making' on the first page of Annex A [32nd page in document], of the Wrexham Local Planning Authority Planning Annual Performance Report 2016-2017; Appellant document file name: MCB – 03 – Appendix D

9. Other Issues

Trees

- 9.1 The planning application was accompanied by an arboricultural impact assessment and method statement¹⁴. This reported on the condition of the trees on and adjacent to the appeal site. It also reported on the impact of the proposed development, including the loss of T3 (a yew) and T4 (a magnolia) (see section 8 on page 5). It set out a tree protection plan (see Appendix 4, on page 10 and the page which follows page 10) and an arboricultural method statement (see Appendix 5, on pages 11 to 14). No objection was received from the Tree Officer.
- 9.2 Following the submission of the application and further to discussions with the Council, the planning application was amended to broaden the visibility splay to the east. This was done by the submission of drawing no. 0-911 'Proposed Site plan with Highways items noted'¹⁵ (please note, drawing no. 0-910 'Existing and Proposed Site plan'¹⁶ was *not* updated to match the revised visibility splay). The plan showed the broadened visibility splay would result in the removal of T1 & T2 (two yew trees). No objection was received from the Tree Officer.
- 9.3 The existing and proposed site plan drawing has been updated and is one of the amended plans submitted with this appeal (now drawing no. 0-910 Rev B). This also takes into account the repositioning of the single storey rear projection to Oakdale Cottage.
- 9.4 A revised Arboricultural Impact Assessment and Method Statement (April 2019) by Tree Solutions is submitted with this appeal; see Appendix E to this Statement of Case¹⁷. This revised report updates the assessment of the impact of the development, to take account of the loss of trees T1 & T2 (see section 8, page 5). It also sets out a revised tree protection plan (see Appendix 4, on page 10 and the page which follows page 10).
- 9.5 The revised report concludes the trees which would be lost are either unremarkable or not particularly good specimens and given their value (all are grade 'C') they should not impede the redevelopment of the site in line with the appeal scheme.
- 9.6 Neighbouring properties exhibit a variety of approaches to the hard and soft landscape treatment of their frontages and there is no clear and established pattern. There is no planning objective which would require details of future landscape treatment to be the subject of a planning condition. It should be

¹⁴ Arboricultural Impact & Method Statement (May 2018) by Tree Solutions; Appellant document file name: MCB - AFD - J-05a (xii)

¹⁵ Block Plan; Appellant document file name: MCB - AFD - J-06a (ii)

¹⁶ Site Plan; Appellant document file name: MCB - AFD - J-05a (iii)

¹⁷ Arboricultural Impact & Method Statement (April 2019) by Tree Solutions; Appellant document file name: MCB – 03 – Appendix E

left to the discretion of the owner to decide on the scope and type of planting they might wish to undertake behind the visibility splay line.

Ecology

- 9.7 The planning application was accompanied by a bat survey and mitigation plan¹⁸. This reported on evidence of the presence of bats on the appeal site. It set out a number of recommendations to be followed (see section 4, on page 11 of the report). The case officer report confirms neither Natural Resources Wales nor the Ecology Officer had any objection.

10. Response to Comments from the Community Council

- 10.1 The comments of the Community Council are summarised in the case officer report. Three points were raised.

Parking

- 10.2 The Community Council was concerned about whether the right level of parking was proposed.
- 10.3 Parking and turning was shown on the block plan, drawing number 0-911¹⁹. This was some of the additional information referred to in the second paragraph under the heading 'Access and Car Parking' on the fourth page of the case officer report.
- 10.4 Council Highways confirm the level of parking proposed complies with the relevant Local Planning Guidance Note and that the proposed turning provision for both dwellings is adequate²⁰.

Frontage screening

- 10.5 The Community Council felt it important to provide screening at the front.
- 10.6 It is not clear, from the summary provided in the case officer report, what the intended purpose of a 'screen' would be (to screen what from what?). Nor is it clear what form this screen should take (perhaps a fence similar to that erected at Edge Croft?).

Appropriateness

- 10.7 It is not clear from the summary in the case officer report what it is the Community Council were concerned about. It reports them as saying 'the properties nearby are all bungalows'. This is not the case. Edge Croft and

¹⁸ Appellant document file name: MCB - AFD - J-05a (xiii)

¹⁹ Appellant document file name: MCB - AFD - J-06a (ii)

²⁰ See second page of Highway comments 16 Oct 2018 at Appendix 2 to the Highway Statement by Highway Planning Services; Appellant document file name: MCB - 03 – Appendix F

no.3 The Conifers, both of which are immediately adjacent to the appeal site, are two storey properties.

11. Response to Third Party Comments

- 11.1 Four representations were received from four third parties and a petition was also submitted. The following submissions are made in response to those, taking each in turn.

R Carew – Edge Croft

- 11.2 The design, siting and orientation of the proposed houses ensure

- there will be no overlooking of the garden or driveway to Edge Croft (except for a small part of the very top north east corner of the rear garden) from any habitable room, and
- there will be no material impact, if any impact at all, on daylight and sunlight to the habitable rooms of Edge Croft.

- 11.3 Notwithstanding that in the original layout the Council had no objection to the relationship between Edge Croft and Oakdale Cottage, the amended layout submitted with this appeal will provide enhanced protection of the privacy and residential amenity to both Edge Croft and Oakdale Cottage, by relocating the single storey rear projection to Oakdale Cottage so that it presents a solid wall in the west elevation, facing Edge Croft (see amended plans, drawing no 2-120 Rev F).

- 11.4 The intensification in the level of development on the appeal site complies with the Local Planning Guidance Note on Space Around Dwellings. Having regard to the siting, orientation and juxtaposition of the houses and plots and to the quantum of space surrounding them, such increase in noise and activity as may arise from normal domestic occupation will not be so great as to cause material harm to the residential amenity of the occupiers of Edge Croft; which has an existing, large rear garden. The principal private amenity area to the rearmost of the proposed houses (Oakdale House) will be positioned well away from the immediate boundary with Edge Croft.

- 11.5 Impacts on property values are not a material planning consideration and cannot be taken into consideration.

Bellis-Jones – no.1 The Conifers

- 11.6 The siting, orientation and juxtaposition of the proposed houses with those on The Conifers will ensure none of the properties on The Conifers will experience a material loss of residential amenity as a result of overlooking²¹, reduction of daylight and sunlight to habitable rooms or loss of outlook by way

²¹ Appellant document file name: MCB - 03 – Appendix B

of an unduly overbearing impact. The third party does not identify any specific alleged harm which would arise from the separation distances.

- 11.7 The level of car parking proposed is in line with the Local Planning Guidance Note and is considered acceptable by Council Highways. Indeed, Highways required the level of parking provided to be the maximum allowable under the Guidance.
- 11.8 The acceptability of the proposed means of access is dealt with above under Main Issue 1.
- 11.9 There is a pavement immediately opposite the site which pedestrians can cross to and from, providing for safe means of pedestrian access to the appeal site.

Mr & Mrs Jones – no.2 The Conifers

- 11.10 The rear part of the appeal site has a high degree of visual self-containment, with only limited views of parts of the rear house likely to be available from the public realm. Views from private property are not a material planning consideration and cannot be taken into account. There is no conflict with the UDP and no harm to the public interest. The degree to which the rear house, Oakdale House, would be visible from the public realm is otherwise dealt with above under Main Issue 2.
- 11.11 The character, scale, design and materials were all considered to be acceptable by the Council. Buildings in the immediate context to the appeal site (on Pant Lane and The Conifers) vary in character, scale, design and materials. That variety is part of the character of development on this section of the north side of Pant Lane. The appeal scheme will be in keeping with that character, with visually interesting building forms completed in good quality materials that complement and add to the range and interest of those to be found in the locality.
- 11.12 The National Planning Policy Framework applies only to land in England. It is not a material planning consideration in Wales and cannot be taken into account.
- 11.13 There is an existing fence on the boundary with no.2 The Conifers. The appeal scheme does not propose making any changes to it.
- 11.14 The design, siting and orientation of the proposed rear house ensures there will be no overlooking of a habitable room in no.2 The Conifers. There will be no windows in the side elevation facing no.2 The Conifers. Windows in the rear elevation will not provide a view toward no.2 The Conifers.
- 11.15 There will be an inevitable degree of disturbance during the construction process. That will be for a limited period of time and there are no grounds to suggest it will be at a level unusual for the type, scale and location of the build. If any unusual practices were to give rise to unreasonable disturbance

to neighbours then provisions exist under other legislation for action to be taken. It is not appropriate to seek to duplicate those controls through the planning process. Such disturbance as might arise during construction does not constitute grounds for withholding planning permission. It is not part of the reasons given by the Council for doing so.

- 11.16 Parking has already been dealt with above in the response to Bellis-Jones. The acceptability of the proposed means of access is dealt with above under Main Issue 1.
- 11.17 Maes Y Pant is a local green space and not of a scale which would generate significant levels of vehicular and pedestrian movements on Pant Lane.
- 11.18 At its closest point, the rearmost house will be 1.3m from the site boundary with no.3 The Conifers; not 0.5m.

Dr Gargh – no.3 The Conifers

- 11.19 The representation submitted by Dr Gargh repeats some of the same points made by either Bellis-Jones at no.1 The Conifers or Mr & Mrs Jones at no.2 The Conifers, and therefore the responses to those points are not repeated here.
- 11.20 The design, siting and orientation of the proposed houses ensures there will be no overlooking of a habitable room in no.3 The Conifers²². All requirements of the Local Planning Guidance Note are complied with. There will be no windows in the side elevation of Oakdale House facing no.3 The Conifers. Windows in the front elevation of Oakdale House will not provide a view toward the house at no.3 The Conifers. There would be some views toward part of the garden to the rear of the garage to no.3 The Conifers but the principal private amenity space, to the immediate rear of the house at no.3 the Conifers, will not be overlooked. Oakdale Cottage is sufficiently far from no.3 The Conifers, and is orientated slightly away from it, and will not result in material harm to the residential amenity of the occupiers of no.3 The Conifers by reason of overlooking of their principal private amenity space.
- 11.21 The design, siting and orientation of Oakdale House will not materially affect, if it would affect at all, the daylight and sunlight levels to habitable rooms in no.3 The Conifers, nor would it be unduly overbearing in the outlook from no.3 The Conifers. At their nearest point the two buildings, corner wall to corner wall, will be about 11m apart, increasing to about 17m between the north corner wall to the two storey element of the proposed house and the nearest point on the rear elevation of no.3 The Conifers. At the nearest point between the nearest window to no.3 The Conifers and Oakdale House the distance would be 13m, in line with the Local Planning Guidance Note requirement. The light to and outlook from no.3 The Conifers therefore meets the policy requirements and the occupier's level of residential amenity will be safeguarded.

²² Appellant document file name: MCB - 03 – Appendix B

- 11.22 To the extent the proposed development might set a precedent, it would be a desirable one. It is an accomplished example of how better use can be made of land within existing developed areas to provide new, well designed, good quality housing to meet the unmet demand for new family homes in the Wrexham area.

Petition

- 11.23 The signatories declared they were opposed to the proposed development on the grounds it would not be in keeping with 'the existing visual and material properties in the locality'. This matter has already been addressed above at paragraph 11.11.

12. Conclusions

- 12.1 The proposed development would make best possible use of land within a sustainable settlement, with sensitively and creatively designed dwellings which would provide good quality housing to meet the unmet need for new family homes in the Wrexham area. It would provide safe and convenient means of access. It is in accordance with the relevant development plan policies and there are no material considerations which indicate a decision should be made other than in accordance with those policies.
- 12.2 Accordingly, the Inspector is respectfully requested to allow the appeal and to grant planning permission.

Statement prepared by

Adrian Thompson MRTPI

Director, Lightwater TPC

23 April 2019

