

**Town and Country Planning Act 1990
Section 78 Appeal**

**Appeal at Land opposite Madras Primary School, Overton
Road, Penley, Wrexham, LL13 0LQ.**

COUNCIL'S STATEMENT OF CASE

PINS Ref: APP/H6955/A/18/3219039

LPA Ref: P/2018/0469

1 STATEMENT OF CASE

- 1.1 The Council will primarily rely on the Case Officer report appended to this document for the appeal. The Council request that the appeal be dismissed for the reasons set out on the planning decision notice.

2 RESPONSE TO THE APPELLANTS APPEAL STATEMENT

- 2.1 In response to some of the statements made in the appellants appeal statement, the Council comments below.
- 2.2 In relation to Section 2 of the appellants' statement of case, the points raised are covered under the Council's separate document in response to the appellants' award of costs claim.
- 2.3 In relation to paragraph 3.1.1 of the appellants' statement, the Local Planning Authority case officer dealing with the application does not consider that the site is central to the village, given it is located outside the settlement boundary. The site is clearly separate from the settlement for the reasons given in the officer report.
- 2.4 In relation to paragraph 3.1.2 of the appellants' statement, regardless of the submitted Indicative Site Layout Plan, residential development on this site is considered would harm the character and appearance of this open countryside location, for the reasons set out under the Environmental section of Sustainable Development set out in the officer report.
- 2.5 The appellants' statement states in paragraph 3.1.4 that *'the site is effectively an infill location.'*
- 2.6 Wrexham UDP Policy H5 defines infilling as:-

'the development of no more than two dwellings in a small gap within a well-developed built frontage'.
- 2.7 This proposal is for 8 no. dwellings on a portion of greenfield land which has no existing built development on it and no developed frontage. The site does not fall under the definition of infill development.
- 2.8 The case officer disagrees with the appellants' agents' opinion that proposed tree/hedge planting would be beneficial. For the reasons set out in the Case Officer report under the Environmental section of Sustainable Development, planting trees and hedges would not outweigh the harm identified to the character and appearance of this open countryside location.
- 2.9 In response to Section 3.5 of the appellants' statement, UDP Policy EC5 refers to development within Special Landscape Areas, where *'priority will be given to the conservation and enhancement of the landscape.'* Development other than for agriculture, small-scale farm-based and other rural enterprises,

and essential operational development by utility service providers, will be strictly controlled.'

- 2.10 The proposal is for residential development, which as stated in UDP Policy EC5, will be strictly controlled.
- 2.11 The amplification to Policy EC5 states in paragraph 5.6 that *'there are pockets of high value landscape which contribute to the setting, amenity, and character of local settlements or views along main communication routes and comprise attractive and sensitive environments in their own right.'*
- 2.12 As outlined under the Environmental section of the officer report, the proposed development by virtue of its proposed use, as well as the sites existing characteristics and features, its visual relationship to the settlement limit and built development and subsequent incursion into open countryside would harm the character and appearance of this open countryside location and is not considered would conserve or enhance this section of special landscape area.
- 2.13 In response to Section 5 of the appellants' appeal statement, in determining the appeal for Big Green Farm, the Inspector in his decision concluded that the proposal would not materially detrimentally affect the character and appearance of the open countryside or the Special Landscape Area.
- 2.14 In terms of site constraints and characteristics, the Big Green Farm site differs from this current proposal in that the site was brownfield land, there was existing built development on the site and the site was located immediately west of the existing built form and settlement limit. The Inspector considered that these elements weighed in favour of the scheme.
- 2.15 The site, subject of this appeal, has no built development on it, comprises greenfield land and the site is separate from the settlement limit and built development to the east.
- 2.16 Each application is considered on its own merits and the decision in relation to the Big Green Farm application does not set precedent in allowing approval of this current appeal.

Heritage Impact Assessment

- 2.17 The second reason for refusal was on the basis that insufficient information had been submitted with the application to demonstrate the impact of the proposed development on the setting of the Grade II listed building opposite the site.
- 2.18 A Heritage Impact Assessment (HIA) was not submitted as part of the original planning application. A HIA dated November 2018 has been submitted to accompany the appeal.

- 2.19 The Conservation Officer has viewed the contents of the HIA and is satisfied with the findings of the report, concurring that any new development on this site would need to be of a limited density and set well back within the confines of the site. Conditions are recommended to secure additional planting and retention of existing boundary hedges. These are considered could be covered as part of the landscaping matter as part of a reserved matters application.
- 2.20 The Local Planning Authority therefore considers that the second reason for refusal as set out on the decision notice is overcome.

Conclusion

- 2.21 Notwithstanding that the second reason for refusal is overcome, the Council remain of the opinion that the appeal be dismissed on the basis of the first reason for refusal as set out on the planning decision notice.

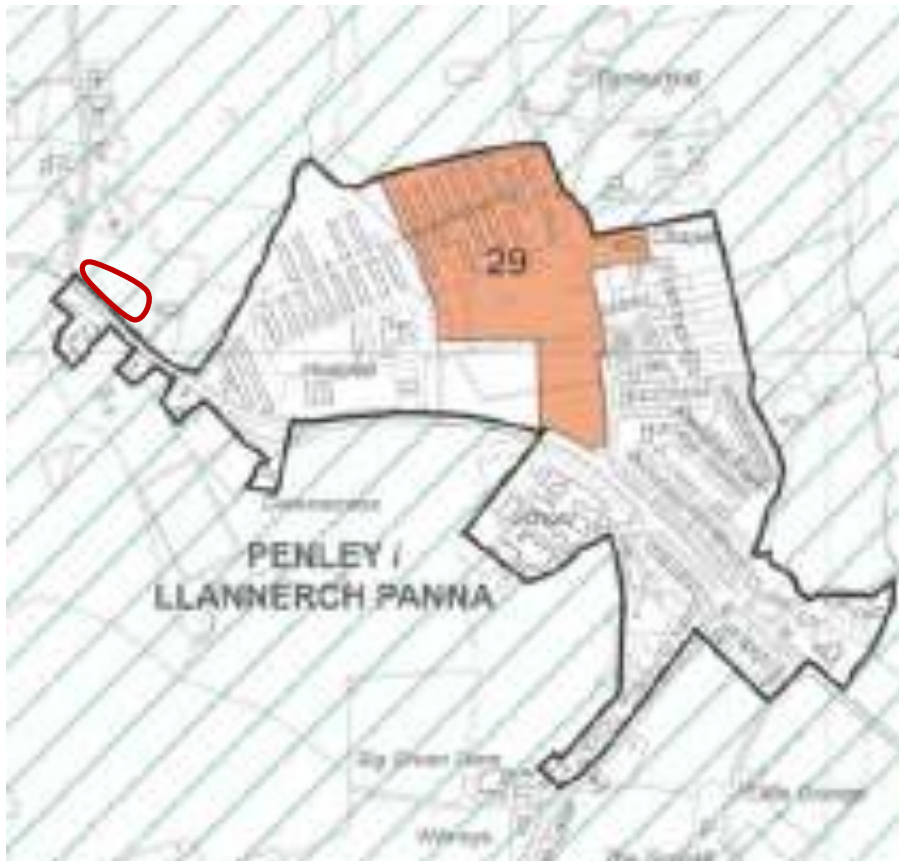
3 OTHER MATTERS

3.1 Housing Land Supply

- 3.1.1 The application was determined prior to the dis-application of paragraph 6.2 of Technical Advice Note (TAN) 1. The reference in the Officer Report to the need to attach '*considerable weight*' to planning applications for residential development (paragraph 2 under the Housing Land Supply section and paragraph 2 under the Planning Balance section), is no longer applicable.

3.2 Site Location

- 3.2.1 In reference to the Environmental section of the Officer report, please see below a copy of the Wrexham UDP Map 4 INSET 26 – Penley to support the officers views. The approximate site location is outlined in red.



3.2.2 Whilst the site is adjacent to the settlement limit in regard to the settlement boundary running directly south of the site, the site is considered to be clearly separate from the settlement limit as a whole and development to the east. The case officer maintains that there is a clear break in development west of the edge of the Employment Park, when viewing the site from the street scene along the A539.

3.3 Procedural Matters

3.3.1 Section N. of the submitted Planning Appeal Forms states that the appellant should send any documentation submitted to accompany the appeal that was not submitted with the planning application, to the Local Planning Authority.

3.3.2 The Local Planning Authority has not received any of the additional documentation submitted by the appellant to PINS, which were not included as part of the formal planning application. These documents include the Heritage Impact Assessment (referred to as Appendix 4 in the appellants' statement) and the 'Big Green Farm' appeal decision (referred to as Appendix 5 in the appellants' statement).

3.3.3 The Local Planning Authority has accessed these documents from the Planning Inspectorate website.

4 **SUGGESTED CONDITIONS**

4.1 Should the appeal be allowed, a list of suggested conditions is attached at Appendix 2.

APPENDIX 1

Case Officer Report for the Planning Application (P/2018/0469)

APPENDIX 2

List of suggested conditions if planning permission is granted