



PROPERTY | BUSINESS | PLANNING

APPEAL STATEMENT OF CASE

IN RELATION TO

WREXHAM COUNCIL'S REFUSAL OF AN OUTLINE PLANNING APPLICATION
FOR RESIDENTIAL DEVELOPMENT (UP TO 13 DWELLINGS) AND
CONSTRUCTION OF NEW VEHICULAR ACCESS
(LPA REFERENCE: P/2016/1118)

AT

FORMER FARMSTEAD, BIG GREEN FARM, ELLESMERE LANE, PENLEY,
WREXHAM LL13 0LP

ON BEHALF OF:
WAWNE DEVELOPMENTS LTD



RTPI
mediation of space · making of place



APPEAL STATEMENT OF CASE

APPELLANT'S DETAILS

Wawne Developments Ltd

PROJECT

Appeal – Big Green Farm, Ellesmere Lane,
Penley, Wrexham LL13 0LP

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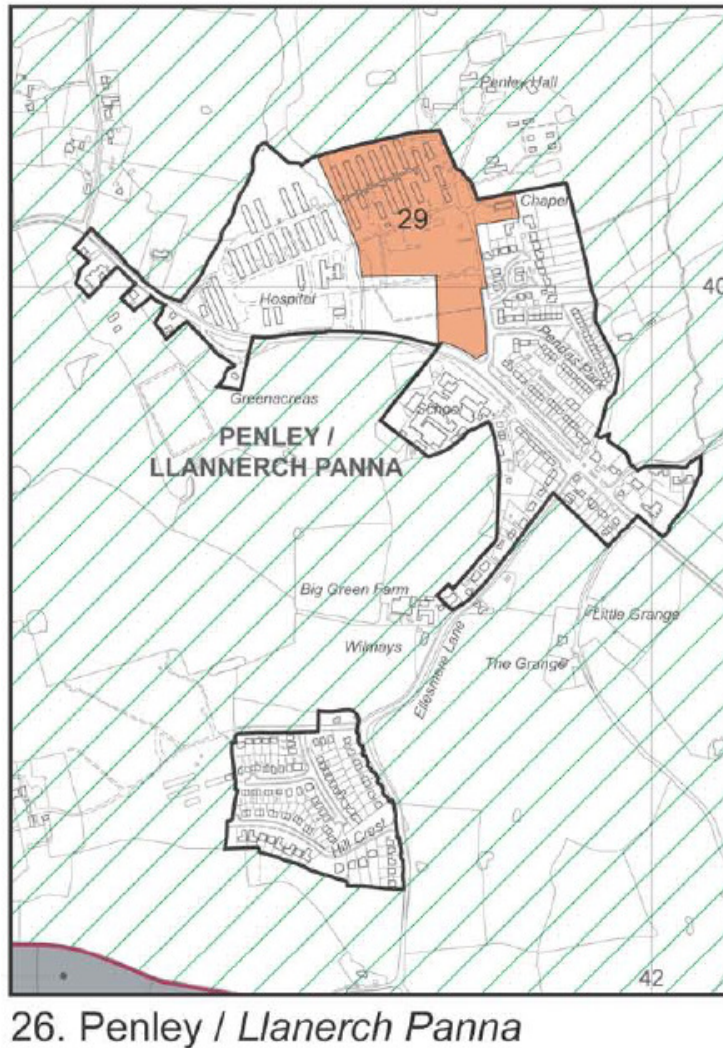
1.0 Introduction

- 1.1 This appeal relates to a proposed residential development of up to 13 dwellings on land off Ellesmere Lane, Penley LL13 0LP.
- 1.2 The application subject of this appeal was received by the Local Planning Authority on the 8th December 2016 (reference P/2016/1118) and was subsequently refused on the 12th April 2017. In reaching the decision the Council referred to Wrexham Unitary Development Plan strategic policies PS1, PS2 and PS4 and specific policies GDP1, H5 and EC5.
- 1.3 The reasons for refusal are addressed in section 3.

2.0 Background

The appeal site and environs

- 2.1 The appeal site is the farmstead of Big Green Farm, Penley, which comprises of a range of agricultural buildings and hardstanding. The farmstead is no longer required for agricultural purposes and alternatives uses for the site have been explored. Residential development of the site has been identified as the most viable and appropriate re-use of the site given its location adjoining existing dwellings.
- 2.2 The site is located immediately adjoining one of the settlement limits of the village of Penley, as shown on map 1. The site benefits from a frontage onto Ellesmere Lane between the existing dwellings of Wilmaye to the south and Big Green Farm farmhouse to the north-east. As the appeal site is already occupied by agricultural buildings it therefore forms part of the built form of the settlement.
- 2.3 Whilst all the land outside of the settlement limits of Penley is designated as Special Landscape Area (shown hatched green on map 1), the site is not affected by any other designations, as it has no specific heritage or natural environment features.



Map 1: Extract from UDP Policies Map

Development Plan situation

- 2.4 The Wrexham Unitary Development Plan (UDP) covered the period 1996-2011. The UDP is therefore out of date and Planning Policy Wales makes clear that where development plan policies are considered to be outdated “*local planning authorities should give them **decreasing weight in favour of other material considerations** such as national planning policy, including the presumption in favour of sustainable development*” (emphasis added) (PPW paragraph 2.8.4). In addition, the replacement for the UDP, the Wrexham Local Development Plan 2 (LDP2), is still in the initial stages of its preparation and has yet to reach its Deposit Stage.
- 2.5 Welsh Government guidance contained within Technical Advice Note 1 “Joint Housing Land Availability Studies” identifies in section 8 that local planning authorities “*that do not have either an adopted LDP or UDP will be unable to demonstrate whether or not they have a 5-year housing land supply and effectively will be considered not to have a 5-year supply*”. Therefore, until the LDP2 is adopted, Wrexham is regarded as not having a 5-year land supply.

3.0 Statement of Case

Reason(s) for Refusal

- 3.1 Wrexham Council refused planning application P/2016/1118 on the 12/04/2017, stating the following reason(s):

1. The Council consider that, by virtue of the proposed scale, design and site layout and location of this residential development outside of any settlement limit as defined in the Wrexham Unitary Development Plan, and within a Special Landscape Area the development would be materially detrimental to the character of this countryside location and would represent an undesirable visual intrusion into the rural landscape and Special Landscape Area. The development would not maintain the existing settlement pattern and would not accord with the character of the site or make a positive contribution to the appearance of the locality. The development therefore conflicts with Policies PS1, PS2, PS4, GDP1, H5 and EC5 of the Wrexham Unitary Development Plan.

Rebuttal of Reasons for Refusal

- 3.2 As detailed above, Wrexham's UDP is out of date and should therefore be given decreasing weight in the determination of planning applications, with weight being placed on other material considerations including national planning policy and its presumption in favour of sustainable development.

Nonetheless, non-conformity with UDP Policies PS1, PS2, PS4, GDP1, H5 and EC5 is stated with the reasons for refusal. The conformity with the development plan is therefore considered as Issue 1 below.

Other material considerations are considered under Issue 2.

3.3 **Issue 1: Conformity with the Development Plan**

The conformity of the development proposal against the policies included within Wrexham's UDP is considered in detail within section 4.0 of the "Planning Statement" that was submitted in support of the application and attached at Appendix 1.

As it is not the purpose of this statement to reiterate the content of the "Planning Statement", it focuses on those policies referred to in the reason for refusal, as follows.

3.3.1 Strategic Planning Policies

- UDP Policy PS1 - *New development for housing, employment, and community services will be directed to within defined settlement limits/employment areas.*

- UDP Policy PS2 - *Development must not materially detrimentally affect countryside, landscape/townscape character, open space, or the quality of the natural environment.*
- UDP Policy PS4 - *Development should maintain the existing settlement pattern and character and be integrated with the existing transport network to help reduce the overall need to travel and encourage the use of alternatives to the car.*

UDP Policies PS1, PS2 and PS4 form part of a suite of policies within the Wrexham UDP that represent the Planning Strategy of the UDP which is based upon the principles of sustainable development.

As such the development site location is considered to be in a sustainable location as it is located in Penley, one of the rural villages identified for future growth in the UDP. Penley is served by public transport and has an extensive range of services and facilities, reducing the need for car-based transport. The development site is located within walking distance of the settlement's extensive range of services and facilities, including the nursery, primary and secondary schools, shop, community centre, village hall, church, public house and employment opportunities.

The full range of services and facilities offered by regional centres are also easily accessible by public transport as Penley is served by the No. 146 regular hourly bus service between Wrexham – Marchwiell – Penley – Whitchurch. This provides residents with sustainable transport options for accessing wider employment opportunities. Development on this site, in this location, therefore supports the settlement strategy contained in the Plan.

It is acknowledged that the proposed site lies adjoining, but outside, of one of the settlement limits of Penley. Nonetheless, the site is occupied by, and immediately adjoins, existing buildings. The existing buildings on the site therefore form part of the built form of the settlement and the site's redevelopment would not represent an intrusion into the open countryside but rather an opportunity to reinforce and enhance the existing built form of the settlement.

In addition, there are no adverse environmental impacts on ecology. Whilst new hedge and tree planting will soften the development in the landscape, contributing to landscape quality. It is therefore considered that the site can be developed without any detrimental effect on the countryside, landscape, open space or quality of the natural environment.

In summary the proposed development location, whilst outside the settlement limits of Penley, is in all other respects considered to directly accord with the Strategic Planning Policies, and therefore the Planning Strategy, of the Wrexham UDP. This conclusion is supported by the email (attached at Appendix 2 of this statement) from Mr Lawrence Isted, Head of Environment and Planning at Wrexham Council, which states that "*the principle of residential development on this site could be supported subject to an acceptable layout and design*".

3.3.2 Specific Planning Policies

The UDP's Specific Policies expand on the Planning Strategy of the Plan by providing detailed guidance on the development and use of land. The Specific Policies referred to in the reason for refusal, are considered below.

- UDP Policy GDP1 - *All new development should:-*
 - a) *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.*
 - b) *Take account of personal and community safety and security in the design and layout of development and public / private spaces.*
 - c) *Make the best use of design techniques, siting and orientation in order to conserve energy and water resources.*
 - d) *Ensure safe and convenient pedestrian and vehicular access to and from development sites, both on site and in the nearby locality.*
 - e) *Ensure that built development is located where it has convenient access to public transport facilities, and is well related to pedestrian and cycle routes wherever possible.*
 - f) *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.*
 - g) *Secure public services (e.g. gas, water, electricity) to development at minimum public cost.*
 - h) *Safeguard sites and areas of nature conservation and wildlife interest, and to provide new habitats where there is an unavoidable loss of existing habitats and areas of wildlife interest.*
 - i) *Ensure that development does not result in, or is subject to, flooding, soil erosion, landslides or contamination, either on or off the site.*
 - j) *Have regard to the need to safeguard those areas that possess a strong Welsh cultural and/or linguistic identity from development that could harm this identity.*
 - k) *Secure the development of sustainable communities, through the promotion of the economic, social and environmental well-being of the area.*

The proposed development meets this policy in the following regards:

- a) The application is in outline with all matters reserved apart from access. Therefore the proposed development's scale, layout, landscaping and appearance will be determined as part of any subsequent reserved matters application for the proposed development. Nonetheless, it is evident that as the site is occupied by a number of redundant agricultural buildings the site's redevelopment affords an opportunity to provide a sensitive detailed design that not only retains, but enhances, the character and appearance of the local area, ensuring accordance with this policy criterion.

- b) & c) As previously stated, the application is in outline with all matters reserved apart from access. It is therefore considered that the detailed design proposals for the development will also ensure accordance with this policy criterion.
- d) Following dialogue with the Local Highway Authority as part of both the pre-planning application enquiry and planning application processes, a safe and convenient pedestrian & vehicular access has been proposed to serve the proposed development.
- e) Bus stops are 400 metres away. Pedestrians and cyclists can access the facilities in Penley with ease.
- f) No pollution is anticipated as arising from the proposed development. Significantly, the re-use of the site for residential development may provide a considerable improvement to the residential amenity of existing dwellings in the area by removing the existing use that has the potential to generate noise, odour and mud on the adjoining highway.
- g) The site is serviced by public utilities.
- h) The application was accompanied by habitat and protected species reports which confirm that the proposed development will have no adverse impacts on these interests.
- i) The site is not subject to flood risk or other environmental dangers.
- j) The development will not harm the Welsh identity.
- k) The development will help secure more sustainable communities by widening the choice of homes in the area. Residents of the development will contribute to the economic and social life of the village.

In summary, whilst recognising that the development proposal is in outline, with all matters reserved apart from access, and that full policy adherence is dependent upon detailed design proposals, it is considered that the outline development proposal is in accordance with this policy.

3.3.3 UDP Policy H5 - *Outside defined settlement limits new dwellings will only be permitted where:-*

- a) proposals accord with Policies H3, H4, and H8; or*
 - b) proposals comprise infilling subject to Policy GDP1; or*
 - c) an essential need to house a full time agricultural or forestry key worker can be established and*
 - i) the long term financial viability and functional management of the enterprise is proven; and*
 - ii) the person, due to the nature of the work, has to live on the site rather than in a nearby settlement; and*
 - iii) there are no suitable buildings nearby which could be converted into a dwelling; and*
 - iv) the new dwelling is sited adjacent to an existing building, can be landscaped, and is of a form, bulk, design and materials which reflect the locality's rural character.*
- Any permission will be conditioned to limit residential occupancy to essential workers.*

It is acknowledged that the proposal does not strictly accord with this policy. Nonetheless, Wrexham Council does not benefit from a 5 year housing land supply and the requirement to

maintain a 5-year supply of readily developable housing land is a key planning policy requirement of the Welsh Government which outweighs any conflict with this policy. This conclusion would appear to be supported by the email (attached at Appendix 2 of this statement) from Mr Lawrence Isted, Head of Environment and Planning at Wrexham Council, which states that the principle of residential development on the site could be supported.

- 3.3.4 UDP Policy EC5 - *Within Special Landscape Areas, 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.*

Development will be required to conform to a high standard of design and landscaping, and special attention will be paid to minimising its visual impact both from nearby and distant viewpoints.

Whilst the proposed development does lie within the Special Landscape Area, Policy EC5 does not preclude development within this area. This is in accordance with national policy (paragraph 5.3.11 of Planning Policy Wales) which states that non-statutory designations such as Special Landscape Areas “should not unduly restrict acceptable development”.

The development site subject of this statement is occupied by, and immediately adjoins, existing buildings. The site therefore forms part of the built form of the settlement and its redevelopment would not represent an intrusion into the open countryside but rather an opportunity to reinforce and enhance landscape character in this area.

Therefore, whilst the landscape within the area has been identified as being of some significance, the development proposal will not adversely affect identifiable characteristics of significance and the proposed development is therefore considered to be broadly in accordance with the aims and objectives of policy EC5.

In this regard, it is noted that the development proposal has not elicited objections from either Natural Resources Wales (formerly Countryside Council for Wales) or the Clwyd Powys Archaeological Trust.

Further consideration of this issue is detailed within sections 3.4.5 and 3.4.6, below.

3.4 **Issue 2: Other Material Considerations**

The information contained within section 3.3 details how the development proposal conforms to the policies contained within the Wrexham UDP.

Other material considerations, that outweigh any potential conflict with the Wrexham UDP, are identified within the “Planning Statement” that was submitted in support of the application (and attached as Appendix 1 of this statement).

It is not the purpose of this statement to reiterate the content of the “Planning Statement”. However, for the sake of clarity the following section summarises those considerations.

3.4.1 Planning Policy Wales

Planning Policy Wales (PPW) provides a presumption in favour of sustainable development. Where Local Plan policies are out of date, PPW is given more weight in the determination of individual planning applications.

The principles underpinning PPW’s definition of sustainable development are set out in PPW paragraph 4.3.1. These principles are considered in detail in section 4.0 of the “Planning Statement” (attached as Appendix 2), which concluded that the proposed development is consistent with the principles and policies of Planning Policy Wales. This conclusion is supported by Wrexham Council’s own consideration of neighbouring residential development proposals detailed within section 3.4.6 of this statement.

3.4.2 Housing Land Supply

The Welsh Government requires local planning authorities to maintain a 5-year supply of readily developable housing land, as set out in paragraph 9.2.3 of PPW. Welsh Government’s Technical Advice Note 1 (TAN 1) advises that where a local planning authority (LPA) does not have an up to date Unitary Development Plan (UDP) or an adopted LDP, the 5 year supply is considered to be zero. Wrexham’s failure to have a 5-year housing land supply is an important material consideration when determining planning applications.

For sites to contribute towards the 5 year housing land supply, sites must be free, or readily freed, from planning, physical and ownership constraints, and economically feasible for development. The site subject of this statement is a comparatively straightforward site to develop. The entire site is within the ownership of the applicant and there are no ownership issues that would prevent the site from being developed. Penley presents no financial viability issues as a location for development, and the site is eminently deliverable, being located in the ‘Rural East’ sub-area which is the second most viable area of the County Borough according to the Council’s recent Development Viability Assessment (November 2014). In light of these

considerations, the appeal site can make an immediate contribution to meeting Wrexham's requirement for a 5 year housing land supply.

3.4.3 The Emerging LDP

The Council is currently preparing its Local Development Plan (LDP) for 2013-2028.

Whilst no weight can be afforded to the emerging LDP at the current time, the evidence base for the emerging LDP includes population projections that forecast an increase in Wrexham County Borough's population over the period 2013-2028 of 1,193 per annum (Wrexham Council LDP Topic Paper 7: Population and Housing (March 2014) page 14). This is a significantly higher annual rate than the average number of homes built per annum in the past 5 years, which was an average of 287 homes per annum 2009-2014. In light of these figures it is clear that more housing land is urgently needed to meet local housing needs.

In order to provide sufficient housing land to meet Wrexham County Borough's needs to 2028, the LDP is expected to roll back some of the Special Landscape Areas and extend some of the settlement limits. In light of this, the existing boundaries of these areas should be regarded as in flux.

3.4.4 Social and Economic Benefits

The proposed development will include an element of affordable homes and therefore makes an important contribution to meeting local affordable housing needs.

Future residents will also help to support Penley's services and facilities, aiding the village's economy. Direct and indirect benefits will arise from the economic activity of the construction project and the long-term economic activity of new households (examples of economic benefits arising from the provision of new dwellings are provided within section 6.6 of the "Planning Statement" at Appendix 2).

3.4.5 Special Landscape Area

Wrexham Council's LDP Topic Paper 1: Natural Environment (March 2014) details, on page 22, that the Planning Inspectorate's examination of the draft Local Development Plan in January 2012 highlighted that:

- the Special Landscape Areas would need to be reviewed in the replacement Local Development Plan, with a view to identifying suitable sites for development within these Special Landscape Areas; and
- there is a lack of evidence that housing growth would cause unacceptable social and environmental impacts, and in any regard any perceived harm must be weighed against the potentially detrimental impacts that would arise from restricting housing growth

In addition, it is questionable whether the extensive areas that were designated in the Wrexham UDP as Special Landscape Areas meet the criteria set out in Planning Policy Wales that such designations, *“should be soundly based on a formal scientific assessment of the nature conservation, landscape or geological value of the site. Local planning authorities should apply these designations to areas of **substantive conservation value** where there is good reason to believe that normal planning policies cannot provide the necessary protection. **Such designations should not unduly restrict acceptable development**”* (emphasis added) (PPW paragraph 5.3.11).

It is therefore considered that, whilst a significant amount of land across the County Borough is designated as a Special Landscape Area, including all the land around Penley, the designation should be afforded little weight. This conclusion is supported by Wrexham Council's own consideration of neighbouring residential development proposals detailed within the following section of this statement.

3.4.6 Planning Applications P/2014/0738 and P/2015/0405

Wrexham Council, at its Planning Committee meeting on Monday 6th July 2015, resolved to approve planning application P/2014/0738, subject to the completion of a section 106 agreement. Application P/2014/0738 relates to the development of 7 dwellings on land off Tudor Drive, which lies to the south of the current appeal site. The committee report relating to this application is attached as Appendix 3 of this statement.

Wrexham Council, at its Planning Committee meeting on Monday 7th December 2015, resolved to approve planning application P/2015/0405, subject to the completion of a section 106 agreement. Application P/2015/0405 relates to the development of 9 dwellings on land off Ellesmere Lane, which lies to the east of the current appeal site. The committee report relating to this application is attached as Appendix 4 of this statement.

It is noted from the committee reports attached as Appendices 3 and 4 that whilst applications P/2014/0738 and P/2015/0405 do not comply with UDP policy H5 the Council determined that this consideration was outweighed by other material considerations, including:

- a lack of 5 year housing land supply;
- Planning Policy Wales' presumption in favour of sustainable development and, in this regard, the site's sustainable location on the edge of the settlement limit of Penley;

It is considered that the material considerations identified as outweighing any non-compliance with policy H5 are equally applicable to the appeal site subject of this statement.

Similarly, the committee reports attached as Appendices 3 and 4 identify that applications P/2014/0738 and P/2015/0405 comply with policies PS1, PS2 and PS4 of the UDP. Given the similarities between these developments and the proposed development subject of this appeal,

and also the information contained within section 3.3.1 of this statement, it is unclear how these policies have been identified as reasons for refusal of the proposed development.

With respect to the other policies quoted within the reason for refusal of the appeal application:

- Policy GDP1 - as stated within section 3.3.2, it is considered that as application P/2016/1118 is in outline only with all matters reserved apart from access, full policy adherence can be achieved through the detailed design proposals. This conclusion is reinforced by the Council's acceptance of P/2014/0738 and P/2015/0405 as these recognise that residential development can be acceptably integrated into this area of the settlement.
- Policy EC5 - it is noticeable that the committee reports in Appendices 3 and 4 do not refer to EC5 as relevant to those development proposals. The Council has therefore accepted the principle of development within the Special Landscape Area in this area, and this reinforces the findings contained within section 3.3.4 of this statement.

4.0 Conclusion

Wrexham Council has identified Penley in its Development Plan as a sustainable settlement, where new development will meet the needs of the community and help to sustain local services.

It is acknowledged that the proposed development site lies outside of the settlement limits of Penley and within a Special Landscape Area. However, these issues are outweighed by the following significant considerations:

- Wrexham's UDP is out of date and, as PPW makes clear, where a development plan is out of date local planning authorities should give them decreasing weight in favour of other material considerations;
- The site is occupied by, and immediately adjoins, existing buildings. The existing buildings on the site therefore form part of the built form of the settlement and the site's redevelopment would not represent an intrusion into the open countryside but rather an opportunity to reinforce and enhance the existing built form of the settlement;
- The Special Landscape Area designation carries only limited weight, given the guidance contained within PPW and the findings of the Planning Inspectorate's examination of the Local Development Plan in 2012;
- Wrexham does not benefit from a 5 year housing land supply. In this regard, the development will contribute to meeting Wrexham County Borough's housing requirements, including the provision of affordable dwellings, extending the local choice of housing; and
- No unacceptable adverse impacts have been identified as arising from the proposed development.

In conclusion, the proposed development should be considered in the context of the presumption in favour of sustainable development. The site represents an appropriate form of sustainable development to be encouraged and supported. This conclusion is supported by Wrexham Council's own consideration of adjoining residential development proposals (applications P/2014/0738 and P/2015/0405).

In light of the information provided throughout this statement and in the "Planning Statement" attached as Appendix 2, it is respectfully requested that this appeal be allowed.