

GROUNDS OF APPEAL STATEMENT

AGAINST THE COUNCIL'S REASON FOR REFUSAL IN RELATION TO THE

OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT

AT

LAND EAST OF BOTTOM ROAD SUMMERHILL WREXHAM LL11 4TR

APPLICATION NO: P/2016 /0738

August 2017

Our Ref: 48048

GROUNDINGS OF APPEAL STATEMENT

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1.0 Introduction to the Proposal

- 1.1 AAH Planning Consultants have been commissioned to prepare and submit this appeal for Site Plan UK land in relation to an outline application for residential development at land to the east of Bottom Road
- 1.2 This statement sets out the appellant's statement of case against the decision of Wrexham Borough Council which was issued on the 3rd April 2017.
- 1.3 A copy of the decision notice is included with the accompanying appeal documents as Appendix A. The application was heard by Members of the Wrexham Planning Committee on the 3rd April 2017 and a copy of the Committee Report is included as Appendix B. The following technical reports are also included in the appeal in relation to the respective reasons for refusal:
- Evidence 1 - Summerhill Wrexham Highways Report
 - Evidence 2 - Summerhill Flood Consequence Assessment
 - Evidence 3 - Additional Ecology Report
- 1.4 A copy of a draft Unilateral Undertaking is also provided which accepts all financial contributions, open space and affordable housing deemed reasonable and necessary for the development in line with the Council's expectations. A signed copy will be submitted in accordance with the Planning Inspectorate's timescales.

2.0 Description of the Appeal Proposal, the Site and Surroundings

- 2.1 Planning permission is sought in outline for residential development. All detailed matters save for access, are reserved for further approval. In accordance with legislation, an indicative site layout has been submitted which details the nature of the proposed development of the site in terms of layout, movements around the site and development density.
- 2.2 The site is located to the north of Summerhill , on the east side of Bottom Road. A field also sits on the west side with Top Road running parallel to this field. These roads connect with Windy Hill to the north and the A541 to the north-east. The application site is located with farm steads and houses sporadically positioned along this and Bottom Road which extends beyond the housing at Caer Haf and Summer Hill Park. Summer Hill Park back is in the direction of the site. The site is generally pasture land bordered by hedgerow and individual maturing trees. The land to the west extends towards a golf course (Moss Valley Golf Club) and to the east to the A541.
- 2.3 The hinterland comprises the low lying land around Wrexham town and its outlying urban villages (such as Gwerysllt), generally rural in nature but often with significant noise from the A483, adjacent roads and the railway. The A641 lies to the east of the application site running in a general north/south alignment. The area is generally low lying open farmland with a large open field pattern and well-defined hedgerow boundaries. The original rural character has been significantly weakened by urban influences with some pockets of interest.
- 2.4 This area is classified by LANDMAP (a GIS based resource where information about the landscape is recorded, organised and evaluated into a nationally consistent spatial data set) as rolling lowland farmland but heavily influenced by the A483 and more locally to the application site Mold Road; other roads and rail corridors subdivide the wider area, with pylons, views of housing and industry, and mining and quarrying a frequent occurrence. Although relatively fragmented by development, the area has not suffered as much visual degradation as the adjacent aspect area reference: WRXHMSV038 in LANDMAP.

3.0 Reasons for Refusal

3.1 A decision was issued on the 3rd April 2017 which gave the following reason for refusal:

1. The highway network surrounding and giving access to the site, being of limited width with poor horizontal alignment and sporadic pedestrian and cycle provision is considered to be substandard and insufficient to cope with the additional traffic movements associated with the development. The development is therefore considered to represent a detrimental impact upon the safety of motorists, cyclists and pedestrians and would be contrary to policy GDP1 of the Wrexham Unitary Development Plan.

2. The proposed development would be unsatisfactory and undesirable because the development involves a greenfield site, partly designated as a Special Landscape Area and it is located outside any settlement limits as defined in the Wrexham Unitary Development Plan. The development is considered to represent a poor standard of design in terms of its indicative layout, density and highway alignment and is overly suburban in its character. As such the proposal is considered to have a detrimental effect upon the wider environmental character representing an illogical extension of the existing settlement and does not seek to preserve or enhance the character of the Special Landscape Area. To allow the development would not accord with policies PS2, GDP1 and EC5 of the Wrexham Unitary Development Plan or the principles of Welsh Government Technical Advice Note 12 - Design.

3. The proposal fails to satisfactorily determine whether the site could attenuate excess surface water to allow it to discharge at or below the existing greenfield run-off rate, nor has the applicant demonstrated whether sustainable drainage systems can be employed on site in accordance with guidance contained in Technical Advice Note 15 - Development and Flood Risk. As such it would not be possible to determine whether the proposal accords with policy EC13 of the Wrexham Unitary Development Plan

4. The submitted protected species report has is not to satisfactorily assess the impact that the development will have on statutorily protected species. In the absence of such information, the development will prejudice the favourable conservation status of those species and would not accord with policy EC6 of the Wrexham Unitary Development Plan; and the guiding principles set out in Technical Advice Note 5 - Nature Conservation and Planning.

3.2 In essence therefore the main issues raised by the Council are as follows:

- Impact on Highway Safety
- Impact on the character of the area
- Surface Water Drainage effects
- Impacts on statutorily protected species

3.3 These aspects are explored in detail in section 6 of this Grounds of Appeal.

4.0 Relevant Planning Policies and Guidance

- 4.1 The LPA, in their reason for refusal considered the following policies to be pertinent in determining the application:

Policy GDP1 of the Wrexham Unitary Development Plan

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.

Policy PS2 of the Wrexham Unitary Development Plan

Development must not materially detrimentally affect countryside, landscape/townscape character, open space, or the quality of the natural environment.

Policy EC5 of the Wrexham Unitary Development Plan

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.

Policy EC6 of the Wrexham Unitary Development Plan

Development either within or close to sites of biodiversity interest will only be permitted where it can be clearly demonstrated that the need for the development outweighs the need to safeguard the intrinsic nature conservation value of the site. Where such development is permitted, damage should be kept to a minimum, and compensatory measures should be provided. Measures to improve the biodiversity value of sites and enhance their natural conservation interest and landscape quality including the establishment of local nature reserves, will be supported.

Policy EC13 of the Wrexham Unitary Development Plan

Development which would result in an unacceptable adverse impact on the water environment due to additional surface water run-off will not be permitted.

Welsh Government Technical Advice Note 12 – Design

4.2 This document contains specific guidance regarding housing design and layout. It spells out the principles of good design based on an understanding of what makes existing places attractive, successful and sustainable places in which to live.

4.3 TAN 12 identifies that the overriding principles in the design of residential environments should be to establish a sense of place and community. More specifically (Paragraph 5.11.2) housing design should aim to:

- *create places with the needs of people in mind, which are distinctive and respect local character;*
- *promote layouts and design features which encourage community safety and accessibility;*
- *focus on the quality of the places and living environments for pedestrians rather than the movement and parking of vehicles;*
- *avoid inflexible planning standards and encourage layouts which manage vehicle speeds through the geometry of the roads and building;*
- *promote environmental sustainability features such as energy efficiency in new housing and make clear specific commitments to carbon reductions and/or sustainable building standards;*
- *secure the most efficient use of land including appropriate densities; and consider and balance potential conflicts between these criteria*

Welsh Government Technical Advice Note 15 - Development and Flood Risk

4.4 This document covers flood risk from all sources including surface water and identifies the acceptability requirement and the relevant development advice. It stresses that in all flood risk zones, any development will require an appropriate drainage strategy to demonstrate that the development itself will not create, increase or exacerbate surface water flood risk. Section 8 and Appendix 4 of TAN 15 deal specifically with surface water run-off from new development and require that “Sustainable Drainage Systems” (SuDS) be considered at a

very early stage preferably in the form of blue/green Infrastructure which can blend seamlessly into the development within public open space.

Welsh Government Technical Advice Note 5 - Nature Conservation and Planning

- 4.5 This document contains specific guidance about how the land use planning system should contribute to protecting and enhancing biodiversity and geological conservation.
- 4.6 TAN 5 identifies key principles for nature conservation within the planning system. These include partnership working to achieve objectives, integrating biodiversity into all planning decisions to deliver social, economic and environmental benefits, as well as ensuring appropriate species and habitat protection and mitigating the effects of climate change.

5.0 Acceptability of Proposal

5.1 Having assessed the Committee Report (Appendix B) and the decision notice (Appendix A) issued by the LPA in regard to the planning application, it is clear that the proposal is considered acceptable and in accordance with planning policy with respect to the following issues:

- The Council do not currently benefit from a five year housing supply;
- The extent of affordable housing offered (25% with a tenure split outlined is 70% affordable rent and 30% intermediate tenure) is in line with policy expectations;
- The level of open space would be in accordance with the requirements for a development of this size;
- There is capacity to accommodate the children generated by this development at local primary and secondary schools;
- It is agreed that this site is a sustainable settlement which is targeted for growth;
- It is agreed that there would be no adverse impact on neighbor amenity or the amenity of future residents;
- A condition in relation to land contamination is agreed;
- It is agreed that an acceptable design/layout that would comply with Policy GDP1 could be negotiated at the reserved matters stage;
- The economic sustainability benefits of the scheme are not contested by the Council;
- It is agreed that there would be a landscape and visual impact – the extent of which is not quite agreed with.

5.2 The details of the above mentioned aspects are outlined in the case officers Committee Report and show much common ground with the parties. It is clear that there is a technical disagreement regarding the impact on highway safety, ecological implications and the impacts on drainage. However it is the overall balancing of the effects identified by the Council against the benefits and need to provide much needed housing in a sustainable location which is considered to be substantial benefit to the scheme.

6.0 Consideration

- 6.1 In this part of the statement, the officer's report and subsequent decision notice will be considered against local and national planning policy and guidance.

Impact on Highway Safety

- 6.2 The first reason for refusal relates to the Council's view that *"the highway network surrounding and giving access to the site, being of limited width with poor horizontal alignment and sporadic pedestrian and cycle provision is considered to be substandard and insufficient to cope with the additional traffic movements associated with the development."* The precise aspects of concern were not elaborated on however the supporting Committee Report does offer some further thoughts.
- 6.3 Whilst improvements to the highways to the north of the Appeal Site were proposed in mitigation the Council response was that they did not consider "that these alterations will overcome the concerns addressed above and in some instances could result in increased speeds on an already substandard network (i.e. where road widening is proposed) and congestion (i.e. where limited stacking occurs at the proposed traffic signals).
- 6.4 In considering how best to address the above concerns the traffic impact of the proposals has been reviewed following the carrying out of further recent traffic surveys at nearby junctions to ascertain the current preferred routes for residents. This, coupled with a review of journey to work information obtained from the 2011 census suggests that the level of increase in traffic to the north of the Appeal Site is likely to be significantly less than originally mooted in the transport assessment for the planning application.
- 6.5 As a consequence of the above review, aside from the works required to provide the main site access, the majority of the improvements to the local highway network that were proposed to the north of the Appeal Site are now considered not required to mitigate the impact. 1.2.5. Section 2 of the Supporting Highway's Statement of Case offers specific details of this further work undertaken. 2.2.6. From the traffic data resulting from this additional work, this appears to suggest that between 8.0% and as a worst case 20% of the proposed development traffic might chose to use the route to the north via Bottom Road north of the Appeal Site. Subsequently the potential split of journeys to work for the development traffic is 15.81% to the north and 84.19% to the south of the Appeal Site.

- 6.6 The following highway works remain proposed and can be summarised as follows:
- Widening of Bottom Lane to form access to site;
 - Creation of priority system on Bottom Lane to south of the proposed access;
 - Provision of improved junction of public right of way at northern extent of site on to the unnamed section of road between Bottom lane and the A541.
- 6.7 The review of the predicted distribution of traffic from the proposed development in sections 2.2 to 2.4 of the Supporting Statement of Case prepared by VIA Solutions shows that the peak hour flows on Bottom Road to the north of the Appeal Site are likely to increase by a maximum of 8 additional vehicle movements (see section 2.6). Whilst in percentage terms the increase might be considered high, in quantum terms the present flows on Bottom Road are low and will remain low with the addition of traffic from the development (at less than one vehicle movement per minute during peak hours).
- 6.8 Therefore, it is considered that the level of highway improvements originally put forward in our transport assessment can now be significantly reduced and confined to providing the immediate access to the Appeal Site and to improving the crossing of the unnamed road between Bottom Road and the A541 by vulnerable road users at the northern extremity of the site.
- 6.9 The additional evidence in the form of the review of the traffic distribution (using several methodologies) shows that traffic on the highway network to the north of the Appeal Site will only increase by a negligible amount. Furthermore, the concerns that the Council raised over the previous works on this part of the network offered in mitigation previously (in particular the traffic signaling) are removed as a result of the reduced level of improvements now being put forward.
- 6.10 An examination of the accident history on the highway network north of the Appeal Site (see supporting statement from Via Solutions) shows that a single incident resulting in slight injury was recorded on the unnamed road between Bottom Road and the A541 in August 2008. This excellent road safety record does not show that there is a highway safety problem on the network which would deteriorate as a result of a maximum of 8 additional vehicle movements per hour in the peak periods. Therefore, the part of the first reason for

refusal which relates to the highway network north of the Appeal Site is now shown to be without substance.

- 6.11 In terms of the road conditions to the south of the site, there is an absence of clear information from the Council regarding the standards they have referred to. As such Via Solutions have assumed the relevant guidance for this location is that with Manual for Streets and its accompanying document Manual for Streets 2: Wider Application of the Principles. Figure 7.1 on page 79 of Manual for Streets shows what sizes of vehicles can safely use varying widths of carriageway. At a width of 4.1m two cars can pass each other or a goods vehicle can pass a cycle (or a pedestrian). A width of 4.5m is often quoted by local highway authorities as being a preferred width for two cars to pass each other. At 4.8m a car can pass a goods vehicle. Paragraph 7.2.14 of Manual for Streets advises that shared surface streets (where pedestrians and vehicles share the same space) have been shown to work well where traffic volumes are less than 100 vehicles per hour in low speed environments and where there is no real incidence of on street parking.
- 6.12 In section 2.6 of Via Solutions evidence the current and predicted two-way traffic flows are described along varying sections of Bottom Road south of the Appeal Site. The table below summarises these flows:

	AM Peak		PM Peak	
	Existing	Ex + Dev	Existing	Ex + Dev
South of Site Access	37	78	44	83
Just North of Chestnut Av Junction	58	99	70	109
Just South of Chestnut Av Junction	108	134	103	134

Table 6 .1: Two-way traffic flows on bottom road south of appeal site

- 6.13 The reason for the difference in traffic from just south of the Appeal Site to north of the Chestnut Avenue junction is the existing vehicle movements generated by the houses fronting Bottom Road on that section (17 dwellings) and those on Summer Hill Park (24 dwellings). To the south of the Chestnut Avenue junction the flows increase due to the existing preference by residents to travel south using Bottom Road and then Summerhill

Road instead of either Wheatsheaf Lane / A541 or Wheatsheaf Lane / Old Mold Road. Whilst in percentage terms the increase might be considered high, in quantum terms the present flows on Bottom Road are low and will remain low with the addition of traffic from the development.

- 6.14 The evidence from Via Solutions in support of this appeal shows that even with the increased bias in development traffic on to the highway network to the south of the Appeal Site, the level of increase in traffic on the particular road cited by the Council (Bottom Road) is such that the present flows on Bottom Road are low and will remain low with the addition of traffic from the development. I also show that the level of pedestrian provision is of a reasonable standard having due regard to the potential movements, the amount of vehicle traffic and the environment / character of the road.
- 6.15 Therefore, based on actual evidence, Via Solutions have shown that a safe and suitable access to the development by all road users can be achieved with no material impact on the highway network and so the proposals comply with policy GDP1 of the Wrexham Unitary Development Plan.

Impact on the character of the area

- 6.16 The Council's second reason for refusal primarily focusses on the impact on the wider environmental character and the Special Landscape Area. Part of the refusal relates to the indicative layout, density and highway alignment which was considered by the Council to be 'overly suburban' in character. It must be reiterated that this application was submitted in outline with only the access sought for approval therefore it is considered unreasonable to draw from the internal design. Only the principle of the development should be considered as part of the determination, any forthcoming approval of reserved matters scheme can take into account comments and concerns relating to this internal layout.
- 6.17 Regard should be given to the recent planning appeal (File Ref: APP/ H6955/A/15/3135730) attached as Appendix C at Land At Former Site Of Hafod Tileries, Hafod Road And Bangor Road, Johnstown, Wrexham, LL14 2SP. The issues raised as part of the second reason for refusal can be broken down into the following key issues:
1. Whether the development is acceptable in principle being outside the defined settlement limit of Gwersyllt.

2. Whether the development represents an appropriately sized and logical extension to Gwersyllt.

3. Whether there are any material considerations that justify departing from any provision of the adopted development plan with which the proposal conflicts.

4. Whether the benefits that would be delivered by the proposal would outweigh any adverse impacts.

6.18 It is considered that this decision notice has not given sufficient weight to the latter two points and the recent appeal (File Ref: APP/ H6955/A/15/3135730) at the Site Of Hafod Tileries clearly sets down the weighting that should be applied in the current circumstances of a substantial deficit in housing supply.

1. Whether the development is acceptable in principle being outside the defined settlement limit of Gwersyllt.

6.19 In line with paragraph 3.3 of TAN1, the Council continues to assess its housing land supply position on an annual basis in preparation for the LDP examination. Taking account of evidence from this, and the housing requirement of the emerging LDP, the Council has a housing land supply of only 1.14 years. Whilst this calculation cannot carry the same weight as a formal JHLAS, as advised in TAN1 at paragraph 3.3, it, nonetheless, clearly demonstrates a further, and significant, deterioration in the Council's housing land supply, to a now critical position.

6.20 The position is as set out in paragraph 6.2 of TAN1 which is that the need to increase supply should be given considerable weight. The qualification found in paragraph 6.2 – *“provided that the development would otherwise comply with the development plan”* – is not to be interpreted as leading to some other conclusion on weight in such circumstances because, if there were otherwise compliance with the development plan, a proposal would be approved anyway and the weighting advice in paragraph 6.2 would then be otiose. The proviso is simply a reminder that the considerable weight to be given to the need to increase supply must be balanced against non-compliance with the development plan. That is how the matter is approached in practice in appeal decision-making (as to which, see the paragraph below). But, of course, if policies in the development plan are out-of-date, then the counter-balance to the considerable weight to be given to the need to increase supply is of diminished weight in any case.

6.21 Recent appeal decisions in Wrexham demonstrate very clearly the weighting to be given to the lack of a five year supply or, to put the matter the other way round, the need to increase supply:

- Rhosrobin appeal decision – lack of a five year supply weighed heavily in favour of the proposed development (paragraph 25 of the decision letter Reference APP/H6955/A/14/2229480)
- Gresford appeal decision – lack of a five year supply carried considerable weight (paragraph 19 of the decision letter Reference APP/H6955/A/15/3095184)
- Minera appeal decision – the lack of housing land carried significant weight (paragraph 16 of the decision letter Reference APP/H6955/A/15/3138885).

6.22 These appeal decisions are included as Appendix C. These weightings were applied notwithstanding the conflict of the proposals in the above cases with the Green Barrier policy (Policy EC1) of the UDP (more of which later), underlining the point made in the paragraph above about the correct approach to paragraph 6.2 of TAN1. No different conclusion could be reached in the present case at Bottom Road. The lack of a five year supply/the need to increase supply carries considerable weight here. The Council accepted as much in other appeals and committee reports such as the Boozy Field site and thus **the development is acceptable in principle notwithstanding its location outside the defined settlement limit of Gwersyllt.**

2. Whether the development represents an appropriately sized and logical extension to Gwersyllt.

6.23 In terms of whether the site represents an appropriately sized and logical extension to Gwersyllt it should be reiterated that there is no reason why Gwersyllt should not be extended. In the existing UDP it is classed as an urban village which classification stands second in the settlement hierarchy below Wrexham itself. In the Preferred Strategy it is a key settlement falling, again, in tier 2 of the settlement hierarchy. Gwersyllt is therefore a sustainable location for growth. In order to understand the potential for the growth of Gwersyllt it is crucial to understand the constraints surrounding the settlement as this will dictate the direction in which the settlement must grow. These constraints are shown in the following image which is replicated in full in Appendix D.

Notes:

Summerhill is surrounded on three sides by the Green Barrier, two country parks and a playing field. The only direction where there are no underlying policy constraints is to the north of Summerhill including the application site. This forms part of the candidate site being considered for allocation as shown below reference GWE03CS. As can be seen all other candidate sites being considered to extend the settlement are located in the Green Barrier.

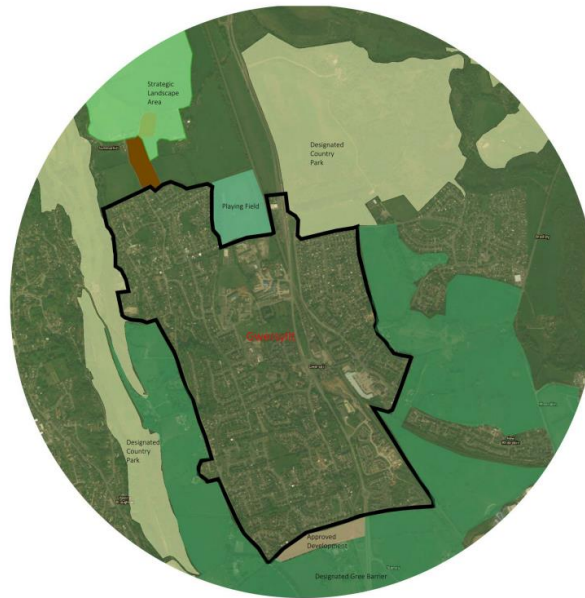
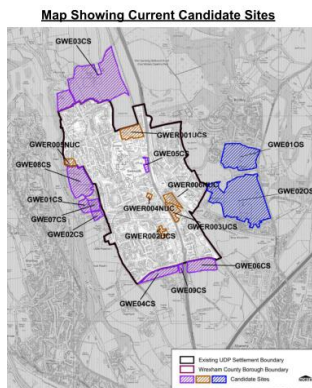


Image 6.1: Map showing the Constraints for the expansion of Gwersyllt

- 6.24 As can be seen Gwersyllt is bordered on its east, west and southern side by a combination of the Designated Green Barrier and Country Park's. The Green Barrier is all but equivalent (save in respect of its long term permanence) to a Green Belt. Subject to strictly controlled exceptions, built development is inappropriate in a Green Barrier. Openness (in the sense of absence of built development) is at the heart of the policy. Substantial weighting attaches to any harmful impact. Very exceptional circumstances must be shown in order for inappropriate development to be permitted. The present case at Bottom Road does not involve a Green Barrier. It is one of the merits of the present proposal that it could potentially avoid the need for Green Barrier release. Furthermore the majority of the site has no formal designation with only a very small component being allocated part of the Strategic Landscape Area (SLA). It is apparent therefore that the only realistic option for the growth of this settlement into an unconstrained area is to the north along Bottom Road.
- 6.25 It appears evident that to deliver the housing required new land must be released indeed the Council have already conceded that this is the case in the grant of permission at Boozy Fields shown in brown in the above map. Yet both of these sites were located in the Green

Barrier where as outlined built development is inappropriate. This is not the case at Bottom Road in the absence of any formal designation.

- 6.26 It is acknowledged that the land to the north leading to Windy Hill and including the top section of the field is within the Strategic Landscape Area as designated by the Local Planning Authority but the majority of the site lies outside of this local designation. A Landscape and Visual Impact Assessment was included as part of the application and the Council's Committee Report confirms agreement to the findings of this report as follows:

I concur with the general conclusions of the LVIA that from the immediate viewpoints selected within its assessment, a form of development would effectively be viewed in the context of the existing built form of the modern housing layout at the northern end of Summerhill. The main immediate approaches to the site (i.e. from the western and southern approaches of Bottom Road and from Ffos-y-Go) afford limited glimpses into the site and subject to appropriate design a scheme could be facilitated.

- 6.27 There is agreement that the landscape and visual effects of the proposal have been established to be local effects only with no wider long ranging views. It is inevitable that any housing will have landscape and visual effects yet expanding the settlement to the north to Bithell's Lane bordering Windy Hill gives the Council a defensible boundary defined by the SLA in which no further development would be realistic. Further phases of housing could come forward to the east and west of the site in the remaining areas of unallocated green field land which would round off the settlement and provide improved pedestrian linkages to the school and railway station. These benefits do not appear to be given due weight in the balancing exercise. It is clear given the established housing need that in terms of the size, its location on predominantly unallocated land with no particularly important features (otherwise it would have been designated as part of the SLA) then it logically falls that **the development represents an appropriately sized and logical extension to Gwersyllt.**

3. Whether there are any material considerations that justify departing from any provision of the adopted development plan with which the proposal conflicts.

- 6.28 It is clear that the residential development of the site would be in conflict with policy PS1 due to the fact that the site would not be within the settlement limit of Gwersyllt. The development of the site would run contrary to policy PS1 which expressly seeks to direct residential development to within defined settlement limits.

6.29 Paragraph 4.2.4 of PPW refers to the fact that where the relevant development plan policies are considered out dated there will a presumption in favour of development subject to meeting the objectives of sustainable development. It has been accepted by the Council that there is pressing need for additional dwellings, that it cannot demonstrate a five year land supply of housing and that the current settlement limits of Gwersyllt will have to be breached to meet future housing requirement. Whilst the proposed development is contrary policy PS1, nonetheless, the settlement boundaries it seeks to maintain, for the grounds referred to above, are out of date and were drawn in response to a housing target set out in the now out of time UDP; for that reason they, and policy PS1 carry limited weight in the determination of this application. The settlement limits were defined in the light of a different housing requirement and the Council must accept that they will have to be re-drawn to accommodate existing needs. It is clearly logical to consider the policy constraints around the settlement when forming a view as to the appropriate direction for growth and in that respect there is only one logical area for expansion given the underlying policy constraints – to the north along Bottom Road. As such whilst it is accepted that the proposed development conflicts with Policy H5 of the UDP which seeks to limit new housing outside of defined settlement limits to amongst other things, affordable housing, or where there is a proven need for such a development, to house a key worker. The contribution of the proposals to remedying the deficiency in the supply of market housing is a benefit which (as explained by the Planning Inspector in the appeal APP/H6955/A/15/3135730) is entitled to considerable weight. This is a **material considerations that justifies departing from the provision of the adopted development plan with which the proposal conflicts.**

4. Whether the benefits that would be delivered by the proposal would outweigh any adverse impacts.

6.30 The benefit of the proposals in providing much-needed affordable housing (25%) is a factor of significant weight. This is plainly not a matter which goes to mitigation (in that it does not address an issue created by the scheme but a pre-existing need) and the weight attached to the benefit is not to be reduced on the basis that market housing development should in any event make provision for an affordable contribution. The provision of affordable housing will enable people with existing connections to the area to stay within the community and provide others with the opportunity to live there.

- 6.31 The highway, footway and cycleway improvements offered will be of benefit to all users and not just the scheme residents. The improvement of existing rights of way within the site linking with Windy Hill will be of benefit to all network users.
- 6.32 The scheme would provide onsite recreation facilities for use by the whole community. Overall though it should be recognised that the proposed development would not accord with Policies PS1 and H5 of the UDP which seek to contain development within settlement limits. However, the Council have already accepted that these settlement limits will have to be breached to meet future housing need. This scheme will ensure that the more protected landscapes around Gwersyllt avoiding the Green Barrier, Country Parks and expanding the settlement to a defensible boundary at the Bithell's Lane bordering Windy Hill.
- 6.33 The limited visual and landscape harm identified by the Council must be balanced with the significant weight in favour of the proposal in regards to the Council's lack of a 5 year housing land supply. For these reasons, even though the proposed development when considered in its entirety would be contrary to the relevant policies of the UDP, it would provide a suitable site for housing and a clearly logical expansion of Gwersyllt given the constraints of the settlement. The Council's second reason for refusal is subsequently contested.

Surface Water Drainage effects

- 6.34 The third reason for refusal relates to the Council's concerns regarding whether the site could attenuate excess surface water to allow it to discharge at or below the existing greenfield run-off rate or whether the applicant demonstrated whether sustainable drainage systems can be employed on site in accordance with guidance contained in Technical Advice Note 15 - Development and Flood Risk.
- 6.35 Attached with the appeal submission documents is an updated Flood Consequence Assessment which addresses the concerns of the Council in relation to the requested information. Preference would be for infiltration of surface water from the proposed development to the ground via private soakaways or infiltration sustainable drainage measures serving the entire site. Where this is not viable, preference would be for connection to a local watercourse, or public sewer in that order of preference. Following infiltration testing, it has been agreed with Welsh Water following the Council's decision (Appendix D of the Flood Consequence Assessment in email correspondence in May 2017)

that soakaways are not viable and that disposal of surface water runoff should be through connection to the public surface water sewer system within Chestnut Avenue (to the south of the site) at a rate not exceeding 5l/s. Attenuation would be provided with a total storage volume of 1855m³. Given that the layout is not sought at this stage the precise details would come through an Approval of Reserved Matters application but one such location for the pond would be in the indicative open space area in the southern portion of the site shown in the following image.



Image 6.2: Indicative plan showing potential location for an attenuation pond

- 6.36 At this stage of the planning process it is proposed that a planning condition can be adopted to cover the detailed design of the surface water runoff from the site. It is proposed that the detailed drainage design of the final scheme would be secured by a planning condition attached to any planning permission granted and agreed with Welsh Water/Dŵr Cymru and the LPA prior to works commencing. In adopting these principles it has been demonstrated that a scheme can be developed that does not increase the risk of flooding to adjacent properties and development further downstream. Subsequently it is clear that the third reason for refusal can be overcome and is not reasonable.

Impacts on statutorily protected species

- 6.37 The final reason for refusal relates to the impacts on statutorily protected species, with the Council being concerned that the submitted protected species report did not satisfactorily assess the impact that the development will have on statutorily protected species. The Officer's Committee Report quantifies these concerns further with concerns that the highway improvements offered will result in the removal and replanting of approximately 250m of native hedgerow. Although the supporting highways work suggests that the extent of off site highway works would be reduced from that which was previously considered reasonable, the removal and replanting of approximately 250m of native hedgerow would continue to be proposed to facilitate the highway widening, footpath and improved forward visibility on the corner.
- 6.38 Delta-Simons Environmental Consultants Ltd have provided an Ecological Enhancement Plan (EEP) in response to this reason for refusal. The EEP addresses the potential effects of the proposed development on the ecology and nature conservation of bats, badgers, nesting birds and hedgerows assessed as Important under the Hedgerow Regulations (1997), having due regard to the proposed built development, and recommends avoidance, mitigation and compensation measures, where appropriate, within the scheme's design proposals.
- 6.39 A significant area of the Site will be set aside for landscaping since the proposals are for a low-density development. The goal of the landscaping should be to increase floral, and consequently, faunal species diversity across the Site. This can be achieved by:
- The use of native plant species sourced from local nurseries within the landscape proposals at the site, especially in tree planting and hedgerow planting. A range of native bushes and shrubs or alternatively those of known value to wildlife that produce nectar and nuts or berries to encourage a range of invertebrates should be incorporated into the landscape scheme. They will in turn act as a food source for the local birds and bats. A species list of recommended trees and shrubs is given within the submitted EEP.
 - Species-rich neutral grassland/meadow habitat should be created and appropriately managed within the areas of open space within the northern and western areas of the Site. Furthermore, grassland planting, including marshy grassland planting, can be

undertaken as part of the proposed Sustainable Urban Drainage system (SUDs) for the Site. The native species-rich mixes will provide nectar sources for invertebrates and act as habitat corridors through the Site, helping to link areas of green space with the wider countryside beyond. Further guidance on designing SUDs to benefit biodiversity can be found in the document prepared by Graham et al. (2013);

- Whilst no evidence of hedgehogs was found at the time of the survey visits, it is recommended that any fencing within the development should allow access and egress for this species. This requires a 13 cm² access to be left in a coordinated network to enable access and egress for hedgehogs and other small mammals between suitable areas of foraging throughout the site and to the wider area. Hedgehogs require large territories of up to 1 km² and as such it is important large feeding areas are available. Hedgehogs do not generally damage gardens and the size of the hole is not large enough for most domestic pets to use, or rabbits; and
- In addition, the site itself will support a greater range of supplementary wildlife features, including bird boxes and bat roosting opportunities, following the proposed development.

6.40 These mitigation measures will ensure that the proposed development can be undertaken in a manner that would not result in an impact on statutorily protected species and instead would be completed with enhancement measures in accordance with policy EC6 of the Wrexham Unitary Development Plan; and the guiding principles set out in Technical Advice Note 5 - Nature Conservation and Planning.

7.0 Conclusion

- 7.1 Overall having assessed the Council's four reasons for refusal and the supporting Committee Report additional reporting has been undertaken in relation to drainage, highways and ecology. These additional reports are included with this Appeal and seek to quantify mitigation measures designed to mitigate against reason 1, 3 and 4. With these mitigation measures in place it is considered that the harm and concerns identified in relation to drainage, ecology and highways is unfounded.
- 7.2 In terms of the second reason for refusal, the limited visual and landscape harm identified by the Council must be balanced with the significant weight in favour of the proposal in regards to the Council's lack of a 5 year housing land supply. For these reasons, even though the proposed development when considered in its entirety would be contrary to the relevant policies of the UDP, it would provide a suitable site for housing and a clearly logical expansion of Gwersyllt given the constraints of the settlement. The Council's second reason for refusal is subsequently contested.
- 7.3 For the reasons outlined in Section 6 of this Grounds of Appeal and the supporting statements in relation to ecology, drainage and highways the Planning Inspectorate are subsequently requested to allow the appeal subject to conditions.

APPENDIX A – DECISION NOTICE

In pursuance of its powers under the Acts and Orders referred to below, the County Borough Council as Local Planning Authority, hereby determines your application in accordance with the particulars and plans comprising the application

1
Expiry Date: 23/09/2016
Decision Notice Sent: 05/04/2017
Grid Reference: E 331011.54 N 354254.05



Applicant	SITE PLAN UK LLP	Code No	GWE P /2016 /0738
Agent	AAH PLANNING CONSULTANTS MR PAUL BOOTH 2 BAR LANE YORK YO1 6JU	Date Received	29/07/2016
		Decision Date	03/04/2017

Town and Country Planning Act, 1990

Location of application

LAND EAST OF BOTTOM ROAD, SUMMERHILL, WREXHAM, LL11 4TR

Description of application

OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT

In reaching this decision the Council has had regard to the relevant policies in the Wrexham Unitary Development Plan which are as follows:-

CLF5	Open space requirements from new residential developments
EC13	Surface water run-off
EC2	Agricultural Land
EC4	Hedgerows, Trees and Woodland
EC5	Special Landscape Areas
GDP1	Development objectives
GDP2	Capacity of infrastructure and community facilities
H5	Housing in the countryside
H7	Affordable housing within new developments
PS1	Settlement limits
PS2	Development and the environment
PS3	Brownfield Land
PS4	Settlement Pattern
T8	Parking

Particulars of decision that Outline Planning Permission be REFUSED

Applicant	SITE PLAN UK LLP	Code No	GWE P /2016 /0738
Agent	AAH PLANNING CONSULTANTS MR PAUL BOOTH 2 BAR LANE YORK YO1 6JU	Date Received	29/07/2016
		Decision Date	03/04/2017

Reason(s)

1. The highway network surrounding and giving access to the site, being of limited width with poor horizontal alignment and sporadic pedestrian and cycle provision is considered to be substandard and insufficient to cope with the additional traffic movements associated with the development. The development is therefore considered to represent a detrimental impact upon the safety of motorists, cyclists and pedestrians and would be contrary to policy GDP1 of the Wrexham Unitary Development Plan.
2. The proposed development would be unsatisfactory and undesirable because the development involves a greenfield site, partly designated as a Special Landscape Area and it is located outside any settlement limits as defined in the Wrexham Unitary Development Plan. The development is considered to represent a poor standard of design in terms of its indicative layout, density and highway alignment and is overly suburban in its character. As such the proposal is considered to have a detrimental effect upon the wider environmental character representing an illogical extension of the existing settlement and does not seek to preserve or enhance the character of the Special Landscape Area. To allow the development would not accord with policies PS2, GDP1 and EC5 of the Wrexham Unitary Development Plan or the principles of Welsh Government Technical Advice Note 12 - Design.
3. The proposal fails to satisfactorily determine whether the site could attenuate excess surface water to allow it to discharge at or below the existing greenfield run-off rate, nor has the applicant demonstrated whether sustainable drainage systems can be employed on site in accordance with guidance contained in Technical Advice Note 15 - Development and Flood Risk. As such it would not be possible to determine whether the proposal accords with policy EC13 of the Wrexham Unitary Development Plan
4. The submitted protected species report has is not to a satisfactory standard to assess the impact that the development will have on statutorily protected species. In the absence of such information, the development will prejudice the favourable conservation status of those species and would not accord with policy EC6 of the Wrexham Unitary Development Plan; and the guiding principles set out in Technical Advice Note 5 - Nature Conservation and Planning.

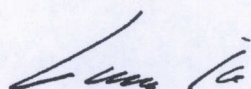
Applicant SITE PLAN UK LLP

Code No GWE P /2016 /0738

Agent AAH PLANNING
CONSULTANTS
MR PAUL BOOTH
2
BAR LANE
YORK
YO1 6JU

Date 29/07/2016
Received

Decision
Date 03/04/2017



Officer Appointed for this purpose

Refer to the Statement of Applicant's Rights and General Information Enclosed

Head of Environment and Planning

Refer to Statement of Applicant's Rights and General Information on our planning web site at:-

http://www.wrexham.gov.uk/english/planning_portal/publications/info_sheets.htm

APPENDIX B – COMMITTEE REPORT

APPLICATION NO:
P/2016 /0738

LOCATION:
LAND EAST OF BOTTOM ROAD
SUMMERHILL WREXHAM
LL11 4TR

DATE RECEIVED:
29/07/2016

COMMUNITY:
Gwersyllt

DESCRIPTION:
OUTLINE APPLICATION FOR
RESIDENTIAL DEVELOPMENT

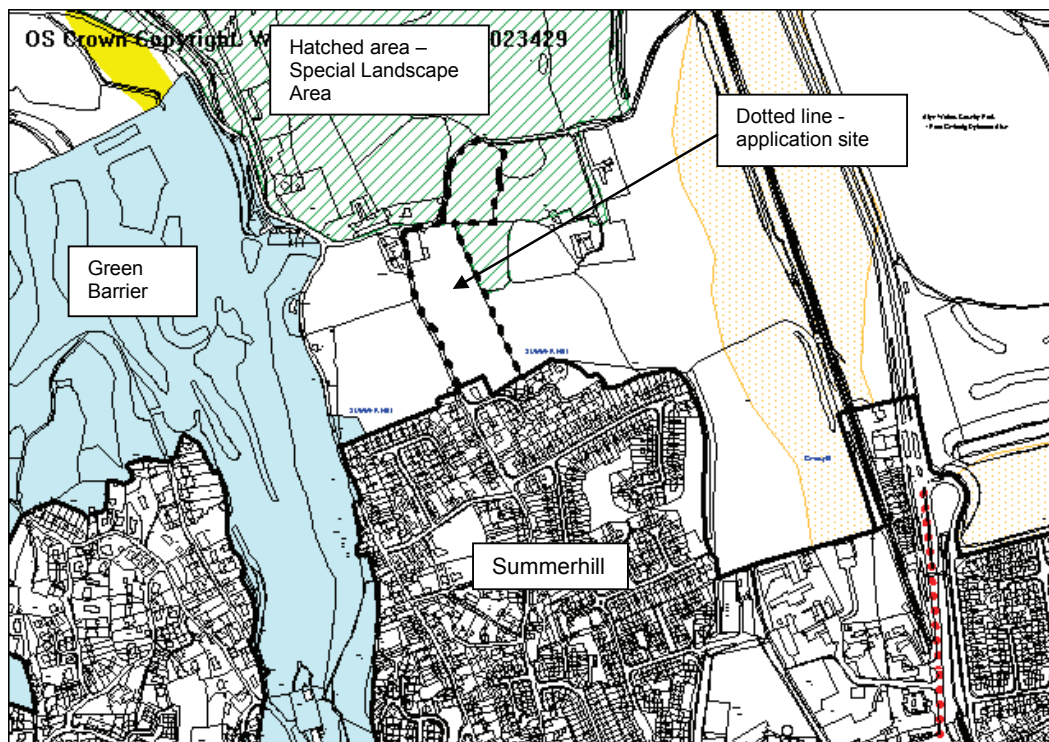
CASE OFFICER:
PF

WARD:
Gwersyllt North

APPLICANT(S) NAME:
SITE PLAN UK LLP

AGENT NAME:
AAH PLANNING
CONSULTANTS
MR PAUL BOOTH

THE SITE

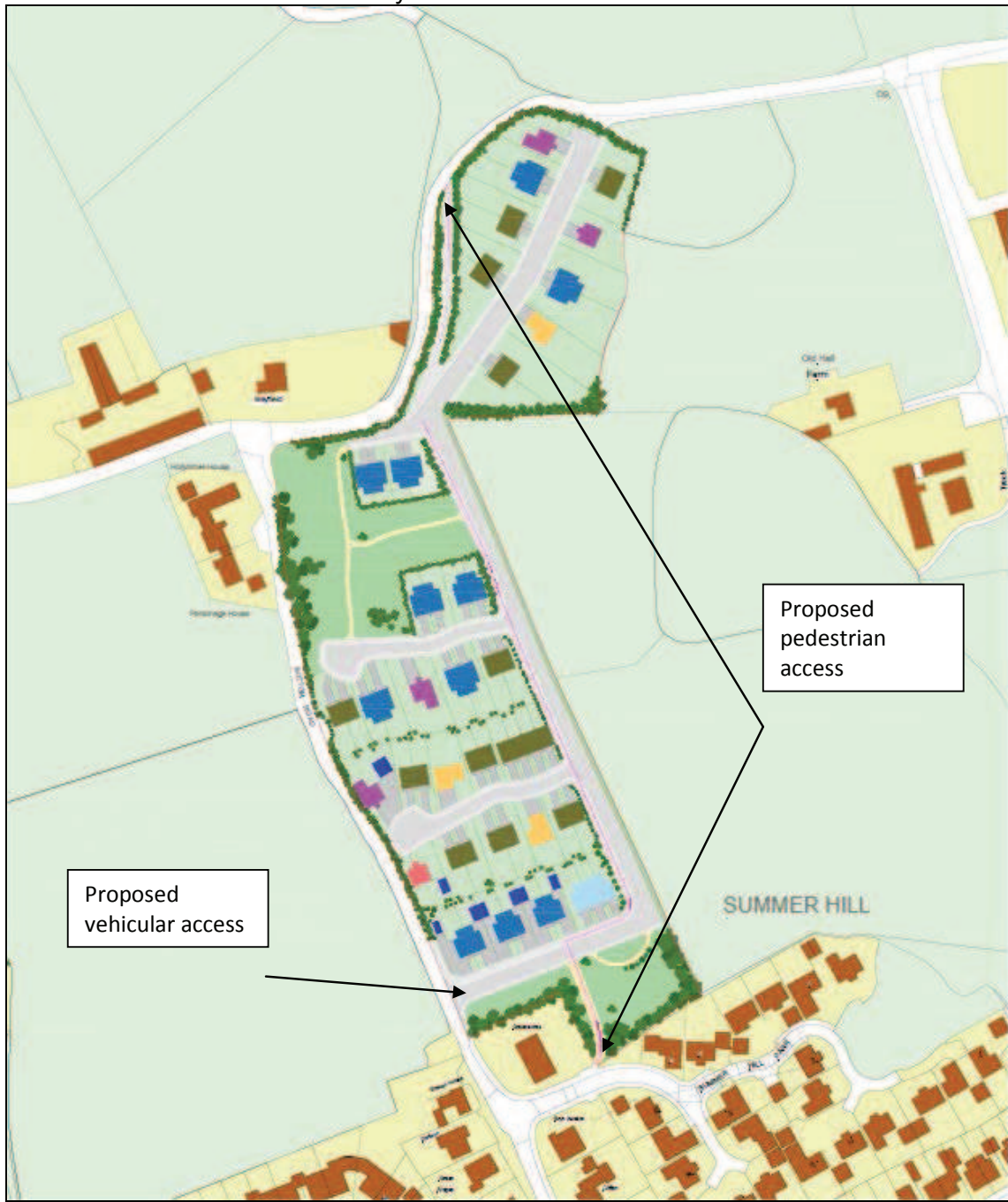


PROPOSAL

Planning permission is sought in outline for residential development. All detailed matters save for access, are reserved for further approval. In accordance with legislation, an indicative site layout has been submitted which details the nature of the proposed development of the site in terms of layout, movements around the site and development density. The application has been presented with the following supporting information.

- Planning Statement;
- Design and Access Statement;
- Flood Consequences Assessment;
- Transport Assessment;
- Landscape and Visual Impact Assessment;
- Contamination Study; and
- Ecological Report.

An extract of the indicative site layout is shown below:-



Proposed indicative site layout

HISTORY

The following planning history relates to a small portion of the application site to the North West.

P/2009/0274	Extension to existing agricultural building for the storage of hay and associated materials. Prior approval not required.
P/2010/0453	Erection of new barn for the storage of hay-haylage, tractor and agricultural implements. Granted 06.09.2010
P/2015/0667	Renewal for planning application P/2010/0453 to enable the erection of new barn for storage of hay – haylage and storage of tractor and agricultural implements. Granted 12.01.2015

DEVELOPMENT PLAN

The application site is located outside of the settlement limit and partially within a special landscape area. The site is currently defined as agricultural land with no previous use, therefore a greenfield site. Policies PS1, PS2, PS3, PS4, GDP1, GDP2, EC2, EC4, EC5, EC13, H5, H7, CLF5 and T8 of the Wrexham Unitary Development Plan (UDP) are applicable. These policies are amplified in Local Planning Guidance Notes (LPGN) 10 - Public Open Space in New Developments, 16 - Parking Standards, 17 - Trees and Development, 27 - Developer Contributions to Schools, 28 - Affordable Housing, 30 - Residential Design Guide and 32 - Biodiversity and Development. The Council's LANDMAP assessment guidance document is also applicable.

NATIONAL PLANNING POLICY

National Planning Policy is contained in Planning Policy Wales (PPW) Edition 9 and Technical Advice Notes (TAN) 1 - Joint Housing Land Availability Studies, 2 - Planning and Affordable Housing, 5 - Nature Conservation and Planning, 12 – Design, 15 – Development and Flood Risk and 18 - Transport.

CONSULTATIONS

Community Council:

Objects for the following reasons:

- The proposed siting of the development is particularly ill-considered as the site forms part of the green barrier and is outside the settlement limit. The development would represent an unnecessary and undesirable encroachment into the countryside and the proposal is contrary to a number of existing planning policies that have been put in place to protect green barrier land from inappropriate development and to

safeguard the character of existing settlements.

- The proposed development will generate a significant increase in the amount of local traffic and the Council has concerns about the impact on road safety particularly having regard to the unsuitability of the existing local highway network. Bottom Road is narrow in places and this sometimes makes it difficult for traffic to move freely. The proposed development will exacerbate this problem causing traffic congestion and making it difficult for emergency services to access the area. The creation of unsafe conditions on the road and the potential danger to pedestrians cannot be over emphasised. The single track access road linking Bottom Road to the A541 Mold Road is in a rural environment and little more than a 17th century lane bounded by hedgerows. It is totally unsuitable for the increase in traffic flows that the development would generate and the Council strongly contends that if the site were developed this would cause unacceptable harm to the character and appearance of the area.
- The Council also has concerns about the adverse effects on wildlife in this rural environment.
- Concerns regarding the impact of the development on the existing, local infrastructure. Local facilities such as schools and doctors' surgeries are already under pressure and the Council considers that the existing infrastructure cannot cope with the increase in population the scheme would bring about.
- The Council considers that little regard (if any) has been paid to the Wales Spatial Plan in bringing the application forward for discussion by the Planning Committee. It is particularly concerned that the community of Gwersyllt is becoming a regular target for new development at a time when the preparation process for the Wrexham

	Local Development Plan 2 for 2013-2028 has yet to be completed. This is putting the community under great pressure contrary to the spirit of the Wales Spatial Plan which promotes the building of sustainable communities whilst retaining their character and distinctiveness.
Local Member:	Has expressed a personal and prejudicial interest in the application.
Site notice:	Expired 14.02.2017
Press notice:	Expired 30.08.2016
Highways:	Object and recommends refusal. The roads giving access to the site are by reason of their inadequate width, their horizontal alignment and their substandard pedestrian / cycle provision, unsuitable to accommodate the increase in traffic likely to be generated by the development.
Public Protection:	No objection. Conditions and informatives recommended regarding construction phase controls and nuisance measures.
Flood Management Officer:	Requisite information to demonstrate that surface water can be dealt with on site has not been provided. In the absence of such information planning permission should be refused.
NRW:	Raise the following concerns: • Planning permission should only be granted if it can be demonstrated that surface water can be dealt with by way of soakaways; • Private drainage systems will not be acceptable in areas with foul drainage infrastructure; • The Local Planning Authority should ensure statutorily protected species are considered and the landscape value of the site should be managed to enhance the ecological value of the site.
Welsh Water:	No objection subject to conditions to prevent surface water being disposed of in the public sewer network and the submission of a comprehensive drainage design prior to commencement of development.
Neighbouring occupiers:	37 neighbouring occupiers notified. 45 responses received. 44 objecting to the development on the following grounds:

Planning Policy

- An LDP candidate site of which this forms part of has identified that whilst it complies with their preferred strategy, there are site constraints which are unlikely to be overcome to allow the site to be developed;
- The land is classed as best and most versatile agricultural land and should not be developed;
- The development has started residential creep which will only encourage more developments of this kind;
- The land is outside any defined settlement limit and with Green Barrier;
- There are numerous brownfield sites in Wrexham town centre that could be built upon;

Amenity

- The proposal will result in an increased demand upon the existing schools and facilities;
- The building process will lead to disturbance of existing neighbouring occupiers such as vibrations, dust and noise;
- The proposed development would cause significant detriment to the visual amenities of the area and would adversely affect the landscape character as the site provides a landscape buffer to the existing built form. It provided an intrinsic green buffer which is highly sensitive and can be seen from extensive public viewpoints;
- The site includes an area of Special Landscape Area which would be lost forever;
- Some of the houses will directly overlook other properties resulting in a loss of privacy and peaceful enjoyment of homes;

Traffic/Highway Safety

- The roads are not suitable for any more traffic as additional houses would mean additional vehicle movements;

- There are known instance of traffic congestion in the locality causing highway safety concerns;
- Bithell's Lane is a single track one car width road which is inadequate for additional traffic movements;
- Improvements suggested would serve no purpose other than to destroy an established hedgerow;
- Access to the site from Wrexham is also problematic due to its narrowness along portions of its length. Any increase in traffic would be detrimental to pedestrians;
- Parking is extremely limited at nearby community facilities;
- Additional dwellings would result in additional demand upon the existing bus services making it difficult for users with mobility problems;
- Putting traffic lights along Bithell's Lane will not solve the problem. There are no pedestrian facilities;
- The siting of a pedestrian access to the north of the site between two passing places is not a safe measure;
- Existing lighting is poor;
- More traffic will move to Top Road as there are no speed restrictions;
- The proposed site entrance will be an accident black spot;

Flooding

- The site cannot cope with additional drainage problems;
- Bottom Road and parts of Bithell's Lane are prone to surface flooding after heavy rain and snow;

Other matters

- Any attempt to widen Bottom Road of Bithell's Lane would result in the removal of ancient hedges around the site which would impact upon nesting endangered species;
- The Council should look at managing existing roads and hedges rather than compounding the problem with additional houses;

- Part of the northern end of the site is linked to a Thomas Telford canal plan;
- The land does not belong to the applicant;
- Existing bus services are not sufficient due to a recent cut in service and would not allow people to get to work in time who work out of Wrexham;
- The applicants supporting statement is inaccurate with distances to local facilities;
- Whilst the site may be close to public transport, it is at the top of a steep hill where people may not choose to use it;
- There are good views from existing dwellings and assurances were given that no further development would occur;
- There would be additional noise impact upon the locality;

1 supporting the development on the following grounds:

- Whilst the loss of green fields would be unfortunate the proposal will provide affordable housing allowing existing resident's and families to remain where they live;
- Improvements to the local adjacent road network which currently has no footpaths or street lighting as it is quite dangerous at present;
- The proposal will also for a footpath link between the two areas of significant open space in the county Borough (Alyn Waters and Moss Valley);

SPECIAL CONSIDERATIONS

Policy:

Principle of development

Policy PS1 of the UDP directs all new residential development to within defined settlement limits. Residential development in the open countryside is permitted in limited circumstances where it is as a result of conversion of an existing suitable building, replacement of an existing dwelling, limited infilling, key worker dwellings or instances of justified affordable housing. Policy H5 refers. The proposed development does not accord with either of these policies and therefore represents a departure from the adopted development plan.

For the sake of clarity, the site is **not** designated as Green Barrier. Policy EC1 of the UDP does not apply in this instance.

Housing need

PPW requires local planning authorities to ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing. Members will be aware that under the provision of TAN1: Joint Housing Land Availability Studies (JHLAS) the Council has a statutory duty to monitor housing land supply on an annual basis in the form of a JHLAS. In accordance with paragraph 8.1 of TAN1 (Jan 2015), Wrexham County Borough Council is now unable to demonstrate whether it has a 5 year housing land supply because the UDP plan period has expired. At paragraph 6.2 of TAN1, it advises that ***the need to increase supply should be given considerable weight*** when dealing with planning applications provided that the development would otherwise comply with national planning policies. In this regard, as policy PS1 of the UDP was worded on this basis of population projections and housing allocations at the time of its adoption, the inability for the Council to now demonstrate a sufficient supply of land means that its requirements can no longer be met within existing defined settlements. As such policy PS1 is out of date and can therefore now only be afforded limited weight in this instance.

Special Landscape Area

The northern part of the site is located within a Special Landscape Area (SLA). Policy EC5 of the UDP requires priority to be given to the conservation and enhancement of the landscape in such designations. Development other than for agriculture, small-scale farm-based and other rural enterprises, and essential utility service development will be strictly controlled. The policy wording also goes on to require that a high standard of design and landscaping will be required and special attention will be required to minimise the impact of development upon nearby and distant viewpoints. Detailed discussion regarding the overall design (indicative layout and massing) is discussed later in this report but is considered to be poor.

There is an existing defensible boundary hedge which continues north from the settlement along Bottom Road and would form the western site boundary of any development. This continues on to envelop the portion of the site which forms the SLA portion of the site. Landscaping is matter reserved for further approval and would depend very much upon any final layout design. The hedge has significant habitat and amenity value represents Welsh priority habitat as well as providing positive permeability of the landscape for species and contributes to a locally distinct historical landscape. The proposal as presented would result in the loss of significant stretches of this hedgerow to facilitate highway improvements (discussed later in the report). However, such a loss would be considered detrimental to the local landscape in terms of habitat quality and would result in the loss of species which are identified as having status in law. It is therefore considered that overall changes to the

existing mature landscaping of the site along with a poor level of design would be detrimental to the Special Landscape Area.

Exceptional circumstances

Paragraph 3.1.2 of PPW states that the Council is only required to determine planning applications in accordance with the adopted development plan ***unless material considerations indicate otherwise.***

The inability for the Council to demonstrate a 5 year housing land supply must carry significant weight in this instance. It is acknowledged that the number of dwellings proposed on the indicative site plan (59) would represent a significant contribution to the Council's housing requirement. However, there are a number of site specific matters which must be considered in the round and balanced against this positive housing supply contribution. These are discussed in detail below.

Location of development: Each site that comes forward for residential development will be considered on its own merits with the principal considerations focusing on whether the site meets all the other planning detailed general development principles considerations and whether it represents a sustainable form of development. PPW confirms that there is ***a presumption in favour of sustainable development.***

PPW outlines where development should be directed. In broad terms it should be directed in order to achieve a sustainable development pattern, and it is possible to extrapolate from this the role and functions key settlements should perform. They should:

- be well connected to transport infrastructure including sustainable travel options;
- provide a range of retail and community services;
- have a range of employment opportunities;
- be well serviced by existing infrastructure; and
- co-locate housing and employment.

In a recent piece of evidence gathering carried out by the Council to feed into the preparation of the Local Development Plan (LDP), the Settlement Hierarchy and Development Potential background paper describes Gwersyllt as a 'Tier 2' settlement. These are villages with key local facilities but with reliance upon facilities in the primary settlement of Wrexham. There is also moderate to good transport provision and they will have moderate to important economic/employment function.

I am satisfied that the principle of development in this location is broadly acceptable. The site is easily accessible to key local provisions and there are a range of public transport modes which would reduce the need to automatically travel out of the village and where it is necessary to do so, there is not a specific reliance upon the car to do so. It must be acknowledged that whilst this document forms part of an evidence gathering exercise for the emerging LDP and holds no weight, it is referenced in this instance to aid a

comparison against the locational criteria set out in PPW and the context of the setting of the proposed development.

Concerns made by local residents regarding the reduced level of bus service provision in the area and the capacity of the local medical centre are noted. However, these issues are related to demand and were additional development permitted in the future, market demand would regulate additional frequency of services. The local health board also have a duty to ensure that their services are provided on the basis of population demand. The Gwersyllt area is one such area where population increase is inevitable.

Design:

Site area

Whilst the broad location of the housing development may be acceptable there must be significant consideration given to the layout and form of the development. The layout of the proposed development takes the form of a long narrow protrusion from the northern edge of the Gwersyllt settlement and is limited to existing field boundaries. The applicant has presented an LVIA with the application which concludes that the visual impact of the development would be minor given the varied and complex form of the northern side of the Summerhill settlement. The characteristic undulating hill slopes would be relatively unaffected and only indirect effects would occur to the setting of Windy Hill to north. Views toward Wrexham and the lowlands from Bottom Road and Top Road would be affected but beyond this would quickly dissipate. The LVIA further concludes that there would be no more than a minor impact upon the wider West Wrexham Ridges and Valleys LANDMAP sub area due to its proximity immediately adjacent to the existing modern housing layout.

I concur with the general conclusions of the LVIA that from the immediate viewpoints selected within its assessment, a form of development would effectively be viewed in the context of the existing built form of the modern housing layout at the northern end of Summerhill. The main immediate approaches to the site (i.e. from the western and southern approaches of Bottom Road and from Ffos-y-Go) afford limited glimpses into the site and subject to appropriate design a scheme could be facilitated.

Layout

Whilst the proposal is currently in outline, the local planning authority are required to pay attention to the indicative layout presented as part of the submission as a broad indication of the intended final design. PPW further emphasises that *'good design should promote the efficient use of resources, including land...'* and *'the visual appearance of proposed development, its scale and its relationship to its surroundings and context are material planning considerations. Local planning authorities should reject poor building and contextual designs'*.

Paragraph 5.11 of TAN 12 – Design is explicit on the merits of good housing design in that it should *'...create places with the needs of people in mind,*

which are distinctive and respect local character’ and ‘...focus on the quality of places and living environments for pedestrians rather than the movement and parking of vehicles’. I consider the design solution presented to be extremely poor without any attention given to the local settlement pattern and density and represents an inefficient use of land. The highway network within the development is overly rigid and governs the overall layout without have any form of hierarchy. It is a lacklustre layout that would ultimately result in a bland and car dominant scheme. The position of the highway within the site also presents a very hard edge to the site boundary. I consider that this represents a poor juxtaposition between the proposed continuation of the urban landscape and the existing rural landscape.

I also have concerns regarding the density of the dwellings proposed. In order for the council to justify the release of land for housing purposes outside defined settlement limits, it must be satisfied that the development would be deliverable to justify counting towards the housing land supply requirement as well as presenting an efficient and sustainable use of land. In this case I do not consider that the proposal would represent an efficient use of the overall application site to justify its release contrary to the strategic and site specific policies of the UDP which seek to protect the countryside and areas of special landscape character.

Highways: The site is located at the northern fringe of the Gwersyllt settlement. Approval for the position of the proposed access is sought at this outline stage at the southern end of the site approximately 50 metres north of the existing mini roundabout on to Summerhill Park. A pedestrian access is also proposed to the southern end of the site and also to the northern site boundary linking existing public rights of way through the development site.

Highways have raised strong objections to this proposal on the grounds that the roads giving access to the site are of inadequate width and of poor horizontal alignment. The road also provides for substandard pedestrian and cycle provision and is unsuitable to accommodate the increase in traffic likely to be generated by the development. The applicant has carried out a traffic count as part of their Transport Assessment indicating a 78% increase in traffic movements at morning peak and 48% increase at evening peak. Whilst the traffic count was carried out during a school holiday period (against good practice) it still represents a significant increase in traffic movements on a substandard highway network and ultimately it would not be possible to support the traffic movements associated with an additional 59 dwellings.

The applicant has provided a series of highway improvement proposals along Bottom Road as it heads down towards Ffos-y-Go and the junction with Mold Road (A541). These consist of the following:

- The provision of carriageway widening and a priority system adjacent to the proposed access;
- Junction widening and marking to the north west of the site boundary;
- Widening of the highway to provide a footway link and improved forward visibility on the bend to the north of the site;

- The provision of a priority traffic light system where the road passes under the railway line; and
- The provision of three new passing places and the improvements to existing passing places.

Highways do not consider that these alterations will overcome the concerns addressed above and in some instances could result in increased speeds on an already substandard network (i.e. where road widening is proposed) and congestion (i.e. where limited stacking occurs at the proposed traffic signals).

There are also proposed improvements and formalisations to existing passing bays. The benefit of carrying out these changes will be limited as the facilities already exist.

The proposed traffic signals will effectively make the road 'one way' over a 200m distance during green phase potentially increasing vehicle speeds causing danger to pedestrians, cyclists and horse riders using the road. The Council is also not generally supportive of using traffic signals on rural roads to control traffic flows.

Where a traffic prioritisation scheme is proposed in the proximity of the narrow pinch point adjacent to the proposed access, there is concern that the forward visibility of this facility has not been established and could not be achieved due to an existing third party wall. The sudden decrease in the improved carriageway width from 5.5m to 2.95m is likely to represent a hazard to all road users.

Ecology: The highway improvements will result in the removal and replanting of approximately 250m of native hedgerow. This is considered to represent a significant detriment to existing habitat. It is acknowledged that the benefits of the proposed development must be weighed against this potential harm. However, I also have in mind that the removal of the identified stretches of hedgerow would be required to facilitate a highway improvement strategy which would not overcome the negative impacts of the development.

The applicant has presented a bat report. Of particular concern is the large number of noctule passes recorded indicating the presence of a nearby roost. Loss of the boundary hedgerow, the provision of light and infrastructure associated with a residential development could provide a barrier to the species dispersal and reduction of available foraging habitats. The low activity level for bats at the site is challenged on the basis of the methodology used.

For this reason, on balance, I consider that the loss of the hedgerow would be unacceptable and would have a long term impact upon species which are afforded protection through the planning system.

Drainage: Welsh Water have removed an objection to the proposal on the grounds their initial concern about the capacity of the foul drainage system was as a result of overloading from surface waters flows. They have

recommended that should planning permission be granted, conditions be imposed to prevent surface water flows into the public sewer network and that a detailed drainage scheme be submitted for further approval.

The site is located in Zone A as defined by TAN 15 and the Welsh Government's Development Advice Map. The site is therefore not considered to be at risk from fluvial flooding. UDP policy EC13 and TAN 15 requires proposals to seek the sustainable disposal of surface water generated by developments.

TAN15 confirms that '*...the susceptibility of land to flooding will be a material planning consideration...*' and '*...development should not increase the risk of flooding elsewhere.*' It also confirms that '*Developers will need to give good reason why SuDs (Sustainable Drainage Systems) could not be implemented. If a conventional drainage system does not improve the status quo or has a negative impact then this can be a valid reason for refusal*'.

The applicant's Flood Consequences Assessment (FCA) suggests there are two options for management of surface waters generated by the development. Indicative soakaway sizing has been submitted based on assumed infiltration rates. If soakaways are not a viable option for managing surface waters, the only other identified means of disposal would be to mains sewer. Welsh Water have indicated that additional surface water flows would not be accepted into the existing foul/combined system.

In order to demonstrate compliance with local and national planning policy it is necessary to demonstrate that ground conditions are sufficient to enable a suitable surface water management scheme to be developed. This has not been carried out and it is therefore not possible to determine this sufficiently.

Other matters: The applicant's supporting documentation has classified the land as Grade 3b. The loss of such graded land would accord with policy EC2 of the UDP which seeks to prevent the irreversible loss of only Grade 1, 2 and 3a land.

Concerns have arisen in representations that part of the site subject to the application is not within the sole control of the applicant. The applicant has provided a declaration that the requisite notice has been served on all known land owners. Any discrepancies are a civil matter between the parties involved.

Conclusion: Legislation and national planning policy require the Council to determine planning applications in accordance with the adopted development plan unless material considerations indicate otherwise. The site is located outside any defined settlement limit. The Council acknowledges that it is unable to demonstrate a 5 year housing land supply and this is a significant consideration in the planning balance. However the proposal will result in an increased level of traffic using a wholly substandard highway network, the proposed mitigation measures for which are considered to be inadequate and inappropriate. The proposal is also considered to be inappropriate in terms of

its overall design and would have a significant detriment upon the openness of the countryside. These concerns are not outweighed by the Council's need to provide housing land and I recommend accordingly.

RECOMMENDATION: That permission be REFUSED

REASON(S)

1. The highway network surrounding and giving access to the site, being of limited width with poor horizontal alignment and sporadic pedestrian and cycle provision is considered to be substandard and insufficient to cope with the additional traffic movements associated with the development. The development is therefore considered to represent a detrimental impact upon the safety of motorists, cyclists and pedestrians and would be contrary to policy GDP1 of the Wrexham Unitary Development Plan.
 2. The proposed development would be unsatisfactory and undesirable because the development involves a greenfield site, partly designated as a Special Landscape Area and it is located outside any settlement limits as defined in the Wrexham Unitary Development Plan. The development is considered to represent a poor standard of design in terms of its indicative layout, density and highway alignment and is overly suburban in its character. As such the proposal is considered to have a detrimental effect upon the wider environmental character representing an illogical extension of the existing settlement and does not seek to preserve or enhance the character of the Special Landscape Area. To allow the development would not accord with policies PS2, GDP1 and EC5 of the Wrexham Unitary Development Plan or the principles of Welsh Government Technical Advice Note 12 - Design.
 3. The proposal fails to satisfactorily determine whether the site could attenuate excess surface water to allow it to discharge at or below the existing greenfield run-off rate, nor has the applicant demonstrated whether sustainable drainage systems can be employed on site in accordance with guidance contained in Technical Advice Note 15 - Development and Flood Risk. As such it would not be possible to determine whether the proposal accords with policy EC13 of the Wrexham Unitary Development Plan
 4. The submitted protected species report has is not to satisfactorily assess the impact that the development will have on statutorily protected species. In the absence of such information, the development will prejudice the favourable conservation status of those species and would not accord with policy EC6 of the Wrexham Unitary Development Plan; and the guiding principles set out in Technical Advice Note 5 - Nature Conservation and Planning.
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APPENDIX C - PLANNING APPEALS

Adroddiad

Ymchwiliad a gynhaliwyd ar 26-28/04/16
Ymweliad safle a wnaed ar 27/04/16

**gan Declan Beggan BSc (Hons) MSc
DipTP DipMan MRTPI**

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad:

Report

Inquiry held on 26-28/04/16
Site visit made on 27/04/16

**by Declan Beggan BSc (Hons) MSc DipTP
DipMan MRTPI**

an Inspector appointed by the Welsh Ministers
Date:

TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78

APPEAL BY GLADMAN DEVELOPMENTS LIMITED

**LAND AT FORMER SITE OF HAFOD TILERIES, HAFOD ROAD AND BANGOR ROAD,
JOHNSTOWN, WREXHAM, LL14 2SP**

File Ref: APP/ H6955/A/15/3135730

Site address: Land At Former Site Of Hafod Tileries, Hafod Road And Bangor Road, Johnstown, Wrexham, LL14 2SP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Gladman Developments Limited against the decision of Wrexham County Borough Council.
- The application Ref ESC P/2013/0545, dated 30 July 2013, was refused by notice dated 16 June 2015.
- The development proposed is the 'Redevelopment of land at Hafod Tileries for proposed mixed use development of up to 300 (use class C3) residential dwellings, 465 sqm (use class B1, B2 & B8) business, industrial, storage & distribution units, 235 sqm (use class A1) retail, ecological enhancement, landscape, open space, highway improvements and associated works'.
- The appeal was recovered for decision by the Welsh Ministers by a direction made under Section 79 and paragraph 3(1) of Schedule 6 of the Town and Country Planning Act 1990, on 21 October 2015.
- The reason given for making the direction was that the proposal is for residential development of more than 150 houses.

Summary of Recommendation: That planning permission be granted.

Procedural Matters

1. I note that the planning application form refers to the address of the site as 'Bangor Road, Johnstown, Wrexham, LL14 6ET'. As confirmed at the Inquiry with both parties, the address of the development as advertised, and stated on the Council's refusal notice, and copied into the banner heading above is more accurate, and therefore I have used this description for the purposes of this report.
2. During the opening of the Inquiry the Council drew to my attention the fact that the event date and venue, had not been advertised by way of a press notice. The Council highlighted that 77 consultees including those living in proximity to the appeal site were directly written to in regards to the arrangements for the Inquiry, in addition to similar information being contained within site notices that were posted in the locality.
3. Both parties were of the opinion that as the requirement to advertise an Inquiry event is discretionary and not mandatory, and that bearing in mind the significant level of consultation that had already occurred that no substantial prejudice had occurred to interested parties.
4. Given that there is a degree of discretion in the application of the 'The Town and Country Planning (Inquiries Procedure) (Wales) Rules 2003, the high level of consultation that had occurred in regards to the advertising of the Inquiry, and the fact that some interested parties were clearly aware of the event as evidenced by the attendance at the Inquiry, I did not consider that any party would be prejudiced by proceeding with the Inquiry.
5. A draft Unilateral Undertaking (UU) submitted at the Inquiry was found to have drafting errors and lacked a signature. These have been corrected and the finalised UU submitted within the agreed set period after the closure of the Inquiry. The UU contains obligations which include the provision of an educational financial contribution, works related to the provision of open space and its transfer, and a contribution towards improvements to public transport.

The Site and Surroundings

6. The irregular shaped appeal site lies close to the eastern boundary of the settlement of Johnstown at the junction of Hafod and Bangor Roads, and extends to some 17.34 hectares. The site includes the now derelict Dennis Ruabon factory; an industrial legacy site which had a long association with the production of clay products such as bricks and tiles. The site comprises a number of buildings, associated hard standings, other structures, and tipped areas, in addition to areas of scrub vegetation. With the exception of some bunded earth areas, the site is generally level in all directions. In terms of natural features, there are areas of broadleaved woodland mainly in the southern part of the site together with numerous hedgerows and trees along the site boundaries. Aberderfyn brook runs through the southern part of the site.
7. The site is traversed by several public rights of way in addition to two high voltage power lines carried by pylons. To the immediate north of the site is a concrete batching plant known as EcoReadyMix, beyond which is Bonc Yr Hafod Community Park comprising woodland situated on waste from the former Hafod Colliery. To the east of the site on the opposite side of Hafod Road is a property known as Ty Coch Farm beyond which is the A483 Trunk Road. To the south of the site, on the opposite side of Bangor Road, is Hafod clay quarry and landfill site. The western boundary of the site is separated from Johnstown and a railway line by a Special Area of Conservation (SAC) which extends northwards into the Bonc Yr Hafod Community Park.

Planning Policy

8. The development plan for the area comprises the Wrexham Unitary Development Plan (UDP). The UDP was adopted in 2005 and covers the period 1996 -2011.
9. The proposals Map of the UDP indicates the site as being outside of the settlement limit of Johnstown and that the site, in policy terms is within the countryside. The site is also within a designated Mineral Buffer Zone.
10. The relevant policies referred to in the reason for refusal are PS1, PS2, PS4, GDP1 and H5. Policies PS1, PS2 & PS4 are strategic in nature. Policy PS1 relates to 'settlement limits' and states that new development for housing, employment and community services will be directed to within defined settlement limits/employment areas. Policy PS2 states that development must not materially detrimentally affect countryside, landscape/townscape character, open space, or the quality of the natural environment. Policy PS4 requires development to maintain the existing settlement pattern and character, be integrated with the existing transport network to help reduce the overall need to travel, and encourage the use of alternatives to the car.
11. Policies GDP1 sets out objectives and a criterion based approach for assessing proposed development. Policy H5 restricts housing outside defined settlement limits to, amongst other things, affordable housing exception sites, infilling or those who have an essential need based on agricultural or forestry jobs.
12. A number of other policies are relevant in the consideration of the proposed development including PS3 which states that development should use Previously Developed Land (PDL) in preference to the use of greenfield land, whenever possible.

Other material development plan policies are identified in the main parties' Planning Statement of Common Ground.¹

13. The parties agree that the main sources of national policies relevant to this appeal are contained in Planning Policy Wales Edition 8 (PPW) and associated Technical Advice Notes (TANs), in particular: TAN 1: Joint Housing Land Availability Studies (2015); TAN 2: Planning and Affordable Housing (2006); TAN 4: Retailing and Town Centres (1996), TAN 5: Nature Conservation and Planning (2009); TAN 6: Planning for Sustainable Rural Communities (2010); TAN 8: Renewable Energy (2005); TAN 12: Design (2016); TAN 15: Development and Flood Risk (2004); TAN 16: Sport Recreation and Open Space (2009); TAN 18: Transport (2007) and TAN 23: Economic Development (2014).
14. PPW is the overarching national planning policy document that guides planning and development in Wales. Chapter 4 *Planning for Sustainability* places achieving development that is economically, socially and environmentally sustainable at the heart of planning decision making in Wales. The planning system provides for a presumption in favour of sustainable development when taking decisions on planning applications. Amongst other things, PPW emphasises:
 - promoting resource-efficient and climate change resilient settlement patterns that minimise land take, especially through preference for re-use of suitable previously developed land and buildings;
 - promoting development that is easily accessible by public transport, cycling and walking whilst recognising that in rural areas development might not be able to achieve all accessibility criteria in all circumstances;
 - conserving the countryside for the sake of its attributes, including landscape, and balancing that requirement against the economic, social and recreation needs of local communities;
 - locating development in the countryside within and adjoining settlements where it can best be accommodated in terms of infrastructure, access and habitat and landscape conservation;
 - providing more housing of the right type which should be well integrated with and connected to the existing pattern of settlements;
 - strictly controlling house building in the open countryside which is away from established settlements.
15. Paragraph 9.2.3 of PPW requires local planning authorities to ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of housing land. TAN 1 explains that the housing supply figure will be taken from the current Joint Housing Land Availability Study (JHLAS). Paragraph 6.2 of the TAN provides that where such a study shows a supply below 5 years that the need to increase supply should be given considerable weight when dealing with development that would otherwise comply with development plan and national planning policies.
16. Paragraph 4.9.1 of PPW refers to the use of previously developed land as being preferential to the use of greenfield sites.

¹ Inquiry Documents 1 (viii) Planning Statement of Common Ground – March 2016

17. TAN1 advises that local planning authorities must ensure that sufficient land is genuinely available to provide a 5 year supply of land for housing. In accordance with paragraph 6.2, the results of the Joint Housing Land Availability Study (JHLAS) should be treated as a material consideration in determining planning applications for housing.
18. TAN 18 recognises that the location of new residential development has a significant influence on travel patterns and requires appropriate levels of access by walking, cycling and public transport for new residents and the wider community to local services. It adds that where a development proposal is assessed as having relatively poor accessibility this may be sufficient grounds to refuse planning permission.
19. Both parties have referred to the emerging Wrexham Local Development Plan (2) (2013-2028) (LDP), and associated evidence base including background and consultation papers. The plan is at an early stage of preparation and is not expected to be adopted until sometime after 2018.

The Proposal

20. The appeal application is made in outline form with all matters except for access reserved for subsequent approval.
21. The proposed scheme seeks the redevelopment of land at Hafod Tileries for a proposed mixed use development of up to 300 (use class C3) residential dwellings including a 20% affordable housing provision, 465 sqm (use class B1, B2 & B8) business, industrial & distribution units, 235 sqm (use class A1) retail, ecological enhancement, landscape, open space, highway improvements and associated works'. The indicative Masterplan shows that the dwellings will be located to the northern portion of the site, with the southern half of the site, save for an area along Bangor Road reserved for the B1,B2,B8 & A1 business and commercial uses, being used for areas of formal and informal public open space (POS) including an attenuation pond and informal play area; in addition there will be a Great Crested Newt reserve (GCN) extending to some 5.82 hectares. The proposed access to serve the site would be off Bangor Road via a new roundabout. Other works include an existing footpath along Bangor Road leading into Johnstown being widened to 2 metres, in addition to a new 3 metre wide footpath/cycleway along Hafod Road.

Agreed Facts

22. The main parties have agreed separate statements of common ground dealing with planning, highways and ecology. Matters in agreement include there is not a 5 year supply of housing land in the County Borough of Wrexham, that the provision of 20% affordable housing is acceptable, in technical terms the proposed site access arrangements onto Bangor Road are suitable to serve the development, the proposed development is not likely to be detrimental to the maintenance of the favourable conservation status of the GCN population locally, nor will the scheme affect the character and integrity of the Site of Special Scientific Interest (SSSI)/SAC, that the proposed development provides a substantial amount of publicly accessible open space, and that a contribution will be required in regards to local primary school provision.

The Case for Gladman Developments Limited

The overall planning and housing context

23. The UDP from which the policies are drawn, the policies on which the Council relies to justify its refusal of the application, is time-expired. The UDP covered the period 1996-2011. It is now 5 years beyond the end of the plan period. That alone means that the UDP is not up-to-date. The Council has clearly acknowledged that fact. The Council's Housing Land Monitoring Statement 2015, explaining why the Council is not in a position to produce a joint housing land availability statement, expressly refers at its very outset to *"the absence of an up-to-date UDP"*. The Council's single witness during cross examination did not dissent from any of these propositions.
24. The housing requirement for the County Borough in the UDP for the period 1996-2011 was 5,775 dwellings. The settlement limits defined in the UDP were set in the context of providing for that housing requirement. The emerging LDP now envisages the development of 11,715 new homes to deliver a housing requirement over the period 2013-2028 of 10,615 dwellings. The requirement figure is approaching double that of the former UDP. The new requirement will involve finding capacity for 6,738 houses. The Council admit in their proof of evidence of, a *"significant"* or *"pressing"* need for additional land.
25. The Council has recognised for some time that it will have to release land outside the UDP's settlement limits if it is to meet its emerging requirement. Thus the Vision, Objectives and Strategic Growth and Spatial Options document (that is, the issues and options stage of the Local Development Plan ("the LDP")), which was consulted on in March-April 2015, states in paragraph 5.15 that *"the urban capacity study (2013) identifies a shortage of suitable, available and deliverable brownfield sites within the existing settlement limits. Whilst some of these brownfield sites may be developed as windfall sites over the plan period, the quantum of new development required cannot be met without considering the need for the release of greenfield land currently on the edge of, but outside the existing settlement limits."* The fact that current settlement limits will have to be breached to meet housing requirements is thus apparent.
26. The matter was expressed with stark clarity in the officer's report in respect of proposed housing development at Gresford Road, Llay²: *"it will not be possible to significantly increase the supply of land available for housing unless planning permission is granted to develop appropriate sites located outside of existing settlement limits. Indeed, the decreasing housing land supply in recent years suggests that the current UDP settlement boundaries are becoming a significant constraint to providing the land that is needed to meet the housing requirements of the County Borough."*

² Appendix 9 of Mr T Jeremiah's proof of evidence

27. The conclusion that the UDP settlement limits are out of date is irresistible. They must be given significantly reduced weight. That is entirely in line with paragraph 2.8.4 of PPW which states that it is for the decision-maker to determine whether policies in the adopted UDP are outdated for the purposes of determining a planning application but advises that, where such judgment is made, local planning authorities should *"give the plan decreasing weight in favour of other material considerations such as national planning policy, and the presumption in favour of sustainable development."*
28. The Preferred Strategy version of the LDP recognises in terms that, in key settlements (which form tier 2 of the settlement hierarchy) and of which Johnstown (along with its neighbour of Rhosllannerchrugog) is one, *"settlement limits may change in the Deposit Plan to include allocations (sites that can deliver 10 or more units) for new housing development in some of these areas."*

Five year housing land supply

29. The need to have a five year housing land supply is set out in paragraph 9.2.3 of PPW. This is a key planning policy requirement as paragraph 2.1 of TAN1 emphasises.
30. The position in Wrexham is straightforward. Because the UDP is out-of-date and the LDP has not been adopted, then, in accordance with paragraphs 8.1 and 8.2 of TAN1, the Council is unable to demonstrate whether it has a five year supply or not (because it has no requirement figure to which it can work). Thus Wrexham is to be treated as not having a five year supply. In practice, it is a zero supply authority (as the Housing Land Monitoring Statement 2015 makes clear). The last joint housing land availability supply figure (for 2014) was only 3.1 years' supply.
31. The fact that the UDP cannot be treated as providing an appropriate basis for a housing requirement figure for a joint housing land availability statement is another indicator that the UDP's approach to housing is out-of-date. And the fact that the Council cannot meet its five year requirement shows that settlement limits constraining the ability to do so cannot continue to command significant weight.
32. On the contrary, the position is as set out in paragraph 6.2 of TAN1 which is that the need to increase supply should be given considerable weight. The qualification found in paragraph 6.2 – *"provided that the development would otherwise comply with the development plan"* – is not to be interpreted as leading to some other conclusion on weight in such circumstances because, if there were otherwise compliance with the development plan, a proposal would be approved anyway and the weighting advice in paragraph 6.2 would then be otiose. The proviso is simply a reminder that the considerable weight to be given to the need to increase supply must be balanced against non-compliance with the development plan. That is how the matter is approached in practice in appeal decision-making (as to which, see the paragraph below). But, of course, if policies in the development plan are out-of-date, then the counter-balance to the considerable weight to be given to the need to increase supply is of diminished weight in any case.
33. Recent appeal decisions in Wrexham demonstrate very clearly the weighting to be given to the lack of a five year supply or, to put the matter the other way round, the need to increase supply:

- Rhosrobin appeal decision³ – lack of a five year supply weighed heavily in favour of the proposed development (paragraph 25 of the decision letter)
 - Gresford appeal decision⁴ – lack of a five year supply carried considerable weight (paragraph 19 of the decision letter)
 - Minera appeal decision⁵ – the lack of housing land carried significant weight (paragraph 16 of the decision letter).
34. These weightings were applied notwithstanding the conflict of the proposals in the above cases with the Green Barrier policy (Policy EC1) of the UDP (more of which later), underlining the point made in the paragraph above about the correct approach to paragraph 6.2 of TAN1.
35. No different conclusion could be reached in the present case. The lack of a five year supply/the need to increase supply carries considerable weight here. The Council accepted as much⁶.

Brownfield land issues

36. National and local policy express a strong and clear preference for the use of brownfield land. Paragraph 4.9.1 of PPW states that *"PDL should, wherever possible, be used in preference to greenfield sites, particularly those of high agricultural or ecological value."* The appeal site in this case not only lies close to the present settlement boundary of Johnstown but it is also a site which contains a substantial body of previously developed land and which housed the former Dennis Ruabon Tileries which have left a legacy of dilapidated and derelict buildings on the site together with abundant hardstanding. It is right to note that paragraph 4.9.1 requires that brownfield land should otherwise be suitable for development but that qualification is met in this case (as set out below).
37. At the local level Policy PS3 provides that *"development should use previously developed brownfield land comprising vacant, derelict or underused land in preference to the use of greenfield land, wherever possible, particularly so where greenfield land is of ecological, landscape or amenity value or comprises agricultural land of grades 1, 2 or 3a quality."* The appeal site does comprise, at least in substantial part, vacant, derelict or underused land and is four square in accordance with Policy PS3. The Council does not raise PS3 as a reason for refusal.
38. It is also of relevance that brownfield capacity in the County Borough is limited. Paragraph 3.2 of BP2: Settlement Hierarchy and Development Potential (revised February 2016)⁷ makes it clear that the majority of brownfield sites have been developed, that it is apparent that the housing requirement cannot be accommodated

³ Appendix 7 of Mr T Jeremiah's proof of evidence

⁴ Appendix 3 of Miss S Holman's proof of evidence

⁵ Appendix 4 of Miss S Holman's proof of evidence

⁶ During cross examination of the Council's planning witness S. Holman

⁷ Appendix 1 of Miss S Holman's proof of evidence

on brownfield sites alone and that greenfield allocation is inevitable "*due to the limited capacity on brownfield sites.*" Suitable and available brownfield land such as found on the appeal site is thus a premium resource. Its development would reduce the need to release less preferable greenfield land for new housing. The Council witness accepted these matters in cross examination.

39. The search sequence which is set out in paragraph 9.2.8 of PPW in respect of housing allocations in development plans provides that the starting point should be "*the re-use of previously developed land and buildings within settlements, then settlement extensions and then new development around settlements with good public transport links.*" It is plain in this case that the Council cannot meet its pressing need for additional land for housing on previously developed land within settlements. It is equally obvious that, if previously developed land within settlements cannot provide the required extra capacity, previously developed land outside settlement limits should, providing it is otherwise suitable (which the appeal site is), take sequential preference over greenfield land outside such limits.
40. Insofar as there is a difference between the parties on the extent of the appeal site which is brownfield land (assessed in accordance with the definition in figure 4.4 of PPW), it is submitted that the appellant's assessment is to be preferred to that of the Council. However, the Council witness did accept in cross examination that land to the west of the area she had shown as brownfield (that is, the land where the former LPG tanks, etc. had been) was previously developed land as was the land to the south where there was a refuse tip. The speculative observation as to the lawfulness of this use does not alter matters; whether there has been a breach of planning control or not is uncertain one way or the other. However, previously developed land is a policy construct depending on a factual state of affairs, not on issues of lawfulness. It is to be distinguished from, for example, a permitted development right which, if it were based on an existing use would depend on the lawfulness of that use. In any event, the vast majority of the proposed new housing development in this case would be built on the land (the former factory and its curtilage) which the Council considers to be brownfield.

The policy status of the appeal site in the UDP

41. The policy status of the appeal site in the UDP is an entirely separate matter from whether the appeal site is greenfield or brownfield. The former matter turns on the interpretation of the UDP; the latter matter turns on the application of the definition of previously developed land in PPW.
42. Policy PS1 of the UDP provides that "*new development for housing, employment and community services will be directed to within defined settlement limits/employment areas.*" The policy thus provides that new employment development can take place on "*employment areas*". These areas are not simply employment allocations. If that were so, the policy would have used the term employment "*allocations*" rather than employment "*areas*". Employment areas are made up of the employment allocations in the UDP and those sites with planning permission for employment as at 1st April

2001 as set out in Appendix II of the UDP. The re-determined planning appeal⁸ (the decision letter for which is dated 1st November 2012) makes it quite clear that the whole of the 17.6 ha site adjacent to Dennis Ruabon on Hafod Road which is referred to in Appendix II (table 6) of the UDP is an employment area. That is the site which was the subject of the 1994 planning permission for industrial development. The view of the Council put forward in the Council's proof of evidence that the inspector in the re-determined appeal was referring only to the existing factory and its curtilage as the employment area is simply wrong and was accepted as such when their planning witness was under cross examination. The Council has thus proceeded on the basis of a serious misunderstanding of matters. The Inspector was, as the Council now accepts, clearly referring to the whole 17.6ha site with planning permission identified in Appendix II (table 6) of the UDP. The Council accepts that the factory and its curtilage is an employment area. But so also is the rest of the appeal site as that is encompassed in the 1994 planning permission.

43. As such, development is acceptable in principle on the appeal site as a matter of planning policy. The fact that that would have to be for employment purposes does not alter the fact that the appeal site may be built on under present UDP policy. This is a material consideration which cannot therefore be ignored although its weight might be influenced by the likelihood of any employment development proposal coming forward. Moreover, the fact that the whole of the appeal site is an employment area goes to the assessment of the conformity of the employment element of the scheme with the UDP. The employment element of the appeal scheme is fully in accordance with Policy PS1: it is employment development on an employment area. This is, I stress again, an issue of whether this element of the development is in accordance with the development plan. It is not an issue about the weighting of Policy PS1. Moreover, it follows from this reasoning that Policy E5 (employment development in the countryside) is irrelevant. This was not a policy relied on by the Council in the reason for refusal although is touched on in the Council's proof of evidence. But the point here is that policy cannot sensibly apply to control employment development in an employment area. The Council witness accepted in cross examination the substance of the points made in this paragraph.
44. The response of the Council to these matters was to say that the Council disagreed with the inspector's decision and/or that it should not be given weight. That is an unconvincing line to take and simply does not reflect the Council's past approach. The Council itself signed up to the consent order⁹ which quashed the original Inspector's decision on the basis that there had been error on the part of that Inspector in concluding on the evidence available that the site under consideration (Eco-Readymix) did not have a lawful employment use. And the Council never sought to challenge the decision letter of 1st November 2012 on the re-determined appeal. So it is hard to see how the Council can now say that it disagrees with the Inspector's conclusion. The time and the opportunity to establish that disagreement has passed. Moreover, there is no reason not to give weight to the Inspector's decision letter of 1st November 2012 (which, it is to be noted, is a different matter from the weight to be

⁸ Appendix 11 of Mr T Jeremiah's proof of evidence

⁹ Appendix 10 of Mr T Jeremiah's proof of evidence

given to Policy PS1). No change of circumstances has been identified arising after that decision letter which might lead to the conclusion that it should no longer be followed. After all, the lapse of the 1994 permission in 2004 which the Council seeks to rely on long pre-dates the events of 2012 and could hardly have been unknown at that time. For better or worse, employment areas are defined in the UDP not just by reference to allocations but also by reference to sites with an employment permission at a fixed point in time.

An unsustainable location which would not encourage alternative means of travel to the car

45. The Appellant does not accept that the appeal site is unsustainable from an accessibility perspective and that it would not encourage alternative means of travel to the car. The appellant's highway evidence that the appeal site is accessible and that residents of the proposed housing will have a good opportunity to undertake walk, cycle and public transport trips should be accepted and should, unequivocally, be preferred to that of the Council's.
46. The Council's objections to the development on the score of accessibility by non-car modes appear to centre on walking distances to facilities in Johnstown and the level of service provided on the No 6 bus route, as well as the walk distances to bus stops on High Street/Ruabon Road. The ability of the appeal proposals to encourage alternative means of travel to the car in the form of cycle trips was not contested by the Council under cross examination.
47. The Council's evidence and position in relation to walking is seriously flawed. It is based on "*common sense*" as stated by their witness, but has not had any regard to any published guidance or to any empirical evidence. Common sense may have its place but it is not satisfactory for judgments to be formed and conclusions reached in the absence of regard to plainly relevant material.
48. Manual for Streets provides that walking offers the greatest potential to replace short car trips, particularly those under 2km. That important guidance is more than borne out by the empirical evidence of the National Travel Survey 2012 ("the NTS") (produced by the Department for Transport)¹⁰ which is a document which can, and should, be given significant weight. It confirms that 77% of all trips of less than a mile (1.6km) were carried out on foot. Measured against that appropriate yardstick, there is a good range of facilities within Johnstown which can be conveniently accessed on foot from the proposed housing development on the site, whether its "centroid" (use of which is a wholly conventional approach) is located in the position agreed with the highway authority or were it to be moved some 150m north in accordance with the suggestion put to the appellant's highway witness. The quality of the link along the improved footway provision on Bangor Road is not in issue. The Council's case is bald assertion based on un-informed evaluation of what amounts to a reasonable walking distance.
49. There is a further difficulty with the Council's evidence and position. That is that it does not reflect the view of those officers of the Council who might be thought to be in the best position to judge the matter. The highway authority takes no point in

¹⁰ Inquiry Documents 5 (ii)

relation to the lack of accessibility of the site in relation to walk distance (or, indeed in relation to non-car modes of travel at all). Its revised consultation response states in terms that *"a significant number of pedestrians are likely to use the proposed access road to leave the site via the roundabout and then walk along the footway adjoining B5426 Bangor Road"*. The Council's attempt under cross examination to read down the word *"significant"* in that response as a qualification attached to some (unspecified) sub-group of site pedestrians did the Council's case no credit and had all the hallmark of special pleading to argue a case. The appellant's highway witness observed under cross examination, why would the highway authority have gone to the trouble of agreeing footway improvements along Bangor Road if it had thought that there would be no significant use of the same to or from the site by pedestrians?

50. The Council had a particular concern about walking to school in Johnstown. However, the NTS reports that *"for trips to school less than 1 mile in length, walking was the most prevalent mode of travel for both primary and secondary school children, accounting for 79% and 89% of trips respectively."* The appellant's highway evidence was that all the housing on the site would fall within 1 mile of both the infants and the junior school in Johnstown with the distances to the same (accessed via Bangor Road), measured from the very last house in the top north east corner of the site, being 1,600m to the infants school and 1,450m to the junior school. The position is not materially altered were one to proceed on the basis of the Council's measurement of 1,650m to the very last house. And, to put the matter in a wider context, the NTS also confirms that the average trip length for primary school children in 2012 was 1.8 miles (2,880m). Considered in the light of evidence rather than some mercurial standard of the Council witness's own devising, the appeal site provides reasonable walk accessibility in respect of primary schools. Secondary schools are within comfortable cycling distance.
51. The nearest bus stops from the appeal site (on Heol Orsaf and Snowdon Drive) are within 800m and a reasonable walking distance on any view of matters. To characterise the hourly service provided by the No 6 bus from those stops as an unsatisfactory frequency (as the Council appeared to do) is exaggerated. The point that the last No 6 bus in the evening would leave too early for someone returning from Wrexham if working a normal day would no longer appear to be factually correct in the light of the latest communication¹¹ from the bus operator which states that there is now a service which departs Wrexham at 17:45. In any event, the point is more than offset by the ready availability of numerous other (and frequent) services from Wrexham stopping on High Street/Ruabon Road at later times. Those bus stops are within 1,200m of the appeal site, a 15 minute walk. And, as the appellant's highway witness explained, it is also important to have regard to overall journey length such that the 15 minute walk to/from these stops from/to the appeal site combined with the short bus journey to/from Wrexham (as little as 10 minutes in some cases) would make for no more than a 25-30 minute journey overall for, say, a resident of the appeal site who worked in Wrexham. Bus provision will be further enhanced by the diversion of the No 6 service into the site (an arrangement funded by an appropriate contribution in the planning obligation) with at least some prospect (thought to be reasonable by the Appellant's highways witness) of a service running

¹¹ Inquiry Documents 4 (v)

at a later time than at present. The Appellant's conclusion that the appeal site provides good opportunity for bus trips is more than justified.

52. The retail unit on the site has not been put there to bolster sustainability for fear that the development might be considered unsustainable without it. The Appellant's highway witness explained its provenance which is borne out by the documentary material (Gladman's candidate site submission and the UDP proposals map) and not challenged. The development is sustainable without such provision but the presence of a retail facility on the site will bring an added benefit in terms of convenient access to a local shop.

An illogical extension to the settlement/a failure to maintain settlement pattern?

53. The reason for refusal asserts that the development would represent an illogical extension to the settlement of Johnstown. Gladman and the witnesses it has called do not accept that this would be the case; the proposed development would represent a logical extension to Johnstown. If that be right (which it is submitted it is), no further point could be taken against the development in terms of a settlement pattern objection.
54. Before dealing with the issue of "*logic*", it might be noted to begin with that there is no reason why Johnstown should not be extended. In the existing UDP it is classed (along with Rhosllannerchrugog) as an urban village which classification stands second in the settlement hierarchy below Wrexham itself. In the Preferred Strategy it is a key settlement falling, again, in tier 2 of the settlement hierarchy. Johnstown is a sustainable location for growth.
55. Turning to "*logic*", this is a commonly employed notion when judgments are made about settlement extensions. However, the use of this term should not be allowed to obscure the fact that what is actually required (as accepted by the Council's witness) is a rounded or holistic planning judgment taking into account all material considerations.
56. Yet the abiding impression of the Council's case is that all its eggs are in the single basket of spatial separation: the housing component of the scheme would, it says, be spatially separated from Johnstown by the railway line and the SAC. True it is that, in plan form (rather than as perceived on the ground), the proposed housing development would be so separated. However, the railway line is not a fixed barrier let alone some kind of insuperable obstacle; it can be crossed by the Bangor Road underbridge which will be provided with an improved pedestrian footway which fits the requirements of the highway authority. There is also a crossing of the railway line further north (at the pedestrian underpass) which links the country park to the existing residential area (providing an example of already existing functional linkage across the railway line between Johnstown in the west and the recreational area in the east. Moreover, the spatial separation of built areas in the vicinity of the appeal site by a SAC is already a feature of the character of the area and its settlement pattern given the SAC between Johnstown and Rhosllannerchrugog.
57. It is submitted that a rounded or holistic judgment as to the appropriateness of the appeal site as a settlement extension should be informed, not just by the above, but by all the following factors (the basis of which was put to and largely accepted by the

Council's witness in cross examination) set out in the bullet point list below. Each point is accompanied by the judgment which, it is submitted, is appropriately made in respect of the same:

- The distance of the proposed housing on the appeal site to facilities in Johnstown – in this respect (as set out above) there is a good range of facilities within the settlement which can be conveniently accessed on foot within 1 mile from the proposed housing development on the site.
- The quality of the linkages to the settlement – an improved footway and cycle link is provided along Bangor Road which will (as above) meet all the requirements of the highway authority.
- The historical relationship of the appeal site to Johnstown – it is clear from the evidence that Johnstown grew to provide housing for workers at the former Hafod Tileries on the appeal site (and the former Hafod Colliery to its north); the affordable housing officer of the Council speaks of the "*strong associations*" of the appeal site "*with the town*" and considered, indeed, that the appeal site "*could be seen as forming a logical extension to the nearby town*".
- The planning history of the appeal site – it has been allocated in the past for employment use (no doubt in recognition, in part, of its proximity to Johnstown).
- The planning status of the appeal site – it is (as above) an employment area in the UDP and thus is appropriate for built development.
- The constraints to settlement expansion in other locations – Green Barrier designation rules out most of the land around Johnstown save a small area to the north rendered unsuitable by the presence of power lines.
- The greenfield or brownfield nature of the land – how much more logical could it be to build housing on suitable brownfield land in good proximity to a settlement rather than on greenfield (or even Green Barrier) land?
- The effect of development on the appeal site on the character and appearance of the area – this matter is picked up below; the Council's case on this issue is all but devoid of any substantive content.

58. Ultimately it is the appellant's case that the issue is one of whether there would be planning harm; there would be none in this case.

An isolated development in a rural landscape which would not accord with the character and appearance of the area?

59. The appeal site is not isolated in terms of accessibility by non-car modes of transport for reasons already given.

60. The appeal site does not lie in a rural landscape. The Council backed away from this in evidence and referred to a semi-rural landscape although, in truth, the Council had not done any character assessment at all. The appeal site is influenced by: the existing buildings of the former Hafod Tileries; the employment uses to its immediate north; the landfill site to its south; the settlement edge of Johnstown to its west; the nursing home to its east; and the none-too-distant A483 further to the east. It is hardly pristine open countryside in landscape and visual terms, whatever its policy status. The present character of the appeal site and its more immediate surroundings is mixed. The development proposed would not be out of character, as explained by the appellant's landscape architect. The significant green infrastructure proposed as part of the appeal scheme would, in fact, have a beneficial effect.

61. Widening the focus of the character assessment somewhat, in terms of existing, documented material, the appeal site lies within area 7c (Rhosllannerchrugog – Rhostyllen – Ruabon – Pen y Cae) as set out in the Wrexham LANDMAP Supplementary Planning Guidance (March 2007) (“the SPG”)¹². The SPG is nowhere referenced by the Council. The overall summary of character area 7c in the SPG is that it is “*closely-built*”. The emphasis here is on built form, not on rurality. The appellant points out the obvious contrast between the overall summary in the SPG of area 7c (“*closely built*”) and the overall summary in the same document of the next character area to the east (13a – Welsh Maelor) – “*attractive undulating lowland farmland*”. In regards to the suggestion that a key characteristic of visual character identified in relation to area 7c in the SPG is ‘undulating farmland’, it would be difficult to choose a more inappropriate characterisation of the appeal site. Again, the proposed development would, it is argued, not be out of character with area 7c but would lead to improvement in character.
62. As for matters of appearance, the LVIA¹³ submitted with the application and the updated assessment¹⁴ submitted by the appellant’s landscape architect are an appropriate, structured assessment of visual matters from a representative selection of viewpoints. No challenge has ever been made to the LVIA’s visual analysis (or indeed its landscape analysis). The Council provides no visual assessment in their proof of evidence. The Council’s delegated officer report that accompanied their assessment of the application is similarly lacking in any detail. The currency in which the Council’s evidence and the delegated report deal is unvarnished assertion rather than considered analysis. The claim by the Council that houses would appear out of context and isolated on the appeal site is not supportable. On the other hand the appellant’s landscape evidence has demonstrated very clearly that from those longer distance views which allow an appreciation of the appeal site in its wider setting, the proposed housing development on it would not be seen in isolation but would appear in the context of the existing built form of Johnstown. Closer range visibility is, as has also been demonstrated by the appellant, very restricted and contained within a limited visual envelope. And where close range views would be more readily available, the replacement of dilapidated buildings and associated untidy hardstanding with well-designed new houses would represent a visual improvement. New houses along the eastern margin of the site softened by appropriate planting would replace the abrupt hard edge formed by the present dilapidated industrial buildings and achieve a much better transition between the site and the more open land to the east.
63. The hypothetical scenarios (a site cleared of buildings or a light industrial development) put to the appellant’s landscape witness in cross examination are nothing to the point (as there are no proposals for the same before the inquiry) and, for good measure, also misconceived in being based on a comparative merits assessment rather than the proper approach of considering whether the appeal proposals are acceptable in their own right.

¹² Appendix 12 of Mrs E Fry’s proof of evidence

¹³ Inquiry Documents, Core Documents Folder 1, CD 1.6

¹⁴ Mrs Fry’s proof of evidence

Weighting of UDP policies and accordance of the development with them

64. Policy PS1 has already been set out above. The development does not comply with this policy in that it proposes housing development outside the settlement limits of Johnstown. However, for reasons already explained, those settlement limits are out of date and can only command significantly reduced weight. Correspondingly, the requirement of this policy that development be confined to settlement limits is also subject to the same diminished weight.
65. Policy PS2 provides that *"development must not materially detrimentally affect countryside, landscape/townscape character, open space, or the quality of the natural environment."* For reasons already advanced, the development does not conflict with this policy. It does not detrimentally affect countryside or landscape/townscape character but improves the same. Similarly, open space is enhanced. There is no detrimental effect on the natural environment.
66. Policy PS3 has been set out above. The development complies with this policy.
67. Policy PS4 provides that *"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."* As an appropriate extension to the settlement of Johnstown (for the reasons set out above), the development does not conflict with the requirement of this policy to maintain the existing settlement pattern and character. As has also been shown above, the development will be integrated with the existing transport network and will both help to reduce the overall need to travel and encourage the use of alternatives to the car.
68. Policy GDP1, so far as relied upon by the Council provides that *"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 positive contribution to the appearance of the nearby locality ...*
 - 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 transport facilities, and is well related to pedestrian and cycle routes wherever possible."*
69. The development complies with criterion a) of the policy. It will accord with the character of the site, with its mix of urban and natural influences, and will make a positive contribution to the appearance of the nearby locality in removing buildings in a poor state of repair, unattractive hardstanding and the general detritus of a former industrial site. The development also complies with criterion d) of the policy. It will ensure safe and convenient pedestrian and vehicular access to and from the site. Finally, the development complies with criterion e) of the policy. The appeal site has convenient access to public transport facilities and is well related to pedestrian and cycle routes.

70. Policy H5 deals with housing in the countryside and provides that, outside defined settlement limits, new dwellings will only be permitted in certain limited circumstances. Those circumstances are not applicable here. The appellant has never shied away from the fact that the development conflicts with this policy (if housing development on an employment area were to be treated as housing in the countryside). However, the position which obtains here is the same as with Policy PS1. Settlement limits are out of date and can be given only significantly reduced weight. Correspondingly, the requirement of this policy that development be confined to settlement limits is also subject to the same diminished weight.
71. Policy E5 (employment development in the countryside) is not a policy which formed part of the Council's reason for refusal. It is, in any event, irrelevant for reasons already set out.
72. Policy S7 relating to retail outlets in the countryside was not deployed by the Council in its reason for refusal against the A1 component of the development although it is touched on briefly in the Council's evidence. The Council however confirmed that the Council was not relying on the same in cross examination. In any event, a more appropriate policy yardstick in this case for the retail element of the proposal (albeit this element is not within settlement limits) is Policy S6 dealing with local need shopping. The reasoning put forward by the planning officer in the committee report for the Gresford Road, Llay proposal¹⁵ is applicable in the present case also: *"despite the fact that policy S6 only applies to sites within settlement limits, I am of the opinion that the policy is more relevant to this proposal than policy S7. The proposed retail unit would be developed in conjunction with a large housing development and not in isolation. So in the context of the development as a whole it would be located within a built up area rather than in the countryside."* Approached on this basis, there is no conflict with Policy S6 in the present case.
73. The Council seek to rely on two recent appeal decisions¹⁶ in Wrexham for the proposition that significant weight should be given to the UDP and the policies in it. However, quite apart from the fact that those cases represented decisions on their own merits, they each had a crucially different feature (shared also with the Rhosrobin appeal decision). The cases were ones where the Green Barrier policy (Policy EC1) of the UDP was engaged. Such cases are a world away from the present. The Green Barrier is all but equivalent (save in respect of its long term permanence) to a Green Belt. Subject to strictly controlled exceptions, built development is inappropriate in a Green Barrier. Openness (in the sense of absence of built development) is at the heart of the policy. Substantial weighting attaches to any harmful impact. Very exceptional circumstances must be shown in order for inappropriate development to be permitted. The present case does not involve a Green Barrier. The housing development proposed is not even on greenfield land let alone a Green Barrier. It is one of the merits of the present proposal that it could potentially avoid the need for Green Barrier release.

¹⁵ Appendix 9 of Mr T Jeremiah's proof of evidence

¹⁶ Appendices 3 & 4 of Miss S Holman's proof of evidence

74. It is also to be noted that neither the Gresford appeal decision nor the Minera appeal decision relied on by the Council had anything to say about the weight of Policy PS1 or Policy H5 or, indeed, on the more general question of whether settlement limits were out of date.
75. In any case, there are powerful material considerations which point to a decision otherwise than in accordance with Policies PS1 and H5. Amongst these are: the absence of a five year supply and the contribution of the appeal proposals to remedying the deficiency in providing market housing which is required now; the equally significant benefit of the delivery of much needed affordable housing; the re-use of brownfield land; and the beneficial improvements to the character and appearance of the site.

Planning Policy Wales

76. Paragraph 4.2.4 of PPW is engaged in this case in that (for reasons already explained), relevant development plan policies should be considered outdated or superseded. In these circumstances there is a presumption in favour of proposals in accordance with the key principles and key policy objectives of sustainable development in the planning system. The proposals in this case are in accordance with the key principles and key policy objectives of sustainable development for all the reasons set out in appellant's evidence.
77. The proposals are thus sustainable and enjoy the benefit of the presumption in favour of sustainable development embodied in PPW.

The benefits of the proposals

78. The contribution of the proposals to remedying the deficiency in the supply of market housing is a benefit which (as explained above) is entitled to considerable weight.
79. The benefit of the proposals in providing much-needed affordable housing is likewise a factor of significant weight. This is plainly not a matter which goes to mitigation (in that it does not address an issue created by the scheme but a pre-existing need) and the weight attached to the benefit is not to be reduced on the basis that market housing development should in any event make provision for an affordable contribution. The importance of a 20% (60 units) affordable housing contribution in this case is underscored by the evidence contained in BP2: Settlement Hierarchy and Development Potential which highlights that the Cefn Mawr/Rhos sub-area does not have sufficient viability to provide affordable housing and that the broad potential affordable housing viability threshold here is 0%. Further factors emphasising the importance of the contribution in this case are: an annual shortfall in Wrexham of 157 units per annum; the particular need in Johnstown which has a high demand for social housing as evidenced by the Council's waiting lists; and the full and unequivocal support offered to the proposal at all stages by the Council's affordable housing officer¹⁷. The provision of affordable housing will enable people with existing

¹⁷ Inquiry Documents, Core Documents Folder 3, CD 4.1 & CD 4.2

connections to the area to stay within the community and provide others with the opportunity to live there.

80. The proposals are also beneficial in providing an additional retail and employment facility. These will benefit all in the area, not just scheme residents, and result in the creation of part time and full time employment opportunities for local people.
81. To the social benefits addressed above are to be added economic benefits, none of which is in issue for the Council. The proposals will result in construction spend and associated employment creation, will generate expenditure in the local economy by future residents (which will help sustain shops, services and facilities) and will realise extra council tax revenue for the local authority.
82. The footway and cycleway improvement will be of benefit to all users and not just scheme residents. So also is the case with the further bus added to the No 6 service. The improvement of existing rights of way within the site will be of benefit to all network users.
83. Environmental benefits are achieved in the form of an improvement in the character and appearance of the area, the redevelopment of a site which makes no positive contribution at present and a significant increase in green infrastructure and publicly accessible open space. The addition of a significant area of managed great crested newt habitat will provide an ecological and biodiversity improvement.

Overall conclusions

84. The limited conflict of the proposals with the development plan is with policies (PS1 and H5) which are out of date and subject to significantly reduced weight. There are in any event powerful material considerations which indicate that a decision otherwise than in accordance with those policies is appropriate. The scheme benefits are considerable and the planning balance clearly points to consent being given. The development enjoys the benefit of the presumption in favour of sustainable development. The Council's reason for refusal is unsubstantiated.
85. Accordingly, it is respectfully submitted that the appeal should be allowed and that the recommendation to the Welsh Ministers should be that planning permission should be granted.

The Case for Wrexham County Borough Council

86. It is the Council's case that in the circumstances the reason for refusal as aforesaid are justified and reasonable, and as such the Inspector is respectfully requested to recommend within his report to the Welsh Ministers that the Appeal be dismissed.

Issues

87. At the outset of the Inquiry the following issues were identified:
 - (i) Does the Development provide a suitable site for housing and mixed use having regard to sustainability, development plan policies, settlement limits and land supply for housing ?

- (ii) Whether future occupancy of the proposed development would be provided with adequate opportunity to travel by means other than private car so contributing to a sustainable pattern of development.
 - (iii) What is the effect of the Development upon the character and appearance of the area ?
88. In respect of the above issues other matters upon which additional information was required included:
- (a) Site Planning History and extent of previously developed land;
 - (b) Weight to be given to the UDP and LDP;
 - (c) Sustainability of the site, National Planning Policies and 5 year land supply;
 - (d) Sustainability in terms of walking / cycling distances and proper public transport;
 - (e) The character of the area and how the proposal would affect the same.
89. All the above issues are clearly interrelated and within the submissions that follow the above main issues are addressed individually with reference as appropriate to the specific information referred to above.

Does the Development provide a suitable site for housing and mixed use having regard to sustainability, development plan policies, settlement limits and land supply for housing ?

90. This first issue can be further sub-divided as follows:

Nature of the Site

90. Despite in numerous sections within the proofs submitted on behalf of the Appellant the appeal site being referred to as brownfield site, it is clear only part of the area is brownfield with the remainder being greenfield land with established hedgerows, trees and other vegetation. In this regard attention is drawn to the plan at paragraph 1.2 in Ms Holman's proof of evidence as qualified by her answers in cross examination that accepted the area to the North East of the Dennis Ruabon works as being brownfield. Other than the refuse tip the remainder of the site is greenfield.
91. The Council's evidence defined 'Successional Habitat' as land reclaimed over time and the appellant's planning witness confirmed that other than the brownfield area as discussed above the remainder was "physically greenfield due to regeneration". This was the proper and only reasonable concession bearing in mind the exclusion of "land where the remains of any structure or activity have blended into the landscape over time, so that they can reasonably be considered part of the natural surroundings" from the definition of brownfield (PPW Figure 4.4).
92. During the course of the Inquiry there was evidence presented as regards the square area of land that can be seen in the aerial photo [at appendix 13 figure 11 to the

proof of evidence¹⁸ of the appellant's landscape witness] referred to during the Inquiry as "the refuse tip". The Council's witness recalled it having been "ever changing" over time and not being in that form in 2013 whereas the appellant's planning witness produced a google earth image from 2009 which showed the feature on the ground at that stage and alluded to an earlier 2006 image (not presented in evidence showing the same thing). It is clear however there is no evidence of any established lawful use in planning terms.

93. Furthermore, when consideration is given to the planning history (as detailed below) there is a significant area of greenfield within the Appeal Site.

Site Planning History

94. There is no real dispute as regards the site planning history being (in relation to the extent of the Appeal Site) as follows:
- (i) Outline permission Ref ESC 22453 was granted on the 8th November 1999 and subsequently renewed;
 - (ii) The renewed permission expired in 2004.
 - (ii) The site was not included in the most recent Employment Land Review but was included within Appendix II of the UDP as being land with planning permission as at 1st April 2001.

The Weight to be placed upon Development Plan Policies

95. In relation to this aspect of the case the following submissions are advanced:
- (i) The Appellant accepts that Policies PS2 and PS4 are not outdated and as such significant weight can and should be placed upon them within the context of this Appeal;
 - (iii) Despite what is submitted on behalf of the Appellant in relation to weight to be given to the 2005 Unitary Development plan, and the fact that paragraph 2.8.4 of PPW advises development plan policies be given decreasing weight when they are outdated and superseded there is still a need to establish settlement boundaries;
 - (iv) That proposition was accepted by the appellant's planning witness in cross examination. His criticism is that PS1 was out dated due to the absence of available land within established settlements;
 - (iv) The appellant's planning witness also properly accepted in cross examination that PS1 directs housing to allocated settlements and employment to allocated employment land;
 - (v) Further, the use of settlement limits as a tool within the armoury of planned development is appropriate. Not to do so would amount to as (set out by the Council's witness and accepted by the appellant's planning witness) permitting 'urban sprawl';
 - (vi) The Appellant concedes conflict with Policy H5 and simply seeks to rely upon

¹⁸ Mrs Fry's proof of evidence

- zero housing supply in terms of land;
- (vi) Accordingly, whilst it is conceded that the Council is in a zero land supply position as regards allocation of housing land, that in itself is not a sufficiently material consideration to outweigh in the case of conflict with other policies as detailed above and below, and does not justify taking no account whatsoever or placing little weight upon Policy PS1;
 - (viii) It is noted that the Appellant refers to a permission in relation to Home Farm, Gresford Road, Llay, Wrexham¹⁹ by way of precedent as to departure from PS1 and H5. As can be seen from perusal of page 96 of appendix 9 of the statement²⁰ of the appellant's planning witness, this decision can be clearly distinguished as that site, unlike the appeal site is not divorced from the settlement boundary (see further below); and,
 - (ix) Further, the Appellant avers that the reference in the Appeal Ref APP/H6955A/11/215207 to a 17.6 ha site adjacent to Dennis Ruabon is the current appeal site, and further as a result of the Inspector's finding of it being designated employment land is thus within the ambit of PS1. To the extent that the land referred to by the Inspector is the appeal site, the Council planning witness agreed in cross examination, but made the valid point that due to the length of time since a valid permission was granted (being 22 years ago) this purported allocation should be given little if any weight. It is submitted that this is further echoed by the answer given by the appellant's planning witness who stated the land was "physically greenfield due to regeneration".

Settlement Pattern

96. In terms of settlement pattern, the appellant seeks to argue that the logical extension is onto this site. It is submitted that this is flawed for the following reasons:-
- (i) As is set out at pages 27 – 30 of the appellant's planning witnesses' proof of evidence²¹ by reference to Ordnance Survey Maps the Appeal Site has always, prior even to the settlement of Johnstown ever being established, been separated by the railway line.
 - (ii) Further, in addition to the long existing railway line that creates the settlement boundary further significant additional separation in the form of the Special Area of Conservation "SAC" exists. That designation, being a European designation, renders it highly unlikely (as accepted by the Appellant's witnesses) that the space between the railway and the rear of the Appeal Site (which for reasons set out above in the main is greenfield) would ever be developed.
 - (iii) In the circumstances such an extension over the railway line and beyond the SAC would not, and could not, maintain the existing settlement pattern.

¹⁹ Appendix 9 of Mr T Jeremiah's proof of evidence

²⁰ Appendix 9 of Mr T Jeremiah's proof of evidence

²¹ Mr T Jeremiah's proof of evidence

- (iv) It would create something best akin to a small divorced and isolated village, which for the reasons as set out below would not be sustainable in terms of preferred means of access.

The effect of the Development upon the character and appearance of the area.

Character of the Site.

97. The Appeal site falls within Landscape Character area 7c²². The key visual characteristics being defined and described as “the lower slopes of Ruabon Mountain consisting of undulating farmland with residential and industrial development”.
98. Despite this definition the appellant’s landscape witness stated that at present the appeal site was “out of character”. It is unclear upon what basis that opinion was formed in the light of the key visual characteristics as aforesaid clearly including ‘industrial development’ and is submitted cannot be an accurate consideration of the current character of the site.
99. During cross examination the appellant’s landscape witness accepted that:
- (i) The Site is physically separated by the railway and SAC from Johnstown with the proposed development predominantly towards the Hafod Road end;
 - (ii) access to the proposed development to be (other than in emergency) from the Bangor Road end through the greenfield site onto the development (as is indicated by the master plan drawing).
100. Whilst it is conceded that paragraph 13.1 of the Council’s planning witness proof of evidence²³ is absent the detail of site visits and assessments, the Welsh Ministers are respectfully requested to:
- (i) accept the Council’s planning witness’s oral evidence (under cross examination) to have attended the appeal site and viewed the same on foot and by car to carry out a visual assessment and;
 - (ii) that this evidence by way of conclusions as set out in paragraph 13.1 of that evidence are based upon those assessments.
101. Contrary to what is asserted by the Appellant’s landscape evidence, in the circumstances, and for the above reasons as fully set out in paragraph 13.1 of the Council’s planning witness, it is submitted that the development as proposed would be detrimental to the character and appearance of the area and accordingly be in conflict with PS2 and GDP1a.

Whether future occupancy of the proposed development would be provided with adequate opportunity to travel by means other than private car so contributing to a sustainable pattern of development.

²² Appendix 12 of Mrs Fry’s proof of evidence

²³ Miss S Holman’s proof of evidence

102. The evidence presented by Council in regards to the public rights of ways (PROW) being unsuitable is made out by virtue fact they were presented to her in cross examination as "not primary" pedestrian routes. Difficulties of terrain, inability to improve due to SAC and SSSI designation were accepted by the appellant's highway witness as was the very real issue that the shortest route by way of PROW was dependent upon an un-official link between paths 24 and 27. As conceded by the appellant's highway witness this could be terminated at any time and in any event was not suitable at night.
103. In relation to the travel distances, the appellant's highway witness accepted in cross examination that the assessment as depicted at appendix H to his proof²⁴ is based upon a location to the southern end of the site and to go to the North Western end of the site would add another circa (by his own evidence) 400 metres travel distance. In addition moving the location to the centre of the residential element of the site he estimated added another 150 metres to the figures at paragraph 4.4.5 of his proof of evidence.
104. The Council contend that the distances were further, but even applying the appellant's highways witness's figures it is submitted that the site is at best borderline when compared with the data relied upon by the Appellant (Dft National Travel Survey²⁵ - of 77% of all trips less than 1.6km on foot) i.e. adding another on average 200m (being the true mid-point figure) places each journey at the upper end of being likely to be undertaken on foot.
105. The nearest school is 1650m away based on the Council's own evidence or 1600m away if the evidence of the appellant's highways witness is accepted. The data relied upon by the appellant's highway witness refers to trips of <1 mile (Page 15 Dft NTS). It is worthy of note that the same survey data indicates that for longer trips 82% use the car as the preferred means of transport to get children to school.
106. Although it is accepted cycling is an option it is submitted that it is not open to all, and would not be suitable for taking children to school and the weekly shop.
107. In terms of public transport the evidence indicates the nearest bus stop being Heol Orsaf which is 800m away (taken from the southernmost point). The bus route / service to that stop is service / route number 6. That service only operates Monday to Friday with the last bus leaving Wrexham 16.45pm. That would not allow sufficient time for workers to make use of that service. The next bus route requires a 1200m walk to the nearest bus stop.
108. Whilst it is conceded, that there is a proposal to extend route/service number 6, into

²⁴ Appendix H of Mr B Jackson's proof of evidence

²⁵ Inquiry Documents 5 (ii)

the site, that would only reduce the walking distance to the nearest bus stop, and be a Monday to Friday service during the daytime hours. The same problem as referred to above still arises at all other times.

109. Although implied by the appellant's highway witness that the frequency of service / route 6 may be increased there is no evidence to that effect before the inquiry.
110. In terms of rail travel it was accepted by Mr Jackson that as the nearest train station is 3km from the site in Ruabon, it is too far to walk. Whilst within cycling distance it is submitted, that option is not available to all. In relation to travel by bus the same submissions as set out above are repeated.
111. It is submitted all this points towards the site not being sustainable in terms of the element of reducing the need to travel within the context of PS4, and also GDP1(d) in terms of safe and convenient pedestrian access to and from the appeal site, and GDP1(e) in terms of being located within convenient access to public transport facilities, and being well related to pedestrian and cycle route wherever possible.

Other Matters

112. Under the heading 'background' within appellant's planning witness's proof of evidence, at paragraph 1.13²⁶, it was suggested that the Council's planning case officer for the application had come to a conclusion, made a recommendation and it was her line manager who disagreed with the recommendation. During cross examination the appellant's planning witness accepted that he could not provide any first hand evidence as he was not involved at that stage. Conversely the Council's planning witness was involved from the beginning and when cross examined on the point gave clear and concise evidence as to what occurred.
113. Although, it is submitted it has no relevance to the merits upon which the appeal will be determined, for the avoidance of doubt, the Council relies upon the Council's planning witness evidence both oral and written as to the true position being as follows:-
- (i) As a result of a number of concerns of both technical and principle matters being raised by the Council in its first response to the Appellant (dated 2 December 2013 – see appendix 12, proof of evidence of the Council's planning witness²⁷) the Appellant at a subsequent meeting requested the opportunity to address the technical matters and to provide additional information to make it a more robust case to support the acceptability of the development in principle.
 - (ii) The Appellant continued to request further extensions of the deadline for determination and the Council continued to work with the Appellant until such time as in 2015 when all technical matters had been addressed.
 - (iii) At no time was confirmation or an indication that permission was forthcoming

²⁶ Mr T Jeremiah's proof of evidence

²⁷ Miss S Holman

made.

- (iv) Due to the number of conditions required to address technical matters at the Appellant's request, the Council produced a draft list of conditions for discussion. This was never intended to be a draft decision notice and was issued simply in that format as the conditions were generated by codes fed into the Council's system which by default produced a draft decision notice.
- (v) As is further evidenced from the email at appendix 4 to the proof of the appellant's planning witness²⁸ from the case officer to the appellant, it is clear the Council did not confirm recommendation was for approval. The Council simply stated a recommendation has been made to the Development Control Manager, and goes on to confirm the Development Control Manager's view, and thus that permission would be refused.

Conclusion

114. For all the reasons as set out above it is submitted that, despite what is said on behalf of the Appellant, the refusal of planning permission was appropriate in the circumstances of this case and the Welsh Ministers are respectfully requested to dismiss the appeal.

Other interested parties or persons appearing at the Inquiry

115. Mr J Droog, a community councillor representing Esclusham Community Council spoke at the Inquiry in support of the Council's decision. In broad terms his objections and concerns, are summarised as follows:

- If the appeal is allowed, it will negatively impact on adjacent businesses who are likely to receive complaints due to the proximity of the proposed dwellings;
- The loss of an employment related site will limit further job creation;
- It will place additional pressure on already scarce local services, particularly medical and educational services;
- The proposed development would lie in close proximity to a site of conservation and a site of special scientific interest (SSSI) where GCN's are found. The proposal could potentially generate negative impacts on the ecology of the surrounding area;
- The proposed positioning of amenity areas under power lines is questionable in terms of safety due to these being the areas where children will play; and,
- The proposal is not supported. For the reasons identified the Community Council requests in the strongest terms that the appeal is not upheld.

Written Representations

116. In response to the appeal publicity, 2 letters of objection were received from Cllr D Bithell a Wrexham County Borough Councillor, and from the Esclusham Community

²⁸ Mr T Jeremiah

Council. The letter of objection from the Esclusham Community Council has been incorporated into the points raised at paragraph 115 above. The letter of objection from Cllr Bithell is summarised as follows,

- The proposal would be located outside of the settlement limit and would appear as an isolated and unsustainable location for development;
- Local road network, and sustainable walking and cycling links to the nearest community facilities and services, are poor;
- Raises concerns about the potential impact on local infrastructure with particular regard to the road network and the capacity of local schools and other community facilities to deal with the impacts of a development of the scale proposed; and,
- Supports the Council in their refusal of the proposed development.

117. Other written representations that have been taken into account are those from local residents submitted to the Council at the application stage which are on the case file. The concerns raised broadly reflect the comments of the Community Council and County Councillor as indicated in the preceding two paragraphs.

118. Responses received from consultees and other organisations at the application stage have also been taken into account. As detailed on the Council's planning officer delegated report²⁹, there were no objections to the proposal from the Council's highways and public protection sections, nor from Natural Resources Wales, the Health and Safety Executive, Welsh Water Utilities or Network Rail. In addition there were no objections from, the Council's affordable housing officer, tree section, the Clwyd Powys Archaeological Trust, the North Wales Minerals & Waste Planning Service and the National Grid.

Conditions and Obligations

Conditions

119. During the Inquiry the main parties presented a draft list of suggested conditions³⁰, which contained agreed conditions, and one condition which was not agreed. At the Inquiry the conditions were discussed in the light of Circular 16/2014³¹. That list forms the basis of the schedule set out in Annex A to this report.

120. The first would require the submission of those matters reserved for a later application, that is, appearance, landscaping, layout and scale. Condition 2 requires the first reserved matters application to include a phasing plan. Conditions 3 and 4 relate to time limits and require the submission of reserved matters within 5 years and that the development be commenced within 7 years. Condition 5 requires any reserved matters to be carried out in general conformity with the principles as shown

²⁹ Inquiry Documents, Core Documents Folder 3, CD 5.1

³⁰ Inquiry Documents 4 (vii)

³¹ Circular 16/2014: *The Use of Planning Conditions for Development Management*

on the amended submitted masterplan for the site and the design principles as set out in the Design and Access Statement. Condition 6 requires any landscaping details to also include all areas of public open space and the equipped children's play areas, and the submission of a landscape management plan.

121. Condition 7 sets a maximum limit of dwellings on the site to 300. Conditions 8, 9, 10, 11 & 12 relate to drainage matters. Condition 13 relates to details for the sound insulation for plant and machinery related to the proposed retail and employment buildings. Condition 14 relates to the provision of 20% affordable housing on the site. Conditions 15 & 16 relate to the remediation and verification of contamination issues related to the site.
122. Condition 17 requires the submission of details relating to a construction method statement and covers such matters as phasing of works, site offices, parking of vehicles, storage of plant and machinery, wheel washing facilities, recycling of demolition waste and the routing of construction vehicles
123. Conditions 18 & 19 requires the submission of details relating to noise and any required mitigation. Condition 20, 21 and 22 relate to ecology matters, with 20 requiring the submission of an ecological management plan, 21 that development be carried out under the supervision of an ecological clerk of works, whilst 22 requires the submission of an ecological compliance report prior to the first occupation of each phase. Condition 23 relates to the submission of an updated bat roost and bird breeding assessment.
124. Condition 24 relates to provision of street lighting related to the development. Condition 25 requires the submission of a 'biosecurity risk assessment' to prevent the introduction of invasive non-native species during construction, and measures to control any such species that may already be present.
125. Condition 26 relates to flood risk and submission of an updated flood consequences assessment, whilst condition 27 relates to the archaeological surveying of all pre and post 1950 buildings on the site. Condition 28 requires no dwelling to be sited within 18 metres of a major hazard pipeline that crosses the site.
126. Condition 29 requires confirmation that the hazardous substances consent for the former Hafod Tileries has been formally revoked. Condition 30 relates to highway matters and requires the submission of details relating to such matters as the new roundabout, traffic management, cycleway/footway along Bangor and Hafod Roads, internal estate roads, cycleway enhancements through Nant Parc estate, speed limit amendments to Bangor Road, and visibility improvements at the existing Eco Ready Mix access. Condition 31 relates to the submission of a travel plan for each phase of the site, and would include details such as an annual monitoring report for the first five years.
127. Condition 32 requires the submission of a sewage network scheme to accommodate foul discharges from the development, with no part of the development being occupied until the approved scheme has been fully implemented.

Obligations

128. An unsigned and undated draft Unilateral Undertaking (UU) was discussed at the Inquiry; it was agreed between the parties that the appellant be given a further period after the close of the Inquiry to sign and date the UU, in addition to amending a number of minor typographical errors. A duly signed, dated and amended UU was submitted as agreed. The UU relates to the following:

- the staged payments of an educational contribution towards the costs of improving or extending Johnstown CP Primary School, with the contribution calculated in accordance with an appended matrix;
- a public transport contribution totalling £200,000 towards the costs of extending the number 6 bus service into the site for a period of 5 years; and,
- details relating to the open space works specification, and a related management plan.

Conclusions

[The numbers in parentheses refers to the foregoing paragraphs]

129. These conclusions are based on the evidence submitted and given at the Inquiry and the written representations summarised above, and my findings at the accompanied and unaccompanied inspections of the site and surroundings. I consider that the main considerations upon which this decision should be based are:

- i. Whether the proposed development complies with national and local policy designed to protect the countryside and promote sustainable development; and,*
- ii. The effect of the proposed development on the character and appearance of the area.*

Whether the proposed development complies with national and local policy designed to protect the countryside and promote sustainable development

Settlement boundaries

130. It is a long standing planning policy position that the countryside should be safeguarded from uncontrolled and sporadic development, with development primarily directed to existing settlements. However, other appropriate locations outside settlements cannot be discounted and these have to be weighed against national advice supporting sustainable development as detailed in PPW.

131. The development plan for the area comprises the Wrexham UDP adopted in 2005 and covers the period 1996 -2011. It is the relevant plan against which this application should be determined, unless material considerations indicate otherwise. In regards to the issue of settlement boundaries, the Council's refusal reason cites in particular policies PS1 and H5. [8, 10]

132. Policy PS1 of the UDP is strategic in nature and seeks to direct new development for housing, employment and community services to within defined settlement limits/employment areas. [10]

133. As accepted by the appellant at the Inquiry, it is clear that the residential development of the site would be in conflict with policy PS1 due to the fact that the site would not be within the settlement limit of Johnstown. However the policy also refers to new development such as employment being directed to within defined employment areas. The site is identified in Appendix II of the UDP as an employment allocation. The particular planning permission that related to the allocation has long since expired. In a recent appeal decision³² relating to land to north of the appeal site, the appellant drew attention to an Inspector's reference to the land comprising the appeal site as being an employment area as identified in the UDP. The Inspector in that decision took the view that although the site the subject of that appeal was not within a defined settlement or explicitly allocated for employment it did, through Policy E1 of the UDP and Appendix II, appear to be an employment area, and therefore the development the subject of that appeal was compliant with UDP Policy PS1 and was deemed appropriate. [42]
134. The Council did not seek to challenge the Inspector's findings in the previous appeal decision, and there has been no change in circumstances in the interim; to my mind I would concur with the findings of the previous Inspector in regards to the site being an employment area, however the planning permission that relates to the allocation in the UDP has long since expired, and therefore the weight attached to the employment allocation is significantly diminished.
135. However, irrespective of the small employment element of the development being located within an employment allocation in the UDP, and therefore being acceptable in principle, the proposed development when considered in its totality is overwhelmingly residential in nature. The development of the site with a primarily large scale housing development would run contrary to policy PS1 which expressly seeks to direct residential development to within defined settlement limits.
136. Paragraph 4.2.4 of PPW refers to the fact that where the relevant development plan policies are considered out dated there will a presumption in favour of development subject to meeting the objectives of sustainable development. It has been accepted by the Council that there is pressing need for additional dwellings, that it cannot demonstrate a five year land supply of housing and that the current settlement limits will have to be breached to meet future housing requirement. Whilst the proposed development is contrary policy PS1, nonetheless, to my mind, the settlement boundaries it seeks to maintain, for the grounds referred to above, are out of date and were drawn in response to a housing target set out in the now out of time UDP; for that reason they, and policy PS1 carry limited weight in the determination of this appeal. The settlement limits were defined in the light of a different housing requirement and the Council acknowledges that they will have to be re-drawn to accommodate existing needs. The appellant accepts the proposed development conflicts with Policy H5 of the UDP which seeks to limit new housing outside of defined settlement limits to amongst other things, affordable housing, and where there is a proven need for such a development, to house a key worker. [10, 64, 70]

³² Appendix 11 of Mr T Jeremiah's proof of evidence

137. However, in regards to Policies PS1 and H5, the pressing need for new housing, of which a significant amount is to be affordable, outweighs the countryside protection policies in this case.

Housing Land Supply

138. Paragraphs 8.1 & 8.2 of TAN 1, state that for those Councils where a UDP is out of date and a LDP is not yet adopted then those Councils will not be able to demonstrate whether or not they have a 5 year housing land supply; in practice this means that Wrexham has a zero housing supply figure. [30]
139. TAN 1 advises that where land supply is below the 5 year requirement 'the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies'. [29]
140. Whilst I accept that the proposed development does not accord with the development plan in so far as it relates to development outside defined settlement boundaries, nonetheless, the lack of 5 year housing land supply weighs heavily in favour of the proposed development. There is a pressing need for housing, however given the early stage the LDP is at, there is little prospect of a plan led solution any time soon.
141. In addition the proposed development would provide 60 affordable units; this equates to 20% of the total housing to be provided. Such a provision falls short of the expected 25% of dwellings on such sites, however the Council accepts that the abnormal costs of developing the site due to contamination remediation in this case justifies a lesser contribution; I have no reason to take a different view. To my mind the provision of 60 units is a significant amount of affordable housing and would make an important contribution to a local identified need as evidenced by the Council's Affordable Housing Officer; this provision also weighs in favour of the proposal. [22]
142. Furthermore the Council accept that within the emerging LDP 'Preferred Strategy' that new land outside of existing settlement limits will be required for development. The appeal site has been included on a site register which identifies all sites that have been submitted by interested parties for consideration, however the Council confirmed at the Inquiry that the appeal site is not deemed to comply with the Council's Preferred Strategy, and that there are site constraints that are unlikely to be overcome to allow the site to be developed. Both parties accept that due to the LDP being at an early stage of preparation, and it not expected to be adopted until sometime after 2018, then it can be afforded little weight in this process.
143. Nonetheless, the emerging LDP does highlight the need to provide for 11,715 new homes to deliver a housing requirement over the plan period of 10,650³³ new homes. It also recognises that, a proportion of those dwellings will need to be on greenfield sites on the edge of existing settlements. Compared to the overall requirement, the proposed development of 300 dwellings on this site would not be prejudicial to the emerging LDP. Further, to my mind, it would be consistent with the overall approach

³³ Paragraph 7.1 of Miss S Holman's proof of evidence

to housing provision in regards to meeting the need for new homes on sites on the edge of existing settlements (I shall return to this issue in more detail later in the report).

Previously Developed Land

144. Paragraph 4.9.1 of PPW advises that PDL should, wherever possible, be used in preference to green field sites. However, it also recognises that not all PDL is suitable for development, due to factors such as, its location, the presence of protected species, valuable habitats or industrial heritage, or because it is highly contaminated. Whilst the parties dispute the extent of PDL, and, the 'location' of the development relative to the development boundary as previously discussed, there is agreement³⁴ that ecology, biodiversity and archaeology interests can be safeguarded by the imposition of appropriately worded planning conditions.
145. Strategic policy PS3 of the UDP states that development should use previously developed brownfield land comprising vacant, derelict or underused land in preference to the use of greenfield land, wherever possible.
146. The parties dispute the extent of PDL that makes up the appeal site. However at the Inquiry the Council accepted that a block of land to the west of the site where former LPG tanks and associated hard standing was located was PDL. In addition the Council accepted that an area to the south of the site described as the 'refuse tip' did have some form of waste on it and was also PDL, although they did question the lawfulness of the portion. Whilst the Council did question the lawfulness of the refuse tip site, what is known is the aerial photograph of the site from 2009 clearly indicates this area devoid of any landscaped features unlike the surrounding areas. When both these blocks of land are included with the extent of land the Council had already accepted as PDL, it is clear that the overwhelming majority of the built development relating to the proposal would be located on PDL. [36,37,38,39,40, 94, 95]
147. PPW at para 9.2.8 sets out a search sequence for the allocation of housing sites in development plans with the preference being for the re-use of PDL within settlements, then settlement extensions, and then new development around settlements with good public transport links. The Council confirmed that it cannot meet the pressing need for additional land for housing on PDL within settlements. To my mind if such a need cannot be met within settlements it follows, that PDL outside settlements should be preferred sequentially over greenfield land outside of settlements. In this case the reuse of the site which is PDL is broadly in accordance with PPW subject to the proposal benefitting from good transport links; an issue I shall return to later in the report. The PDL status of a significant part of the site where the majority of built development would occur puts significant weight behind the proposed development.
148. Albeit for some small scale employment on the site related to the sale of clay tiles, the site has remained vacant and derelict since 2008 when the Dennis Ruabon Tile

³⁴ Inquiry Documents 1 (viii) Statement of Common Ground paras 11.19 & 11.21

business closed. I am not aware that the Council sought from the appellant during the course of the application or appeal process a marketing and feasibility report into the potential for the reuse of the PDL land for employment purposes. What is known is that the buildings on the site are generally in poor condition as evidenced by the buildings condition survey report that accompanied the planning application and by my own observations on the site. In addition it is accepted by the Council, due to the site's historical use, that it suffers from contamination. To my mind, bearing these factors in mind it is likely it is always going to be a challenge to find a beneficial, non-residential use for the site. [6]

149. The Council argue the proposed employment development would run contrary to UDP Policies PS1, PS3, GDP1 and E5. However, I have previously found that the site is an employment area as allocated and referred to in the UDP, the development of a small part of the site for employment related activities would comply with these policies and would be appropriate for the location. However, even if the site was not referred to as an employment area in the UDP, to my mind, the provision of a small element of employment development as part of a large residential development would not be at odds with the aims of sustainable development as espoused by PPW, nor undermine the relevant policies of the UDP. [10]
150. The Council maintain the proposed retail element of the scheme would run contrary to UDP policies particularly S7 which refers to retail sales in the countryside. However, the proposed retail unit would be developed in conjunction with a large housing development and therefore not in isolation, and that in the context of the development as a whole it would be located within a built up area rather than countryside. I accept the Appellant's view that the proposed development is still sustainable without the provision of the retail unit, nonetheless its provision does offer the possibility of easy access to a retail facility, which in the context of the acceptability of a large residential development would not be at odds with the aims of sustainable development as espoused by PPW, nor undermine the relevant policies of the UDP. [72]

Opportunities to travel by means other than the private car, so contributing to sustainable patterns of development

151. Policy PS4 of the UDP seeks, amongst others, that development integrates with the existing transport network to help reduce the overall need to travel and encourages the use of alternatives to the car; such an approach is reinforced in policy GDP1 of the UDP and PPW. [10, 14]
152. The site is approximately 800 m from the nearest residential area, Heol Orsaf, which marks the existing limit to the settlement along Bangor Road; or if as suggested by the Council, an average of 200 m further away if a more northerly point is taken within the site. There is an existing footway along Bangor Road, which links the site into the centre of the village some 1.6 km, or 1 mile away. In order to improve the site's connection to everyday services the existing Bangor Road footway bordering the southern boundary of the site is to be widened to 2 metres along its length upto the railway bridge which lies next to Heol Orsaf; under the bridge the footpath would be widened to 2 metres. In addition a 3 metre wide shared footway/cycleway would be provided along the site frontage at Hafod Road. Johnstown has a good range of

facilities within about 1 mile of the site. During my site visit I observed a number of people walking, cycling and jogging along the stretch of Bangor Road adjacent to the site.

153. Whilst the Council argue that occupants of those dwellings in the most north easterly part of the site would have to travel some 1650 m to access local amenities such the nearest school, nonetheless such walking distances are not unusual as evidenced by the appellant's submitted National Travel Survey 2012 (NTA)³⁵. In addition Manual for Streets (MfS)³⁶ advocates that walking offers the greatest potential to replace short car trips, particularly those under 2km. The vast bulk of housing within the site would be within approximately 1 mile of the majority of local facilities. Bearing in mind, the advice as contained within these documents, and having walked from the site to a number of the local facilities, with those walk times broadly corresponding with the appellant's submitted TA, I do not consider such distances would unduly put off occupants of dwellings on the site from walking. [48]
154. The site is crossed by a number of public rights of way some of which traverse Hafod SSSI and Johnstown Newt Site SAC. I appreciate the Council's concerns in regards to fact that these footpaths could not be upgraded underfoot, nor be enhanced with lighting for winter or night time use, due to being located in environmentally sensitive areas, and that they may not be accessible for those with mobility impairment, parents with buggies, or meet the definition of a 'safe route to school'. Nonetheless, these routes, would offer the possibility for an alternative pedestrian route to Bangor Road, with any usage only likely to increase in the brighter dryer months.
155. The Council did not contest at the Inquiry that the proposed development would encourage alternative means of travel to the car in the form of cycle trips to Johnstown; based on the submitted evidence I have no reason to take a different view. [46,105]
156. The nearest bus stops to the site on Heol Orsaf and Snowden Drive are within 800 m of the site, which to my mind is a reasonable walking distance, with the overwhelmingly majority of the rest of the built part of the site still within approximately 1600 m. The No. 6 bus which serves these stops, currently runs an hourly service on Monday-Friday to Wrexham from 7.27 am until 17.44. The opposite hourly journey from Wrexham starts at 7.45, with the last bus leaving at 17.14. The appellant was able to provide at the Inquiry evidence, in the form of an email³⁷ from the No.6 bus operator that states the service has been extended, with the last bus now leaving Wrexham at 17.45. The proposed development would provide for the extension of the No.6 bus service into the site for 5 years as detailed in the UU. In addition a new bus stop would be provided within the site. [51]
157. The No. 6 service only runs during week days and not in the evening, nonetheless, that service, does run hourly from relatively early in the morning and would be able to pick people up from Wrexham upto 17.45 which is highly likely to allow those

³⁵ Inquiry Documents 5(ii)

³⁶ Paragraph 2.3.2.3 of Mr B Jackson's proof of evidence

³⁷ Inquiry Documents 5 (v)

working an ordinary working day the chance to avail of the service. I accept that the lack of later evening and weekend services is not ideal; however, those residents on the site who would need to access a bus could avail of a number of the alternative services which call roughly 1200 m or 15 minute walk from the site along Ruabon Road. When this 15 minute walk is added to a typical journey time from Wrexham of 10-14 minutes, an overall journey time around 30 minutes, to my mind is not unreasonable.

The effect of the proposed development on the character and appearance of the area.

Character

158. The appellant's original submission with the planning application included a Landscape and Visual Impact Assessment (LVIA); this was complemented with an updated landscape assessment that formed part of the appeal submissions. The Council have not disputed that the methodology used in the LVIA was in accordance with best practice. In my assessment of this main issue I have taken the LVIA into account along with the other information available to me, including my inspection of the site, and the various vantage points within the immediate and wider area. The LVIA and appeal documentation is supported by text, photographs and photomontages that provide a useful indication as to how the proposed development would be seen from the chosen viewpoints. The LVIA provides an indication of the potential landscape and visual impacts of the proposed development. I observed the site from a number of vantage points in the surrounding landscape including those selected for the LVIA. [62]
159. As detailed within the LVIA, the site falls with LANDMAP landscape character area 7c (Rhosllannerchrugog-Rhostyllen-Ruabon-Penycae). The Council's adopted LPG relating to the area states a key visual characteristic is described as the 'lower slopes of Ruabon Mountain consisting of undulating farmland, with residential and industrial development'. [61]
160. Whilst the site is physically separated by the railway line and SAC from Johnstown, the railway underbridge crossing on Bangor Road provides a functional link between the built up area and the country park and SAC adjacent to the site. Further, the pedestrian underpass links the country park adjacent to the site with the existing built up area and via other footpaths to the appeal site. The Council draw attention to the spatial separation of the site from Johnstown due in part to the intervening SAC, however, such a situation is not an unusual feature in regards to the character of the wider area as evidenced by the SAC that separates Johnstown and Rhosllannerchrugog.
161. The existing buildings on the site can be seen at close range from Hafod Road, in mid-range views from Ruabon Road and further afield such as at Ponciau on higher ground to the west. The proposed development would be visible within the landscape and therefore will cause a degree of change. However, visibility does not necessarily result in harm to landscape character, and the local topography and existing landscaping would screen the built part of the development from most of the identified vantage points. I accept that dwellings would be seen along Hafod Road however, the bulk of the site frontage to this road already has the existing dilapidated

industrial buildings or large expanses of hard standing. Medium and distant viewpoints of any dwellings on the site would be limited, and in the main be seen in the context of the existing built form of Johnstown. To my mind the proposed development would not be at odds with the LANDMAP visual characteristic for the area i.e. an area consisting of undulating farmland, with residential and industrial development.

162. Furthermore, adjacent to the site there is built development or PDL to the north, east and west in the form of industrial units, the Hafod House Residential Home, and a landfill site; development of one sort or the other is a feature of the locality. Clearly the proposal would introduce an additional built element into the landscape, but that additional built form would not materially alter its overall character given the mix of built form to that which will remain undeveloped. In addition the site would be enhanced with further planting, and appear no more isolated or divorced from the existing built up area than already exists between the settlements of Johnstown and the adjacent Rhosllannerchrugog. Consequently the proposed development would not have any significant effects on the character of the landscape.

Visual Impact

163. The application site lies at the junction of Bangor and Hafod Roads. Views into the site from Bangor road are heavily restricted due to existing boundary vegetation in the form of trees and hedges. The existing industrial buildings and large expanses of hard standing are built tight to Hafod Road making them very obvious features. In visual terms the existing buildings, due to their dilapidated and generally vacant state, have a negative impact on the area. The majority of buildings on the site are bland and utilitarian in nature, whilst the large expanses of hard standing separating them are bleak and featureless.
164. The application is in outline with all matters reserved for later determination, except for access. The indicative master plan submitted with the application along with the layout as detailed on the submitted Design and Access Statement³⁸ indicate in broad terms a scheme comprising of a mixture of two and a half storey and two storey dwellings located in the approximate area where the existing buildings and hard standings are currently located; this area accounts for approximately 7 hectares of the site. In design terms the new dwellings would reflect features in the locality such as the use of brick, render and tiles. The southern half of the site fronting onto Bangor Road will in broad terms will be devoid of built form, save for the access road leading into the site, the proposed retail and employment units, and an equipped children's play area. This area would include green infrastructure in the form of an attenuation pond, structure planting and public open space (POS), in addition there would be a Great Crested Newt Reserve; this area accounts for approximately 9.5 hectares.
165. There is no dispute that the proposal would be visible within the landscape. However, to my mind the issue is whether that visibility is likely to have a significant adverse effect. The LVIA refers to the visual receptors as including those who live or travel in the area, users of public rights of way in the locality, and people engaged in outdoor

³⁸ Inquiry Documents, 1, (ii) Core Documents Folder 1, 1.5

recreation at the nearby Hafod Country Park. From a number of the viewpoints I observed the visual impact of the development would be of limited significance due to screening by local topography and existing trees and hedges. However, close public viewpoints do include the public rights of way that cross the site and along Hafod Road. From within the site, walkers using the PROW will experience views of the proposal at very close range in addition to those travelling along Hafod Road, whilst users of the Hafod Country Park are also likely to experience views. However these views are unlikely to be sustained over long periods due to local topography and screening effects of the existing vegetation, and as such their effect on visual amenity would be minor and not significant.

166. Further afield, I observed the proposed development would be visible from elevated sites such as Ruabon Road in Johnstown, and Ponciau. However, due to the intervening distances involved, and the fact that the proposal would be seen against a foreground of built development, its effect on visual amenity would be minor and not significant. The existing large buildings on the site which draw the eye of the observer would be replaced with relatively low level structures, which from more distant viewpoints will lessen any visual impacts of the development on the site when compared with that which already exists. [62]
167. I accept that the proposed employment and retail area facing onto Bangor Road will be visible from Bangor Road but this area accounts for only 0.29 ha on a site totalling 17.34 ha. In addition any views of the associated structures would be transitory with the structures being sited behind the existing landscaped screen to Bangor Road with this screen being augmented with further planting, and also would be viewed against a backdrop of further landscaping that forms part of the proposed POS. In visual terms the overwhelming majority of the southern portion of the site that currently has no built form on it will be retained and enhanced with additional planting.
168. In regards to the wider area around the appeal site, a short to distance to the east along Bangor Road, can be found the A483, a major arterial route that links Wrexham and North Wales to Mid-Wales and beyond. The topography of the area, and intervening vegetation means there are unlikely to be any effects on the users travelling along the A483.
169. The nearest properties to the site would be the Hafod Residential Care Home and Hafod House which are located on the opposite side of Hafod Road. I accept that from these residential properties the development would be visible. However, based on the submitted evidence, the partial screening effects of existing and proposed landscaping, the setback distance of those properties from Hafod Road, the limited number in close proximity, and the relatively low level nature of the development, I do not consider those properties closest, nor any others further afield would be unacceptably affected.

Other Matters

170. Third parties raise concerns in regards to the effect of the proposed development on the adjacent SSSI site, and on the GCN population contained within the SAC, however, the agreed ecological statement of common ground submitted by the parties concluded that subject to appropriate mitigation measures there would be no adverse impacts on ecological interests; I have no reason to take a different view. In

addition the proposed development would provide for a GCN reserve extending to some 5.82 hectares. [117]

171. It is argued the existing buildings on the site should be retained, however, the appellant's submitted survey report makes it clear they are generally in a poor state of repair and unviable for future use. Reference is made to none of the dwellings being made available for first time buyers or for rent, however, 60 of the units are to be provided as affordable dwellings. [117]
172. Concerns have been raised about highway safety in regards to the use of the proposed roundabout that allows access onto Bangor Road, however the Highway Authority has raised no objections in this regard; I see no reason to take a different view. Safety concerns have been raised in regards to the proposed public open space being located under the existing high voltage power lines that cross the site, however such an occurrence is not that uncommon. In addition, it should be noted that National Grid, raised no objections in regards to safety. 116, 117]
173. The Council's Public Protection Section has not raised any objections to the proposed development with regard to the potential for odours emanating from the Hafod Landfill site. I have no empirical evidence to lead me to disagree with the Council that whilst some odour may be experienced on occasion, such occurrences are unlikely to be significant or sustained. [118]
174. The Council's Education Section raised no objections to the proposed development subject to the provision of a commuted sum payment; such a provision is allowed for in the submitted UU. In addition, I am not aware that the Local Health Board raised any objections to the proposed development based on capacity issues related to the provision of health services. [117]
175. The Council has not highlighted any pressing need for the retention of the site for employment use. The majority of the employment land has lain vacant since 2008 when Ruabon Hafod Tileries closed, with much in a poor state of repair. I have no substantive evidence to indicate that the whole of the site should be retained for employment purposes, nor that its loss would be unduly detrimental to employment interests locally or further afield. [115]
176. Concerns have been raised that due to the proximity of the proposed dwellings to existing business there is likely to be complaints, due to the operations of these businesses not being compatible with residential use. However I am satisfied that this matter could be adequately regulated by the Council's suggested condition No. 18 which requires the appellant to submit a noise assessment with particular regard to noise from existing uses around the site and mitigation measures incorporated for properties found to be noise sensitive. [115]
177. Part of the site does fall within the Hafod Clay Pit mineral zone as defined by Policy MW11 of the UDP where there is a presumption against sensitive development in such an area. However, the buffer zone only extends into the site due to a former entitlement to work the mineral on the land to the north of Bangor Road; this land has since been designated a SAC and been subject a modification order. I would agree with the Council that the amenity of any dwellings within the site would not be unduly impacted upon due to their separation distance from the landfill site.

Conditions and Obligations

178. In the event that Welsh Ministers decide to allow the appeal, I agree that the conditions set out in Annex A would be necessary and reasonable for the reasons set out above and would satisfy all the tests set out in Circular 16/2014 , *The Use of Planning Conditions for Development Management*. In the interest of precision I have broken the suggested condition 6 into 2 separate conditions; in addition I have reworded slightly a number of conditions. The appellant does not agree that the Council's proposed condition No. 32 relating to foul drainage is required and argues matters of foul sewage are comprehensively addressed in other primary legislation and therefore any condition would be unnecessary, irrelevant to planning and unreasonable. The appellant cites case law³⁹, reference to Circular 16/14, and a recent appeal decision, all of which support their stance that such a condition is not reasonable. I concur with this view that the condition is neither reasonable, nor necessary, nonetheless it is included in Annex A should the Welsh Ministers deem it necessary. [119-127]
179. I consider that the obligations are necessary, are related to the proposed development, and related in scale and kind, and therefore meet the appropriate tests set out in Section 122(2) of the Community Infrastructure Levy Regulations 2010 and Circular 13/97. Accordingly UU should be afforded weight in the determination of the appeal. [128]

Overall conclusions

180. The proposed development would not accord with Policies PS1 and H5 of the UDP which seek to contain development within settlement limits. However, the Council accept these settlement limits will have to be breached to meet future housing need. I have afforded significant weight in favour of the proposal in regards to the Council's lack of a 5 year housing land supply. In addition I have also afforded significant weight in favour of the proposal's reuse of PDL which forms the overwhelming majority of proposed built development on the site. In addition the proposal would provide 60 much needed affordable homes. For these reasons, even though the proposed development when considered in its entirety would be contrary to the relevant policies of the UDP, I consider it would provide a suitable site for housing and other mixed uses having regard to the principles of sustainable development as advocated in PPW, outdated planning policies that seek to control new development outside of settlement limits, lack of a 5 year supply of housing land, and the PDL nature of the site.
181. In addition, the current settlement boundaries were drawn in response to meet the housing target set out in the now out of time UDP. Given the early stage of the LDP, there is no prospect of a plan led solution any time soon.
182. I have also concluded that the proposed development would provide future occupants with adequate opportunities to travel by means other than the private car and therefore contribute to sustainable patterns of development. The proposed footway/cycleway enhancements, when combined with the extension of the No. 6 bus

³⁹ Inquiry Documents 5 (vi)

service allow the site to be sufficiently well connected to Johnstown in terms of everyday services and amenities. In this respect the proposal would not be contrary to Policies PS4 and GDP1 of the UDP, and the sustainability principles as espoused by PPW.

183. I have highlighted the fact that the proposal will introduce an additional built element into the landscape, but that additional built form would not materially alter the overall character of the landscape given the mix of the proposed built form and that which shall remain undeveloped. In addition there are existing functional linkages between the site and the nearby built up area. From a number of viewpoints I observed the visual impact of the proposed development would be of limited significance due to existing screening and topography. In addition 'green infrastructure' on the site will be augmented, whilst existing large derelict buildings which can be seen from a distance will be replaced with a generally low level development. For the reasons highlighted in this report I do not consider the proposed development would result in any significant harm to the character of the landscape, or to the visual amenity of the area. Consequently the proposal would not be contrary to Policies GDP1 a) and PS2 of the UDP which seek to prevent unacceptable landscape and visual impacts.

Recommendation

184. I therefore recommend that planning permission be granted subject to the conditions attached as Annex A to this report.

Declan Beggan

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Alan Evans of Counsel instructed by Mr Chris Still of Gladman Developments Limited

He called

Mrs Elizabeth Fry	Landscape Architect
Mr Ben Jackson BEng (Hons) MSc MCIHT	Director Ashley Helme Associates Ltd
Mr Tom Jeremiah MPlan (Hons) MRTPI	Associate Hourigan Connolly

FOR THE LOCAL PLANNING AUTHORITY:

Mr Trefor Lloyd of Counsel instructed by Aled Rowlands of Wrexham County Borough Council

He called

Miss Sharon Holman LLB Dip LP, MSc LMRTPI	Planning Case Officer
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THIRD PARTIES

Mr John Droog	A community councillor representing Esclusham Community Council
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Mr Andrew Cain	Reporter Wrexham Leader
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INQUIRY DOCUMENTS

1. Appellant's supporting documents:
 - i. Grounds of appeal and a bundle of supporting documents
 - ii. Core Documents Folder 1 CD1.1-CD1.10
 - iii. Core Documents Folder 2 CD1.11-CD1.20
 - iv. Core Documents Folder 3 CD2.1-CD6.1
 - v. Core Documents Folder 4 CD7.1- CD7.4
 - vi. Statement of Case
 - vii. Proofs of Evidence from Mr Jeremiah, Mr Jackson & Mrs Fry
 - viii. Statement of Common Ground
 - ix. Ecology Statement of Common Ground
 - x. Highways Statement of Common Ground

- xi. Written opening remarks of Mr Evans
- xii. Written closing submissions of Mr Evans
- 2. Council's supporting documents:
 - i. Appeal questionnaire and bundle of supporting documents
 - ii. Statement of Case
 - iii. Proof of Evidence from Miss Holman including suggested list of conditions
 - iv. Letter from Miss Holman of 20 April 2016 regarding an update to the Site Register related to the Wrexham Local Development Plan (2013-2028)
 - v. Written closing submissions of Mr Lloyd
- 3. Appeal Representations:
 - i. Letter of objection from Esclusham Community Council
 - ii. Letter of objection from Cllr D Bithell, Wrexham County Borough Councillor
- 4. Documents submitted during the course of the Inquiry:
 - i. Appeal notification letter and list of those notified received from the Council
 - ii. National Travel Survey: 2012 published by the Department of Transport received from the Appellant
 - iii. Information extrapolated from the Candidate Site Submission Database on Wednesday 27 April 2016 received from the Council
 - iv. Copies of planning policies from the UDP received from the Council
 - v. Series of email correspondence dated 27 April 2016 between Dean Fisher of Gladman Developments Limited and Stephen Bryce, General Manager of GHA Coaches
 - vi. Note on why no foul drainage condition is necessary submitted by Appellant
 - vii. List of conditions the parties are in agreement and disagreement over.
- 5. Documents submitted after the close of the Inquiry:
 - i. Executed Planning Obligation submitted by Gladman Developments Limited

ANNEX A – Recommended Conditions

- 1) Details of the appearance, landscaping of the site, layout and scale, (hereinafter called “the reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority before any part of the development begins. The development shall be carried out in accordance with the details as approved for each phase of the development.
- 2) The first reserved matters application shall include a plan showing the site and location of all subsequent phases of development (‘the Phasing Plan’). All subsequent reserved matters applications shall be submitted in accordance with the approved phasing plan unless otherwise agreed in writing by the local planning authority.
- 3) Plans and particulars of the first reserved matters referred to in conditions 1 and 2 shall be submitted in writing to the Local Planning Authority before the expiry of 5 years from the date of this permission. The development shall only be carried out in strict conformity with such details as are thereby approved.
- 4) The development hereby permitted shall be begun before the expiry of 7 years from the date of this permission or two years from the date of approval of the last of the reserved matters required to be approved, whichever is the later.
- 5) The submission of all reserved matters and the implementation of the development shall be carried out in general conformity with the principles as shown in amended Masterplan Ref. 4355-P-05 Rev H (March 2015), and the design principles set out in the Design and Access Statement (June 2013) and the subsequent Addendum (June 2014).
- 6) The landscaping and layout reserved matters 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 to be provided within the development site including public amenity space and equipped children’s play areas (LEAP). The scheme shall be implemented in accordance with the approved details prior to the first occupation of the dwellings.
- 7) As part of the Reserved Matters, a landscape management plan, to include the timing of the implementation of the plan, long term design objectives, management responsibilities, maintenance schedules and procedures for the replacement of failed planting for all landscape areas, other than for privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the landscape management plan shall be carried out in accordance with the approved details.
- 8) This permission shall provide for a maximum of 300 dwellings.
- 9) Prior to the commencement of the development hereby permitted, a detailed scheme for the provision of a surface water drainage system for the development and a timetable for its implementation shall be submitted to, and approved in writing by, the Local Planning Authority. The approved surface water drainage scheme shall be implemented, managed and maintained in accordance with the approved scheme.

- 10) No part of the development shall be occupied until the sustainable drainage scheme for the site has been completed in accordance with condition no. 09. The sustainable drainage scheme shall be managed and maintained thereafter in strict accordance with the agreed management and maintenance plan.
- 11) No land drainage run-off or surface water shall be permitted to discharge or connect to the public sewerage system, either directly or indirectly, and foul and surface water shall be drained separately from the site.
- 12) No part of any buildings shall be constructed within 3 metres either side of the centreline of the public foul sewer, and within 5 metres either side of the centreline of the public combined sewer which crosses the site.
- 13) Prior to first use of the retail and commercial development suitable grease traps shall be provided in order to prevent entry into the public sewerage system of matter (cooking fats, oils and grease etc), likely to interfere with the free flow of the sewer contents, or which would prejudicially affect the treatment and disposal of such contents.
- 14) All mechanical plant and equipment shall be enclosed in sound insulating material, mounted and located to minimise the transmission of structure borne sound in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority before the retail use hereby permitted is open for trading and prior to occupation of the commercial employment uses hereby permitted and thereafter maintained as such.
- 15) Prior to commencement of development in the relevant phase of the development a scheme for the provision of affordable housing within the development shall be 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 Welsh Government Technical Advice Note 2 or any future guidance that replaces it. The scheme shall include:
 - i. The numbers, type, tenure and location on the development of the affordable housing provision to be made which shall consist of not less than 20% 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 or the management of the affordable housing if no Registered Social Landlord is involved;
 - 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.
- 16) No part of the development shall commence until a scheme to deal with potential contamination at the site has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include a phased investigation approach to

identify the extent of contamination and any measures required to remediate the site, including post-development monitoring.

- 17) No part of the development shall be occupied until a Verification Report which demonstrates that the remedial works approved as part of condition no. 16 above have been satisfactorily carried out, has been submitted to and approved in writing by the Local Planning Authority.
- 18) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 1. The programme and phasing of works on site;
 2. Site offices and other temporary buildings;
 3. The parking of vehicles of site operatives and visitors;
 4. Loading and unloading of plant and materials;
 5. Storage of plant and materials used in constructing the development;
 6. The erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate;
 7. Wheel washing facilities;
 8. Measures to control the emission of dust and dirt during construction;
 9. A scheme for recycling/disposing of waste resulting from demolition and construction works; and,
 10. Construction vehicle routing and access.
- 19) A site specific BS5228 noise assessment shall be submitted to and approved in writing by the Local Planning Authority as part of each of the reserved matters applications in respect of the relevant phases of the development. The assessment shall include the noise output level from existing noise generating uses around the application site and consider the impact upon future nearby residential properties from the different phases of development, to include output levels from the combinations of plant used for each phase of the development. Noise mitigation/attenuation measures shall be proposed where WHO guidelines are likely to be exceeded at noise sensitive properties in respect of both existing and proposed dwellings. The mitigation measures as approved shall be fully implemented as part of the development.
- 20) The rating level of any noise generated by reason of this development post completion shall not exceed the pre-existing background level by more than 5dB(A) at any time. The noise levels shall be determined at nearby noise sensitive premises, and measurements and assessment shall be made in accordance with BS4142:2014 Method of Rating Industrial Noise Affecting Mixed Residential and Industrial Areas.
- 21) An ecological management plan and ecological method statement shall be submitted to and approved in writing by the Local Planning Authority, as part of the reserved matters application. This information shall demonstrate how existing features of ecological interest will be protected, how the development site will be cleared of Great Crested Newts, identify areas of compensation and demonstrate management in the long term, and how this will be funded. The recommendations as approved shall be

- fully implemented in accordance with timescales to be agreed in writing as part of the approved plan.
- 22) A minimum of 2 weeks before commencement of development, written notice of the name and contact details of an ecological Clerk of Works shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in all aspects under the supervision of the Clerk of Works as is approved.
- 23) An ecology compliance audit shall be carried out by a qualified ecologist, independently of the Clerk of Works appointed in connection with condition no. 22, in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. A copy of the completed audit reports should be submitted to and approved in writing by the Local Planning Authority after each phase of development, and a final report submitted and approved in writing prior to the first occupation of each phase of the development.
- 24) Prior to demolition of any building on site, an updated Bat Roost and Bird Breeding Assessment, as carried out by a qualified ecologist shall be submitted to and approved in writing by the Local Planning Authority. The report shall include an Ecological Method Statement demonstrating / identifying any measures of protection / compensation / mitigation. The demolition shall be carried out in strict accordance with the recommendations as approved.
- 25) Prior to the first occupation a scheme for the provision of street lighting shall be implemented in accordance with a scheme submitted and approved in writing with the Local Planning Authority.
- 26) No part of the development shall commence until a Biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The Assessment shall include appropriate measures to prevent the introduction of Invasive Non Native Species (INNS) during the construction phase, and measures to control INNS as may be currently present on site. The measures and proposals shall be fully implemented in strict accordance with the details as are approved.
- 27) A detailed scheme incorporating the design, provision, implementation and maintenance of flood risk protection together with an updated Flood Consequences Assessment shall be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters application. Each phase of the development shall be carried out in strict accordance with the details as are approved.
- 28) No part of the development shall commence until Level 3 and 4 (English Heritage) archaeological surveys of all buildings on the site both pre and post 1950 have been submitted to and approved in writing by the Local Planning Authority. The survey shall be carried out in accordance with the standards laid down by the Institute for Archaeologists and MoRPHe (2006).
- 29) No dwelling to which this permission relates shall be sited within 18 metres of the centreline of the major hazard pipeline re:1890 – Rhostyllen to Acrefair.
- 30) No part of the development shall be occupied until written confirmation has been obtained from the Hazardous Substances Authority confirming that the hazardous

substances consent for the former Hafod Tileries has been formally revoked, and a copy of this confirmation has been submitted to and approved in writing by the Local Planning Authority.

- 31) No part of the development shall commence until a Method of Construction Statement has been submitted and approved in writing by the Local Planning Authority, to include details:
- i. Detailed layout, design, drainage and construction of the proposed new roundabout and proposed priority working traffic management scheme on Bangor Road;
 - ii. A cycleway/footway along the full frontage of the site on Bangor Road and Hafod Road;
 - iii. Detailed layout and design of the internal estate for the relevant phases;
 - iv. Cycleway enchantments through Nant Parc estate with links to Johnstown;
 - v. Speed limit amendments on Bangor; and,
 - vi. Visibility improvements at the existing Eco Ready Mix access.

The scheme as is approved shall be fully implemented prior to the first use of the development.

- 32) Prior to the occupation of each phase pf the development, a travel Plan for that phase shall be submitted to and approved in writing by the Local Planning Authority. The plan shall consider the requirements of the Active Travel Bill and public transport infrastructure provision across the site. The plan shall also include the detail of an annual monitoring report, which shall be submitted to the Local Planning Authority for written approval following the anniversary of the first use of the development, and every year up to and including the fifth anniversary.
- 33) No part of the development shall commence until a sewage scheme to satisfactorily accommodate the foul discharges from the development has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until the water system has been fully implemented and brought into use in accordance with the approved scheme.

Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 20/05/15
Ymweliad â safle a wnaed ar 20/05/15

**gan Declan Beggan BSc (Hons) DipTP
DipMan MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 03/07/15

Appeal Decision

Hearing held on 20/05/15
Site visit made on 20/05/15

**by Declan Beggan BSc (Hons) DipTP
DipMan MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 03/07/15

Appeal Ref: APP/H6955/A/14/2229480

**Site address: Land Opposite St. Peters Close, Off Llay New Road, Rhosrobin
Wrexham, LL11 4RB**

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Castlemead Group Ltd against the decision of Wrexham County Borough Council.
- The application Ref GWE P/2014/0480, dated 1 July 2014, was refused by notice dated 3 November 2014.
- The development is the erection of 117 dwellings, including provision of roundabout to provide access, new internal access roads, public open space and retention of existing footpath route.

Decision

1. The appeal is dismissed.

Background

2. The appeal site is located in open countryside adjacent to, but outside, the settlement boundary of Rhosrobin. It lies within a Green Barrier as designated by the adopted Wrexham Unitary Development Plan 1996-2011 (UDP), which separates Old Rhosrobin, New Rhosrobin and Pandy.
3. The site is roughly rectangular in shape and extends to approximately 4.74 hectares of land that historically has been in agricultural use although has not been put to that purpose for some time. The site is grassed over and split into four parcels of land that are separated by a combination of trees, hedges and post and wire fencing. An unmade public footpath bisects the site in an approximate east-west direction. The site is bounded by Wrexham cemetery to the north, with agricultural land to the north-west, residential development to the south, Llay New Road to the west, whilst to the north east are a small group of dwellings, and the south east borders railway lines beyond which are agricultural fields. Whilst in proximity to the settlement boundary of Rhosrobin it nonetheless retains its rural character.
4. The proposed development is for 117 dwellings, including provision of a roundabout to provide access, new internal access roads, public open space and the retention of an

existing footpath route. 25 % or 29 dwellings would be provided for affordable purposes, with an additional contribution for payment in lieu of a proportion of an affordable dwelling. The scheme would provide for a variety of open space throughout the site equating to some 1.004 hectares. The existing footpath would be retained and upgraded. The agricultural land to the north-west, which is outside of the application site and equates to 1.106 hectares is proposed to be dedicated to nature conservation.

5. On the day of the hearing the Appellant submitted a Section 106 Unilateral Undertaking that makes provision for 29 affordable dwellings, a financial contribution in order to secure the full 25% of affordable housing requirement, provision for the management and maintenance of on-site open space, and the long term management and maintenance of off-site habitat mitigation.
6. The application was considered by the Council's Development Control Committee on 3 November 2014 when Members resolved, contrary to officers recommendation, to refuse planning permission for the scheme due to it being located outside the defined settlement limits and within a designated green barrier, contrary to policies in the UDP.

Main Issues

7. I consider the main issues to be:

- whether the development is inappropriate development in a green barrier, and if so, whether any very exceptional circumstances exist to clearly outweigh this harm;
- the effect of the development on the character and appearance of the area; and
- the effect of the loss of agricultural land.

Reasons

Development in the Green Barrier

8. The site lies within a green barrier as designated in the UDP. Policy EC1 of the UDP refers to development in green barriers only being granted planning permission if the proposal is for agriculture, forestry, outdoor sport and recreation, cemeteries and other uses which maintain its openness and do not conflict with the purpose of including land within it.
9. Green barriers have not got the permanence of the green belt and are subject to review as part of the development plan process. It was argued that Planning Policy Wales Edition 7 July 2014 (PPW) acknowledges that circumstances will change over time to ensure that sufficient development land is made available, therefore policy EC1 should be afforded limited weight as it relates to an out of date UDP, and has not been reviewed in line with national policy to determine whether it still serves the purposes for which it was intended. It is maintained that PPW presumes in favour of sustainable development where development plan policies are out of date.
10. I note the concerns raised by the Inspector into the initial Examination of the Wrexham Local Development Plan (LDP) in regards to the Council's approach to green wedges which did not have adequate regard to national policy. Nonetheless, the fact is the site is within a designated green barrier as defined by the UDP, and whilst that may change in the future within the recommenced LDP, that plan is at an early stage

of preparation and is not expected to be adopted until sometime after 2018. The LDP is therefore afforded little weight in this process.

11. The Council cited two recent appeal decisions¹ where the green barrier designation was upheld, and it was argued those decisions did not suggest policy EC1 was out of date.
12. Whilst the UDP plan period expired in 2011, policy EC1 is consistent with PPW. Where reference is made to green wedges, these have effectively the same meaning as green barriers in this regard. PPW states a presumption against inappropriate development, with substantial weight to be attached to any harmful impact which a development would have on a green wedge/barrier designation. It confirms that inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations would clearly outweigh the harm.
13. The proposed development does not fall into any of the categories of development deemed not to be inappropriate in the green barrier in PPW and policy EC1 of the UDP. The main parties agree that the proposal would represent inappropriate development in the green barrier.
14. Paragraph 4.8.18 of PPW is quite clear, that other forms of development would be inappropriate development unless they maintain the openness of the Green Belt or green wedge and do not conflict with the purposes of including land within it.
15. Notwithstanding that part of the site would be set aside for public open space, the fact remains that a substantial part would be developed over, which would unavoidably and significantly reduce its openness. Therefore the proposed development would not maintain the openness of the green barrier and as a result constitutes inappropriate development, and is therefore contrary to policy EC1 of the UDP and PPW.
16. The Appellant argues the site does not perform a significant green barrier function due to its enclosed position relative to existing nearby development, and that in any event a green wedge will always be retained to the north of the site. One of the purposes of the green barrier/wedge according to PPW and Policy EC1 of the UDP is to prevent coalescence of urban areas and villages with other settlements. In this instance it serves to prevent coalescence of the adjacent settlements of, Old and New Rhosrobin, and Pandy. The green barrier in proximity of the site extends over a wide arc from the south east to the north and west, and it serves to constrain the urban villages of Old and New Rhosrobin and Pandy. The development of the site would result in the distinction between the villages being lost and would therefore be contrary to national and local policies that seek to prevent the coalescence of settlements.
17. I also consider the development would represent an unnecessary and undesirable encroachment into the countryside thereby conflicting with one of the purposes of including land within the green barrier/wedge. The development, therefore, amounts to inappropriate development in the green barrier/wedge on this basis as well.
18. In conclusion, the development constitutes inappropriate development in the green barrier and is therefore contrary to Policy EC1 of the UDP and PPW.

¹ Ref APP/H6955/A/13/2196178 & APP/H6955/A/14/2220097

Very Exceptional Circumstances

19. The Appellant argues that PPW presumes in favour of sustainable development where development plan policies are outdated or superseded by other material considerations, and that national policy requires Local Planning Authorities to provide a 5 year supply of housing land. It is maintained the development of the site would bring significant planning and community benefits due to its sustainable location on the edge of an existing built up area negating the need to extend infrastructure to rural areas, it would supply much needed housing to the County with 29 of those houses being affordable, permanently secure land for wildlife and habitat purposes, provide significant green spaces throughout the development, upgrade an existing public right of way, assist in highway safety in the area, would bring about economic benefits by securing local jobs in the construction industry and spending in local shops, in addition to supporting local services and facilities. It is argued these constitute very special circumstances needed to outweigh any harm to the green barrier.

Sustainable development, five year land supply and affordable housing

20. It is a long standing planning policy position that the countryside should be safeguarded from uncontrolled and sporadic development, with development primarily directed to existing settlements; otherwise unrestrained encroachment of the countryside would occur.
21. Policy PS1 of the UDP seeks to direct development for housing to within defined settlement limits, whilst policy PS2 refers to development not detrimentally affecting the countryside. The Appellant argues both of these policies should be given limited weight due to the lack of five year housing land supply, and the fact that it is inevitable such development will have to take place outside existing settlement boundaries to meet such need. The Council argue that as the site lies outside defined settlement limits it does not accord with policies PS1 and PS2.
22. Notwithstanding the Appellant's view that the proposed development is located in a sustainable location in regards to its position relative to the settlement boundary, has access to, and would support local services and facilities, and benefits from good transport links, I do not consider these would overcome the fact that the site is located in open countryside. Chapter 4 of PPW is concerned with planning for sustainability and whilst it presumes in favour of sustainable development, it also stipulates that building in the open countryside must continue to be strictly controlled. For the reasons given above, I do not consider that the proposal would be a sustainable form of development in the context of PPW.
23. PPW requires local planning authorities to ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing. For land to be regarded as genuinely available it must be a site included in a Joint Housing Land Availability Study (JHLAS). There is no dispute between the parties regarding a deficiency in the 5 year housing land supply as required by PPW; currently down to 3.1 years as stated in the most recent JHLAS of 2014.
24. Technical Advice Note 1: Joint Housing Land Availability Studies (TAN 1) advises that where land supply is below the 5 year requirement 'the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with the development plan and national planning policies'. The Council argue the Appellant has not presented any compelling

reason to make an exception to the adopted UDP policies and that it does not consider the lack of a five year land supply, by itself, is a valid reason to grant planning permission.

25. The lack of a 5 year housing land supply weighs heavily in favour of the proposed development. Also 29 dwellings for affordable needs and an affordable contribution, also weighs in its favour. I acknowledge the Council's continued failure to meet housing land supply and that the LDP was withdrawn in part, due to a significant shortfall in the supply of housing being planned, nonetheless, whilst the UDP plan period expired in 2011, it still needs to be read as a whole and the lack of a 5 year housing land supply should not be used to justify development in otherwise inappropriate locations such as the appeal site. The benefits from the proposal in terms of the contribution to housing land supply does not outweigh the considerable conflict with the development plan and national planning policy, and the balance clearly falls in favour of dismissing the appeal.

Other benefits

26. I acknowledge the scheme would bring about benefits for wildlife and habitat purposes, provide significant green spaces throughout the development, upgrade an existing public right of way and assist in highway safety in the area, however, these benefits do not outweigh the considerable conflict with the development plan and national planning policy.
27. I recognise that PPW encourages economic development, but this has to be weighed against the UDP and PPW policy in relation to green barrier/wedge policies. The arguments put forward on grounds of economic benefit would not diminish the substantial weight against the development by reason of inappropriateness.
28. I have considered individually and cumulatively these other considerations and these do not clearly outweigh the harm by reason of inappropriateness. In conclusion the development is contrary to Policy EC1 of the UDP and PPW.

Character and Appearance

29. The Appellant argues the site is well screened from vantage points in the locality, is enclosed by existing local development to which it relates to and does not project into an area of unbounded open countryside. The Council argue that in heading towards the site, once the A483 is crossed, the impression is one of leaving a built up area behind to be replaced by a rural environment; if the site were developed this rural impression would be eroded.
30. I observed views into the site from the nearby public highway which identified it as a rural landscape, with corresponding rural views from within the site looking outwards. Contrary to the Appellant's opinion that the scale of the change would be limited, and that any adverse effects on the landscape would be low or slight, I consider the built development would be obvious and would have an adverse effect that would be substantial for the site itself and medium for the wider landscape, thereby detracting from the existing rural character of the area.
31. Whilst being in proximity of other built development, the site does serve an important purpose in the visual transition from the adjacent urban edge to open countryside. Irrespective of the retention of parts of the landscaped boundary or additional planting, nevertheless, development of fields would detract from and, in my opinion, unacceptably harm the open character and appearance of the area thereby conflicting

with Strategic Policy PS1, which refers to new development for housing being directed to within defined settlement limits.

Agricultural Land

32. An Agricultural Land Classification (ALC) for the site, and the adjacent land to be dedicated to nature conservation was carried out in accordance with MAFF's guidance and criteria². It classified the soil as being made of 4.8 ha or 75% of the overall land as being Grade 3a, and 1.6 ha or 25% being Grade 3b. Grade 3a land is described as very good agricultural land, whilst Grade 3b is classed as moderate quality agricultural land. Whilst the classification relates to an area larger than the appeal site, nonetheless, the submitted details do appear to indicate the majority of the site is at least Grade 3a land. The assessment stated that as the site is not of the 'Best Most Versatile' land, and has restricted access, it is unlikely to be used in arable production.
33. Whilst not forming part of the Council's reason for refusal both parties at the hearing were asked to give their views on the loss of agricultural land. Policy EC2 of the UDP only permits development on agricultural land of grades 1,2 or 3a if it does not lead to the irreversible loss of that land.
34. PPW states that the best and most versatile agricultural land, which includes Grade 3a, should be conserved as a finite resource for the future and that land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable.
35. The lack of a 5 year housing land supply and failure to meet the UDP's housing target could represent an overriding need, however policy EC2 does refer to higher quality land only being developed if there is no other lower quality sites available. At the hearing the Council confirmed that the bulk of available brownfield land has already come forward for development over the duration of the UDP and due to development pressures within the County, the majority of new development sites are anticipated to be on greenfield sites, with the bulk of them focussed on Wrexham and the northern part of the County.
36. In addressing the 5 year land supply shortfall, I appreciate it is likely that the Council will require the release of some greenfield sites adjacent to existing settlements, however, there is no evidence before me that this could not be achieved using lower grade agricultural land elsewhere. I conclude the proposal conflicts with policy EC2 of the UDP and PPW.

Other Matters

37. Interested parties raised objections in regards to the scheme's drainage feeding into local drains that were already overloaded. The Appellant's surface water drainage report recommended the site be drained via infiltration techniques. Neither Natural Resources Wales, nor Welsh Water raised any objections to proposed development on drainage grounds and I have no reason to take a different opinion.
38. Objections have also been raised that there are not enough services locally to cope with the increase in population the scheme would bring about, however, I note the

² Agricultural Land Classification of England and Wales. Guidance and criteria for grading the quality of agricultural land. MAFF. 1988

Council's Education Department did not raise any objections to the proposed development, nor am I aware of any objections or concerns raised in regards to capacity issues from local health practices or the local health board.

39. Objectors raised issues relating to highway safety, effects on wildlife and the existing public right of way. I am satisfied from my inspection of the site and reading of the submitted technical reports and responses from statutory consultees that the development could be acceptably managed in regards to these issues via appropriately worded planning conditions had I been minded to allow the appeal. Reference has been made to the potential for detriment to residential amenity due to construction traffic; however, I am satisfied that this matter could be adequately regulated by means of an appropriately worded planning condition, whilst devaluation of property is not itself a material consideration as it is a matter of private, rather than public interest.
40. Whilst the Welsh Spatial Plan does envisage Wrexham as being a key hub, however such growth cannot be at the expense of the designated green barrier, the character and appearance of the area, and higher quality agricultural land.

Overall Conclusion

41. I conclude that the development is inappropriate development in the green barrier and very exceptional circumstances do not exist to clearly outweigh this harm. In addition the development would cause unacceptable harm to the character and appearance of the area and result in the loss of higher quality agricultural land. After taking account of all the evidence before me, and for the reasons given above, I conclude that the appeal should be dismissed.

Declan Beggan

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr N Thorns BSc (Hons) DipTP MRTPI

Appellant's Agent

Mr R Shackleton

Director for Castlemead Group Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Phillips MSc MRTPI

Planning Officer

THIRD PARTIES

Mr S Griffin MCIOB

S.G. Estates

Ms A Gray

Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Council's notification letter and list of those notified
- 2 Copy of Inspector's Report into Preliminary Findings of the Wrexham County Borough Council Local Development Plan
3. Copy of UDP Policies H7 and CLF6
4. Extract of plans of UDP indicating green barrier designation in vicinity of appeal site
5. Copies of appeal decisions, Ref APP/H6955/A/13/2196178 & APP/H6955/A/14/2220097
- 6 Signed Section 106 Planning Obligation, dated 20 May 2015
7. Appellant's written submission regarding an application for costs

Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 27/10/15
Ymweliad â safle a wnaed ar 27/10/15

**gan Kay Sheffield BA(Hons) DipTP
MRTPI**

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 25/11/15

Appeal Decision

Hearing held on 27/10/15
Site visit made on 27/10/15

by Kay Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers
Date: 25/11/15

Appeal Ref: APP/H6955/A/15/3095184

**Site address: Land adjoining Trewythen Hall Care Home, Vicarage Lane,
Gresford, Wrexham, LL12 8US**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the
appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Trewythen Hall Limited against Wrexham County Borough Council.
- The application Ref P/2014/0815, is dated 31 October 2014.
- The development proposed is the siting of extra care facility, creation of internal access road and associated works.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: whether the proposal would comply with local and national policies designed to protect the green barrier from harm and if not; whether there are very exceptional circumstances sufficient to outweigh the harm; the effect of the development on highway safety; and also on protected species.

Reasons

3. The Council confirmed that had it been able to determine the application it would have refused permission. The areas of concern it identified are reflected in the main issues. The Council also identified the policies of Wrexham Unitary Development Plan, 2005 (UDP) which it considered relevant to the appeal. However, in discussion at the hearing, it was agreed that Policy EC1 had been omitted and Policy EC3 was not relevant. The Appellant asked for regard to be given to Policy H11 which addresses elderly persons' residential care homes, nursing homes and development for specialist health care facilities.
4. The proposed extra care facility would consist of twenty self-contained bungalows designed for independent living with the Appellant providing a rapid response service in times of emergency. The scheme would be similar to the existing self-contained units to the east of the Hall. It was evident that the Appellant monitors existing residents in these units and alerts relatives of any concerns. Although reference was

made to the possibility of facilities at the existing Care Home being made available to future residents of the proposed units, no firm plans were put forward in evidence. Whilst I accept that the rapid response service and close presence of the staff at the Care Home may give residents the confidence and support necessary to live independently for longer, I am not convinced that the level of support proposed amounts to the residential, nursing or specialist health care services stated in the policy. I am therefore in agreement with the Council that Policy H11 of the UDP is not relevant in this instance.

Green barrier

5. The site lies between Vicarage Lane and Trewythen Hall. It is an area of open land outside but adjoining the settlement boundary of Gresford which also form part of the green barrier as identified in the UDP. Policy EC1 of the UDP only permits development within green barriers if it is for *"agriculture, forestry, essential facilities for outdoor sport and recreation, cemeteries and other uses of land which maintain the openness of the Green Barrier and do not conflict with the purpose of including land within it"*.
6. For the purposes of national policy the designation of green barrier is synonymous with the term green wedge. Planning Policy Wales (PPW) makes a presumption against inappropriate development in green wedges. The circumstances under which buildings in a green wedge may not be inappropriate are identified in paragraph 4.8.17 and include those set out in Policy EC1 of the UDP. The proposal does not fall within any of the specific uses listed in Policy EC1 or PPW.
7. Other uses are allowed in the green barrier where openness is maintained. Openness and permanence are recognised in paragraph 4.8.5 of PPW as the most important attributes of Green Belts and although local designations such as green barriers do not convey the permanence of a Green Belt, openness is still considered an important attribute. Although PPW does not specifically define openness, it is generally accepted to be the absence of urban sprawl and encroachment into the countryside.
8. Openness is not primarily about visual impacts but about the absence of development that would cause urban sprawl. The Appellant considered that the openness of the site would not be compromised by the development as the site is enclosed by its landscaped boundaries. Despite the low density of the proposal, the erection of twenty bungalows would result in a significant amount of built development. Although the access roads and car parking may have a limited effect, overall the proposal would fail to maintain the openness of the site.
9. The purposes of the green barrier set out in paragraph 5.2 of the UDP reflect those in PPW and include: to prevent the coalescence of urban areas and villages with other settlements; assist in safeguarding the countryside from encroachment; and to protect the setting of an urban area. The location of the site on the edge of the settlement is significant in safeguarding the countryside from encroachment and although the size of the development may limit its effect, I am nevertheless of the opinion that to allow the development would conflict with the purposes of including the land within the green barrier as well as failing to maintain openness.
10. The evidence therefore leads me to conclude that the proposal would constitute inappropriate development within the green barrier which would also fail to maintain openness and conflict with the purposes of including land within it, contrary to Policy EC1 of the UDP and PPW. This carries substantial weight against the appeal.

Very exceptional circumstances

11. PPW states in paragraph 4.8.15 that inappropriate development should not be granted planning permission *"except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Belt or green wedge"*. The very exceptional circumstances advanced by the Appellant include the current supply of housing land and the identified need and suitability of the site for the type of accommodation proposed.
12. The most recent published figures indicate the Council has a 3.1 year housing land supply. The proposal in providing suitable accommodation into which older people could move would help satisfy a recognised need for housing for the elderly and the release of larger properties as a consequence of the development would help increase housing supply. In circumstances where a Council is unable to demonstrate a five year housing land supply paragraph 6.2 of Technical Advice Note 1: Joint Housing Land Availability Studies states the need to increase supply *"should be given considerable weight when dealing with planning applications, provided that the development would otherwise comply with national planning policies"*.
13. The provision of housing solely for occupation by the elderly would complement the existing accommodation provided at the Care Home and the existing bungalows associated with it. The design of the units would also allow future occupants to live independently. However, with no firm proposals for increased levels of care other than the possibility of transfer to the Care Home, the level of support proposed is limited to the close presence of the staff of and an emergency rapid response service operated by the Care Home. The Council expressed concern about the availability of such services if the Care Home ceased to operate. Whilst the speed of response may be faster than other telephone systems available to the elderly, I consider that the level of support proposed does not essentially require a location adjacent to the existing Care Home.
14. The Council expressed concern that to allow development of this site could set a precedent for the release of similar sites in the green barrier which lie on the edge of a settlement. It is the particular circumstances of housing schemes for the elderly which sets them apart from other residential developments. I am not convinced that the proposed development with the only confirmed planned support being an emergency rapid response service would be sufficiently different for it to be reasonable to anticipate that other schemes of a similar nature may not come forward.
15. Although the site adjoins the settlement boundary to the north and east and is bounded to the west by Vicarage Lane, it is nevertheless within the countryside with no physical boundary with the adjoining open land to the south. There is also open land to the west of the road. The development would infill the area between the Hall and Vicarage Lane which would have the effect of extending the built development further along the road frontage. It would also reduce the gap between the settlement and the cluster of properties to the south. I accept that views into the site from Vicarage Lane and other local vantage points are restricted by the mature tree planting along the road frontage and within the area generally. In addition the bungalows would be set back from the road in landscaped grounds and being single storey would be relatively low lying. Although there may only be glimpsed views of the proposal through the trees, it would still represent an extension of the settlement into the countryside.

16. The Council stated that the site is within an area classed as Grade 2 agricultural land whereas the Appellant described the site as parkland in association with the Hall. The mature trees within the site include not only native species, but also species including the Monkey Puzzle which are associated with planned landscapes such as parklands. Whilst the land may not be used productively at present, I have no substantive evidence that the land is not Grade 2 agricultural land or that it could not revert to such use.
17. I am aware that the Council has been asked to consider the appeal site as a candidate site in both the emerging Local Development Plan (LDP2) and the earlier version of the plan (LDP1), withdrawn in 2012. In its consideration of the site as part of LDP1 the Council concluded that the site displayed significant constraints which could not be overcome to allow development in this location. With the exception of insufficient school capacity, the constraints identified by the Council relevant to this development include the presence of protected trees, the ecology of the site and highway safety issues. These are addressed in other sections of the decision.
18. The LDP2 is at an early stage and the current timetable indicates the plan will not be ready for adoption until 2018. The status of the site should be a matter addressed as part of LDP2 and the Council is of the opinion that the importance of the site's current purpose and function as a green barrier is still regarded as relevant and material. It is clear from paragraph 4.8.11 of PPW that green wedges should be established through development plans. I accept that in paragraph 4.8.13 there is a need for local planning authorities to ensure that "*a sufficient range of development land is available which is suitably located in relation to the existing urban edge and the proposed green wedge*". However, there are several impediments to the site's development.
19. The lack of a five year housing land supply carries considerable weight. Moreover the site is located in a sustainable location on the edge of the settlement and the proposed dwellings would contribute towards the supply of housing. Whilst the dwellings would provide accommodation which would allow the elderly occupants to live independently, the type of support proposed does not necessarily require a site adjacent to the existing Care Home. Furthermore the development would represent an encroachment into the countryside with the potential to set a precedent for the release of other sites in similar locations. Therefore I conclude that in this case the considerations do not clearly outweigh the harm to the green barrier. Looking at the case as a whole, I consider that very exceptional circumstances to justify the development have not been demonstrated.

Highway safety

20. The Council initially indicated that visibility splays of 2.4m by 56m were required at the access onto Vicarage Lane. However, based on the results of a traffic survey undertaken by the Appellant, the Council revised its requirements and confirmed to the hearing that visibility of 2.4m by 40m measured to the nearside kerb in both directions would be acceptable. Assessment of the situation during the site visit confirmed that a short section of the stone boundary wall impinged on the required visibility to the south east. However, I am satisfied that the required visibility could be provided and it is a matter which could satisfactorily be addressed by condition.
21. The Appellant opined that due to the nature of the road and the recorded speed and volume of traffic the visibility splay could be measured to the centre line. Although in some instances it may be appropriate for visibility splays to be measured other than along the nearside edge, it is more usual for the nearside wheel track to be used as an

alternative. Whilst the volume of traffic using Vicarage Lane may not be high, it includes tankers from the nearby milk depot as well as cyclists and pedestrians and, as evidenced at the hearing, people using mobility scooters. I accept that there is no evidence of any recorded accidents on this stretch of road, nevertheless given those using the road, I do not consider it would be acceptable to reduce the visibility requirements below those requested by the Council which accord with Technical Advice Note 18: Transport.

22. There are no footpaths along Vicarage Lane and there is a high level of on-street parking between the site and the junction with Chester Road to the north. The Council is concerned that this does not provide a safe route for pedestrians from the site to the local shops and bus stops on Chester Road. It is clear from the discussion at the hearing that existing residents on the site walk or use mobility scooters between the site and Chester Road and I observed staff from the Hall and local residents walking along Vicarage Lane as I also did. Whilst it would be preferable to segregate pedestrians from the main highway the Council confirmed this was not possible.
23. Notwithstanding this, the route is within a 30mph area and the nature of the road together with the parked cars actively slow vehicles. Pedestrians do have to be more aware of the traffic when using a shared surface rather than when there is a dedicated footway and I accept that some residents may choose not to walk to local services. However, I do not consider the situation to be significantly different from numerous roads in rural settlements. Furthermore, I do not consider that the increase in the use of Vicarage Lane by pedestrians as a result of the proposed development would be so significant as to be detrimental to highway safety.
24. I therefore conclude that, subject to the provision of the stated visibility splays, the proposal would not harm highway safety, in accord with Policy GPD1(d) of the UDP.

Effect on protected species

25. The ecological appraisal submitted as part of the application included an Extended Phase 1 Habitats Survey which dated from 2013. The proposed layout of the development shown within the report differs slightly from the scheme before me. The appraisal concluded that the site has the potential to support roosting, foraging and commuting bats as well as badger, reptiles and various species of nesting birds. Habitats with the potential to support these protected species were reported to have been found within the development footprint and to have the potential to be impacted on by the scheme. The appraisal concluded that, without mitigation, the scheme would have the potential to result in a number of adverse impacts on the biodiversity value of the site, in particular potential impacts to the use of the site by bats. It was recommended that bat surveys be undertaken to establish the use of those trees lost to the scheme by roosting bats and to assess the overall value of the site to foraging and commuting bats.
26. It was also recommended that reasonable avoidance measures be undertaken to avoid harm to reptiles, badgers and nesting birds during construction works. Enhancement measures and the creation of a habitat management plan were also proposed to ensure that no long term adverse impacts on the biodiversity value and interest of the site would result from the scheme. The parties were agreed that reasonable avoidance measures with regard to badgers, reptiles and nesting birds could be satisfactorily addressed by condition and I have no reason to disagree.

27. A further report was submitted as part of the Appellant's final comments on the appeal. A daytime survey of the trees identified within the initial survey as having low to high potential to support a bat roost found no evidence of a bat roost located within the trees. Based on this lack of evidence the report concluded that bat activity surveys were not considered necessary. Whilst the likelihood of bats foraging across the site and their use of boundary tree belts as foraging and commuting habitat was recognised, the report considered that the trees to be felled would not result in the loss of important habitat for bats, the connectivity would not be broken and the foraging and commuting habitat would be maintained by the retention of the majority of trees on the site and the boundary tree belts. In addition new garden facilities would provide more suitable bat foraging habitat compared to the species poor grassland which is currently present.
28. Whilst this report was submitted at a late stage in the process the Council was able to consider its contents and presented written comments to the hearing. The Council remained concerned that there was insufficient evidence to confirm that the proposal would not have an adverse effect on bats. Whilst the roost assessment gave an indication of the potential value of the trees, the Council was concerned that fissures within the canopy might remain unseen. Indeed the report stated that bat absence is very difficult to prove definitively due to their mobility and size and that bats can rest in tiny spaces such as behind bark or within dense ivy. The Council was also concerned that the assessment failed to demonstrate how the site as a whole would be used for foraging, swarming, mating, feeding or commuting bats at various times of the year. It was anxious that the effect of the development on all these activities should be established as they would all have the potential to impact on the conservation of the species at a local level.
29. I accept that the later report did not identify any bat activity and the author was of the opinion that tree felling and tree treatment could proceed without the need for further bat survey work or bat mitigation. However, I am not convinced that the survey work undertaken is sufficient to ensure there would be no adverse impact on the conservation of the species. I am aware that the protection afforded by the legislation relates to any structure or place which any wild animal of a listed species uses for shelter or protection at any time even when the animal is not there. However paragraph 6.2.1 of Technical Advice Note 5: Nature Conservation and Planning (TAN 5) states that the presence of a protected species is a material consideration when considering a development that, if carried out, would be likely to result in disturbance or harm to the species or its habitat. It is essential that the presence or otherwise of protected species, and the extent to which they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
30. Paragraph 6.2.1 of TAN 5 also states that consultation should take place with the Countryside Council for Wales, now Natural Resources Wales (NRW), before granting planning permission. NRW objected to the planning application unless it could be satisfied by the submission of additional information to show that the development would not have adverse effects on the favourable conservation status of bats. It was confirmed to the hearing that NRW had not been made aware of the later report. I am concerned that NRW would be prejudiced by the lack of opportunity to consider whether the contents of the report overcame the concerns it had raised.

31. I therefore conclude that insufficient evidence has been submitted to ensure that the development would not result in an adverse impact on the conservation of protected species, contrary to Policy EC6 of the UDP.

Other material considerations

32. The development would necessitate the removal of several trees some of which are protected by a Tree Preservation Order. The submitted evidence confirms that the protected trees to be removed have a limited life span. Moreover, it is proposed that suitable replacements would form part of a comprehensive scheme for the landscaping of the site. Given the condition of the existing mature protected trees and subject to the planting of suitable replacements as part of the landscaping of the site, which can be addressed by condition, I consider the loss of the trees to be insufficient reason to dismiss the appeal.
33. An intermediate pressure gas pipeline runs from Vicarage Lane along the roadside boundary of the site before turning towards the north east. The submitted drawings indicate that the pipeline would skirt the bungalows and in crossing the gardens to three of them would be within approximately 5m of those properties. The parties confirmed to the hearing that the pipeline operator, Wales and West, raised no objection to the development. However it did indicate that its apparatus may be at risk during construction works. In its response the Health and Safety Executive (HSE) stated that the risk of harm to future occupants of the development was sufficient to refuse permission on safety grounds.
34. I accept that the assessment undertaken by the HSE only took account of the basic details of the scheme and its response indicated that additional information might overcome its concerns. However, the parties confirmed to the hearing that no further details had been provided. Moreover, HSE also indicated that it was prepared to provide the necessary support in the event of an appeal. I have been advised that the HSE were not notified of the appeal.
35. The parties were of the opinion that the presence of a gas pipeline in close proximity to residential properties did not prevent the development from taking place. They agreed that precautionary measures would be needed during the construction phase and future occupants would need to be made aware of its presence in the use of their gardens. The parties were also in agreement that these issues could be satisfactorily addressed by way of a condition requiring a Construction Method Statement.
36. Whilst such a condition may be appropriate in some circumstances I consider that to impose such a condition would require a greater degree of certainty that the safety of residents would not be affected. Given that no further details were submitted to the HSE in response to its recommendation that the application be refused I am not convinced by the evidence that the safety of residents would not be compromised. Moreover, to reach a positive decision on the proposal without the HSE being aware of the appeal would, in my opinion, constitute prejudice.
37. In addition to the issues already covered, local residents expressed concern about loss of outlook. However, I am satisfied that the separation distance between the proposed bungalows and nearby residential properties, together with the orientation of the bungalows would ensure that there would be no unacceptable level of harm to the living conditions of the occupiers of nearby dwellings with regard to outlook or privacy.

Conclusions

38. The proposal would be inappropriate development in the green barrier which would also fail to maintain openness and there are no very exceptional circumstances sufficient to outweigh this harm. In addition I have identified potential harm to protected species and issues of safety regarding the proximity to the gas pipeline. Whilst I am satisfied that issues relating to highway safety and the loss of TPO trees are matters which can be satisfactorily addressed, these do not overcome the concerns I have raised. For these reasons, and having had regard to all other matters raised, the appeal is dismissed and planning permission is refused.

Kay Sheffield

Inspector

APPEARANCES

FOR THE APPELLANT:

Jamie Bradshaw BA(Hons) MSc MRTPI	Planning Consultant, Owen Devenport Ltd
Berwyn Owen DipTP MRTPI MRICS	Director, Owen Devenport Ltd
Julie Barr BA DipLA CMLI	Principal, Tirlun Barr Associates
Jon Addy BSc MSC MCILT	Principal Transport Planner, SCP
Peter Haycox	Of Trewythen Hall Limited, the Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Janet Sutherberry	Senior Planning Officer
Emma Broad	Ecology Officer

DOCUMENTS

1. Council's letter of 23 September 2015 regarding the arrangements for the hearing.
2. List of suggested conditions submitted by the Council.
3. Copy of Policy EC1 of the Wrexham Unitary Development Plan.
4. Additional comments from the Ecology Officer on behalf of the Council.
5. Additional highway comments on behalf of the Council.
6. Plan showing the route of the gas pipeline.
7. Historical map of the site submitted by the Appellant.
8. Colour copy of the plan forming part of the Tree Preservation Order provided by the Council.

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 28/01/16

gan Kay Sheffield BA(Hons) DipTP MRTPI

**Arolygydd a benodir gan Weinidogion Cymru
Dyddiad : 23 Chwefror 2016**

Appeal Decision

Site visit made on 28/01/16

by Kay Sheffield BA(Hons) DipTP MRTPI

**an Inspector appointed by the Welsh Ministers
Date : 23 February 2016**

Appeal Ref: APP/H6955/A/15/3138885

Site address: Land north of Minera Hall Road, Minera, Wrexham, LL11 3YE

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by RLP Limited against the decision of Wrexham County Borough Council.
 - The application Ref P/2015/0254, dated 26 March 2015, was refused by notice dated 1 June 2015.
 - The development proposed is residential development including means of access.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. The outline planning application was supported by an illustrative layout plan which indicated a development in excess of fifty dwellings. Although the application form stated that details of access were not reserved for subsequent approval, the decision notice issued by the Council and the appeal form show all matters to be reserved. The Appellant has confirmed access should be treated as a reserved matter and I have determined the appeal on this basis.
3. Although at the time the planning application was determined edition 7 of Planning Policy Wales (PPW) was in force, it was replaced by edition 8 in January 2016. The Council took account of the latest edition in its appeal statement and the Appellant has had the opportunity to review its case in the light of it. I have had regard to edition 8 in my determination of the appeal.

Main Issues

4. The main issues are: whether the proposal would comply with local and national policies designed to protect the green barrier from harm and, if not, whether there are very exceptional circumstances sufficient to outweigh the harm; the effect of the development on flooding; and the effect on visual amenity.

Reasons

5. The appeal site is an irregularly shaped parcel of agricultural land which rises up from its southern boundary with Minera Hall Road. It lies outside but adjacent to the settlement limit of Minera which adjoins the site on its western edge. To the north there are playing fields and to the east there is agricultural land, although there is no physical definition of the boundary with the latter.

Green barrier

6. The appeal site lies within the green barrier as defined in the Wrexham Unitary Development Plan, 2005 (UDP). Policy EC1 of the UDP only permits development within green barriers if it is for *"agriculture, forestry, essential facilities for outdoor sport and recreation, cemeteries and other uses of land which maintain the openness of the Green Barrier and do not conflict with the purpose of including land within it"*.
7. For the purposes of national policy the designation of green barrier is synonymous with the term green wedge. Paragraph 4.8.14 of PPW makes a presumption against inappropriate development in green wedges. The circumstances under which buildings in a green wedge may not be inappropriate are identified in paragraph 4.8.16 and include those set out in Policy EC1 of the UDP. The proposed development does not fall within any of the specific uses listed in Policy EC1 or PPW.
8. Other uses are allowed in the green barrier where openness is maintained. Openness and permanence are recognised in paragraph 4.8.5 of PPW as the most important attributes of green belts and although local designations such as green barriers do not convey the permanence of a green belt, openness is still considered an important attribute. Although PPW does not specifically define openness, it is generally accepted to be the absence of urban sprawl and encroachment into the countryside.
9. The purposes of the green barrier set out in paragraph 5.2 of the UDP reflect those in PPW and include: to prevent the coalescence of urban areas and villages with other settlements; assist in safeguarding the countryside from encroachment; and to protect the setting of an urban area. The location of the site on the edge of the settlement is significant in safeguarding the countryside from encroachment and maintaining a separation between Minera and Coedpoeth, although I acknowledge that the development would not result in the coalescence of the two settlements.
10. The evidence therefore leads me to conclude that the proposal would constitute inappropriate development within the green barrier which would also fail to maintain openness and conflict with the purposes of including land within it, contrary to Policy EC1 of the UDP and PPW. This carries substantial weight against the appeal.

Very exceptional circumstances

11. PPW states in paragraph 4.8.15 that inappropriate development should not be granted planning permission *"except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Belt or green wedge"*. One of the very exceptional circumstances advanced by the Appellant is that the Council does not have a five year housing land supply. In such circumstances paragraph 6.2 of Technical Advice Note 1: Joint Housing Land Availability Studies states that the need to increase supply *"should be given considerable weight when dealing with planning applications, provided that the development would otherwise comply with national planning policies"*.

12. The appeal site is located on the edge of the settlement and the Council has estimated that the proposed development would result in a 25% increase in the number of dwellings within it. The settlement is served by a local bus service and a wider service is accessible within easy walking distance of the site. There is also a local primary school, although I understand it is full to capacity. The only other services listed as being within the settlement are a church, public house, sports field and play area. The existing facilities and services within the settlement are therefore limited for the scale of development proposed. It would be necessary for residents to travel to other settlements for employment, shopping and other facilities and services and although there is a bus service, it is highly probable that a majority of residents would be reliant on the private car. These factors limit the sustainability of the development and do not satisfy one of the objectives of PPW which is to minimise the demand for travel, especially by private car.
13. The Appellant also contends that there has been inconsistency in the Council's consideration of residential applications as it has granted permission for other large residential developments on land outside but adjoining settlement boundaries. Sites at Ruabon and Summerhill have been cited. The Appellant has also suggested that there are few if any other opportunities to extend the settlement of Minera although the Council has indicated that there is permission on a small site to the west of Eversley Court.
14. Although there are similarities between the proposal and the examples of other schemes brought to my attention by the Appellant in that they are for residential development on sites outside of a recognised settlement, I do not have sufficient details to be able to make a reasoned comparison between them and the appeal before me. In view of the current lack of housing land supply, there may be circumstances where residential development of land outside recognised settlements may be supported. However, the proposals would need to satisfy all other planning considerations and represent a sustainable form of development. In view of my concerns regarding the development I do not consider it meets these requirements.
15. The Council in its consideration of housing land supply as part of the emerging Local Development Plan (LDP2) has indicated it might potentially result in utilising some green barrier land in some locations. However, the Council has indicated that it is unlikely that any changes to the settlement limit of Minera would take place and therefore only small windfall sites or small scale infill developments might be allowed, although there may be scope for small scale affordable housing schemes. In its assessment of the appeal site and adjacent areas of land as a potential candidate site the Council has indicated that the site is unlikely to be considered as suitable for development, although it notes that the assessments are on-going and that the sites will be tested further. However the LDP2 is an emerging plan and at the stage it has reached little weight can be attributed to it.
16. Although the lack of housing land carries significant weight, the site's current purpose and function as part of a green barrier is still relevant and material to the consideration of the appeal. The proposal would represent an encroachment into the countryside in a location which is not highly sustainable and which would have the potential to set a precedent for the release of other sites in similar locations. I conclude that in this case the considerations do not clearly outweigh the harm to the green barrier. Looking at the case as a whole, I consider that very exceptional circumstances to justify the development have not been demonstrated.

Flooding

17. In determining planning applications paragraph 13.4.2 of PPW requires that development should not increase the risk of flooding elsewhere by loss of flood storage or flood flow route; or increase the problem of surface water run-off. PPW goes on to state that it is essential that the advice of Natural Resources Wales (NRW) is obtained and given due weight as a material consideration in determining planning applications. There must also be good reasons for not following the advice of NRW.
18. Potential for flooding was identified as a matter of concern by the Council in its second reason for refusing planning permission. In order to try and address the matter the Appellant submitted a Flood Consequences Assessment (FCA) as part of the appeal. Neither the Council nor NRW considered the FCA fully addressed its concerns and considered that further clarification was required with regard to the flood risk associated with the unnamed watercourse which crosses the site. The Council also raised an issue with regard to ownership of the downstream culvert.
19. From the evidence before me I consider that additional information is required to fully understand the flood risk prior to establishing the principle of development. It is not a matter which could be satisfactorily addressed by way of a condition as suggested by the Appellant. In the absence of this information I find that the development would potentially have a detrimental effect on flooding in the area, contrary to Policies GDP1 (i) and EC13 of the UDP and paragraph 13.4.2 of PPW.

Visual amenity

20. The site adjoins the settlement boundary to the west and is bounded to the south by Minera Hall Road. It is nevertheless within the countryside with open land to the north and east. The development would extend the built development further along the road frontage, decreasing the gap between Minera and Coedpoeth. I accept that the extent of the development along Minera Hall Road would not exceed the settlement boundary on the southern side of the road. I also noted during my site visit that on this side of Minera Hall Road there is little sense of a gap between the settlements because of the extent of the frontage development. However, I do not consider this sufficient reason to extend the settlement on the northern side of the road.
21. In approaching the site along Minera Hall Road from the east views of the site would be broken by existing tree and hedge planting. However, the creation of a new access, which would necessitate the removal of a significant part of a mature hedge, would open up views into the site. Furthermore the land rises quite steeply from the road and in this setting dwellings relatively close to the road frontage would appear as dominant features in the street scene in comparison with the existing development to the west. Overall I consider that the development would create a significant visual extension of the settlement into the countryside.

22. I have noted that in pre-application discussions officers of the Council indicated that the line of the eastern site boundary parallel with the gas main would be acceptable. However, the gas main is underground and does not create a physical feature above ground. The proposed development would therefore not be contained within any existing defensible boundaries or features and although the boundary runs almost parallel with the A525 Ruthin Road further to the east, this relationship is not discernable in the immediate surroundings of the site. In these circumstances I consider that the proposed development would appear incongruous and would form an undesirable visual intrusion into the landscape contrary to Policies PS2 and GDP1 (a) of the UDP.

Other material considerations

23. The Council has indicated that the scale of development proposed would attract contributions towards primary school educational facilities, affordable housing, management and maintenance of on-site public open space and the management and maintenance of on-site habitat corridors secured by way of an obligation under S106 of the Town and Country Planning Act 1990. The Appellant has questioned the need for contributions in respect of primary school facilities, and open space provision. It also considers that affordable housing could be addressed by condition. However, I do not consider that these matters carry sufficient weight to overcome the concerns I have identified.
24. Other issues raised by interested parties include the effect of the development on the local highway network and sewerage system. I have no definitive evidence that the increase in traffic generated by the development would cause detriment to highway safety or that the local sewerage system does not have sufficient capacity to be able to cope with the discharges from the development.

Conclusions

25. The proposal would be inappropriate development in the green barrier which would also fail to maintain openness and there are no very exceptional circumstances sufficient to outweigh this harm. In addition there is the potential risk from the development to flooding and harm to visual amenity. For these reasons, and having had regard to all other matters raised, the appeal is dismissed.

Kay Sheffield

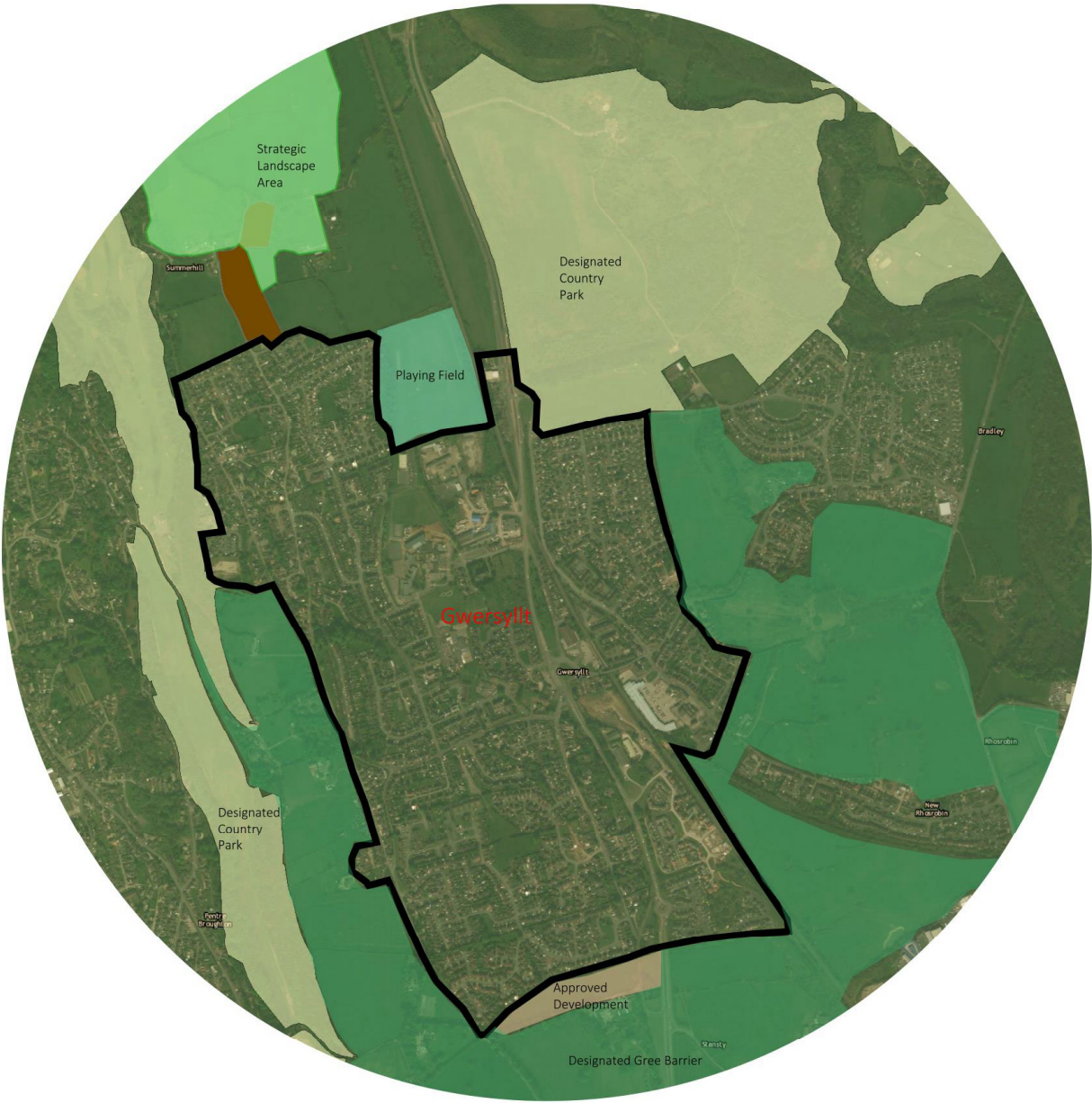
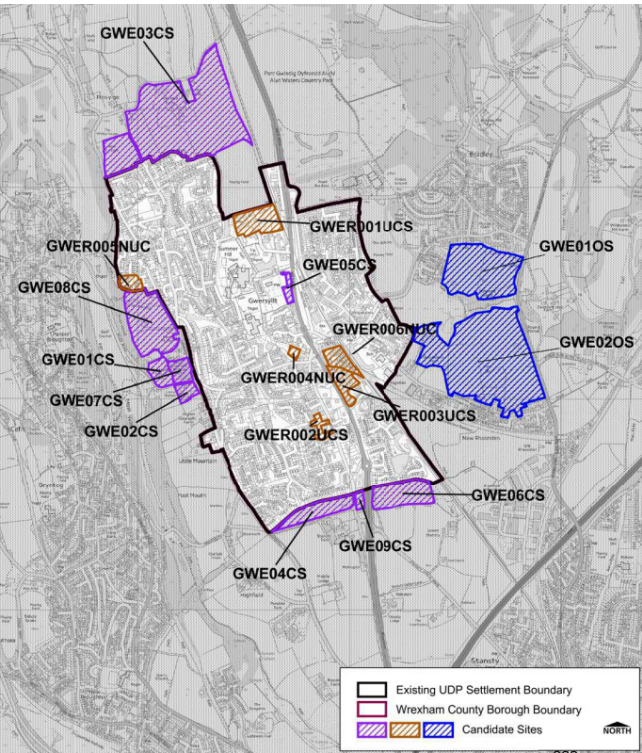
Inspector

APPENDIX D - MAP SHOWING THE CONSTRAINTS FOR THE EXPANSION OF GWERSYLLT

Notes:

Summerhill is surrounded on three sides by the Green Barrier, two country parks and a playing field. The only direction where there are no underlying policy constraints is to the north of Summerhill including the application site. This forms part of the candidate site being considered for allocation as shown below reference GWE03CS. As can be seen all other candidate sites being considered to extend the settlement are located in the Green Barrier.

Map Showing Current Candidate Sites



Legend

- country-parks
- Summerhill_Site_Boundaries_v2
- Playing Field
- Green Barrier
- Strategic Landscape Area
- Approved Development
- Settlement Limits

Drawing No: HS Map
Rev No: 1
Drawn by: AAH
Checked by: AAH

Land North of Summerhill

Settlement Constraints