

The Planning Inspectorate
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ
5th June 2017

White Cottage
Gamford Lane
Rossett
Wrexham
LL12 0EW



Your Ref: H6955/A/17/3173915
Planning Application Ref: P/2016/0712

Re: Planning Appeal re Residential Development, Gamford Lane, Rossett.

Dear Sir Madam,

We have been made aware of an appeal which has been made to the Welsh Ministers regarding the above application.

Please find enclosed a detailed written statement in response to that appeal. I trust you will take time to fully consider all of the complex issues pertaining to this application.

I believe that the deadline for submission of this statement was Thursday 8th June. This statement has been sent by email to wales@pins.gsi.gov.uk and also by letter to the above address.

Please come back to me if you have any further queries.

Yours faithfully,



Mt & Mrs G Lister

Proposed residential development at

**Gamford Lane, Rossett
Wrexham LL12 0BA**

**Application ref
P/2016/0712**

**Welsh Government Ref/Planning Inspectorate ref:
H6955/A/17/3173915**

**Written statement in response to
appeal by Land Planning Ltd**

by

Mr & Mrs G Lister

June 2017

Contents

1. Introduction
2. Reasons for refusal
3. The appellant's case
4. The objector's case

Appendix 1 Letter and Statement of Objection dated
12th August 2016

Appendix 2 Planning Policy for Wales section 4.8

Appendix 3 Minera Hall Road, Minera, Wrexham
appeal decision (Feb 2016)

Introduction

- 1.1 This statement is submitted in response to the appeal by Land Planning Ltd against the refusal of planning permission for residential development at Gamford Lane.
- 1.2 The appellant's written statement of case dated April 2017 has been reviewed as has the 'Landscape and Visual Impact Assessment' (Jan 2017) submitted late in the application process and relied upon by the appellant.
- 1.3 An objection was submitted on 12th August 2016. The letter and statement is attached as Appendix 1. We rely upon all of the submissions made in the original objection save where they are modified in this statement in response to the appellant's case.

Reasons for refusal

- 2.1 The application was refused planning permission on 6 February 2017 for five reasons as set out below:
 1. The proposed development lies outside settlement limits and within a designated green barrier. The proposed development would represent an unacceptable incursion into the green barrier and would not form a logical extension to the existing settlement. To allow the development would therefore be contrary to policies PS1, PS2, H5, EC1 and GDP1 of the adopted Wrexham Unitary Development Plan.
 2. The proposed development would be located within an area designated for its special landscape character. The nature of the development would represent a significant urbanising change to the existing rural setting and would be detrimental to the landscape character. To allow the development would be contrary to policy EC5 of the Wrexham unitary Development Plan.
 3. The proposed development is not considered to be satisfactory in terms of design and would not provide sufficient measures to secure a satisfactory form of sustainable development. In particular the proposal to discharge surface water generated by the development to the combined sewer network is deemed unacceptable and would not meet the sustainability criteria laid out in Section 8 of Welsh Government Technical Advice Note 15 - Development and Flood Risk. The proposal also includes inadequate provision for the disposal of surface water generated from the site which would lead to the possibility of local flooding. To allow the development would be contrary to policy EC13 of the Wrexham Unitary Development Plan.
 4. Insufficient information has been submitted 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 therefore conflicts with policy GDP1 of the Wrexham Unitary Development Plan.
 5. The proposed highway improvement to widen Gamford Lane will involve the removal of a significant amount of mature hedgerow (130 metres) which currently forms a defensible boundary to the site and Rossett settlement limit. Its removal will have a

detrimental Impact upon the wider visual amenity of the area and have an adverse effect upon the rural integrity of Gamford Lane. To allow the development would be contrary to Wrexham Unitary Development Plan.

2.2 The leading planning issues in the determination of this appeal are included within reasons 1, 2 and 5. They are:

- Green Barrier and the principle of development (no. 1)
- Landscape character (no. 2 and 5)

This continuing objection will focus upon these issues.

The appellant's case

3.1 The appellant's appeal case is set out in their written statement of April 2017.

3.2 Their statement purports to deal with the five reasons for refusal but is in our view selective and significantly flawed for the reasons set out below.

3.3 Omission of national policy

3.3.1 No reference is made to key elements of national planning policy which are fundamental considerations in the determination of this appeal.

3.3.2 The most relevant is Planning Policy Wales - section 4.8 'Managing urban form by means of green belts and green wedges'¹.

Highly relevant to this appeal and attached at Appendix 2 are:

- 4.8.3 on the purpose of Green Belt
This puts beyond doubt that Green Belt is a spatial planning not a landscape or visual or aesthetic policy²
- 4.8.5 on the most important attribute of Green Belt being openness
To maintain openness development must be strictly controlled. Openness is the absence of built development
- 4.8.14 sets a strong presumption against inappropriate development to which substantial weight should be given and which should only be outweighed in very exceptional circumstances.

The proposed development is without doubt inappropriate development and a high test of 'very exceptional circumstances' needs to be made out if planning permission is to be granted.

3.3.3 Remarkably, the appellant's statement and the Landscape Visual Impact Assessment make no reference to these important provisions and cannot therefore be relied upon in

¹ Green Barrier is included within this policy

² See original objection paras 4.6-4.13 and 5.1-5.7

determination at the appeal. Put simply, the appellant has seemingly not understood the relevance of this policy framework and not applied it correctly.

3.4 Inappropriate application of LVIA to Green Barrier assessment

- 3.4.1 The appellant responds to the Green Barrier issue by reference to a Landscape and Visual Impact Assessment.
- 3.4.2 Green Barrier is not a landscape or visual impact policy and the LVIA is an inappropriate methodology for assessing harm to Green Barrier policy objectives. The appellant has unfortunately misdirected their case and the landscape architect author of the LVIA has, in error, sought to address Green Barrier policy by landscape assessment. This is a common misinterpretation by lay participants but should be understood by professional planning and landscape practitioners.
- 3.4.3 It follows that the LVIA relied upon in the appeal statement to rebut the Green Barrier reason can be given no material weight on this issue in the determination of this appeal.
- 3.4.4 The conclusions of the LVIA with respect to harm to purposes of Green Barrier as set out in Planning Policy Wales and the Development Plan (Policy EC1) are not agreed as is explained in Section 3.6 of this statement.

3.5 Confusion of settlement limits and Green Barrier boundaries

- 3.5.1 The appellant argues that Policy PS1 of the UDP dealing with settlement limits is out of date and of limited weight. With regard to Policy EC1 on Green Barrier the appellant recognises that it is in force and relevant to determination of the appeal, albeit arguing that some revision of Green Barrier boundaries will be needed to meet housing needs.
- 3.5.2 Settlement limits and Green Barrier in Rossett and elsewhere are 'two sides of the same coin' and cannot be separated. The fact that the Officer's Report to Committee suggested (incorrectly in our view) that PS1 was out of date does **not** override the Green Barrier designation beyond the settlement limit.³
- 3.5.3 Put simply, settlement limits and Green Barriers are coincident and together clearly establish a development plan presumption against grant of planning permission for the proposal scheme unless very exceptional circumstances can be demonstrated. There is no advantage to the appellant in claiming PS1 being out of date. The real issue is under what process should boundaries be reviewed - the only route is by development plan review.

3.6 Unsatisfactory Green Barrier assessment

LVIA

- 3.6.1 The assessment of harm to Green Barrier purposes is not satisfactorily assessed in the LVIA. It is in any event based on a misunderstanding and misapplication of policy.
- 3.6.2 The landscape architect asserts that:

- **there will be no physical coalescence (10.1)**

³ The out of date status of PS1 is not accepted in this objection

It is widely accepted practice that actual coalescence does not have to take place to be a harm to this policy objective - it could be argued endlessly site by site.

- **only a localised effect on openness (10.1)**

Openness is the absence of built development. A development of the scale proposed is definitionally more than localised and harmful.

3.6.3 No proper consideration is given to matters of sprawl (containment) and safeguarding the countryside from encroachment.

3.6.4 No proper consideration is given to the purpose of 'manage urban form through controlled expansion of urban areas' (PPW). This is a development plan process in which Green Barrier boundaries are properly reviewed - not by ad hoc appeal.

Appeal statement

3.6.5 The appeal statement relies principally and mistakenly upon the LVIA for the Green Barrier assessment (section 8.0), although adds some additional/supporting reasoning.

3.6.6 The appeal statement expands the case marginally by claiming:

- **The site is enclosed by vegetation and some built development and is therefore not an 'open site' offering views nor an encroachment on to open countryside (para 8.3)**

This stance is not reasonably arguable. It is seriously flawed. The site is agricultural land and open in Green Barrier terms. Its development for housing would objectively represent encroachment.

The existence or not of views is not relevant to a Green Barrier assessment.

- **the development would not create over development or urban sprawl but would be a natural extension with Green Barrier maintained between settlements and the openness of Green Barrier retained (para 8.4)**

Again, this case is not reasonably arguable. It is seriously flawed.

Over development is not raised in any of the application/appeal papers and is not a reason for refusal.

There is no such concept of natural extension on to Green Barrier land; merging/coalescence does not have to physically occur to be objectionable; openness will be objectively compromised by the building of houses.

The development will create policy harms definitionally. The case here cannot be that it would not be harmful - as the appellant strives to argue - but are there very exceptional circumstance to justify the outweighing of those harms. The appellant fails to address this test in any reasonable and meaningful way.

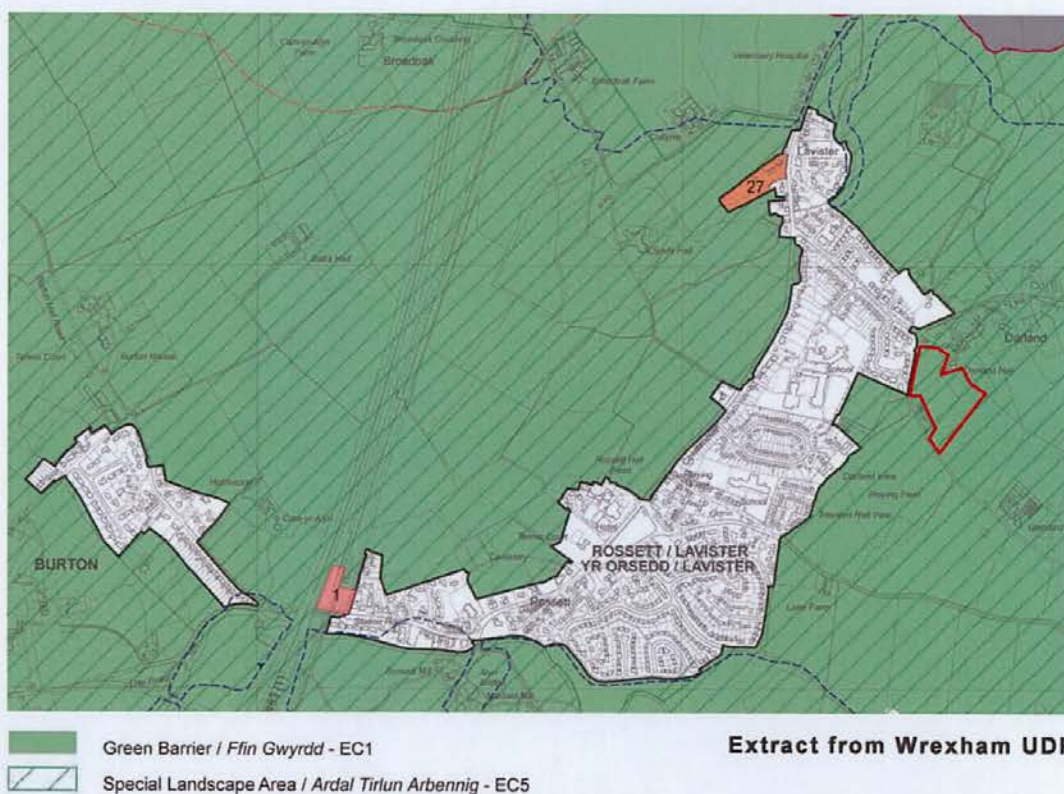
3.7 Fallacy of a surrounded site

3.7.1 The appellant's statement and LVIA is founded upon a claim that the appeal site is surrounded by urban/residential development on three sides and is therefore a 'rounding off' or even infill?

3.7.2 This assertion is seriously misleading.

Settlement boundary/consolidated form

3.7.3 The settlement boundary of the UDP shows the extent of 'consolidated' built form as shown on the plan below.



(See also the discussion at para 2.3 and 2.4 of the original objection at Appendix 1).

3.7.4 From this it is clear that the appeal site would be a salient into open countryside with a contained physical, built, consolidated boundary on one side only (if that).

3.7.5 The repeated claim of the appellant that the site sits within existing built form to the west, north and north-east is not objectively correct.

Wider 'boundaries'

3.7.6 The appellant relies upon the existence of trees, hedges and sporadic residential development in describing the site and its claimed enclosure.

".....it is enclosed on three sides by established natural tree boundaries as well as Gamford Lane to the west and residential development to the sides and is

therefore not an 'open site' offering views nor would development here encroach on the open countryside" (8.3 Appeal Statement)

3.7.7 This submission is wrong and misleading.

3.7.8 The site is not enclosed on three sides by residential development and is most obviously open countryside.

3.7.9 There can be no doubt that in Green Barrier policy terms the development represents an encroachment into the countryside and would objectively reduce openness (whatever the views of the site are - which is not relevant for this purpose).

3.8 Judging landscape impact

3.8.1 The LVIA concludes that key qualities of landscape have already been partially compromised and that the development will result in localised moderate to minor residual adverse effects with no major or moderate visual impacts.

3.8.2 There will be an obvious major change in the character of the site itself. In our view this will be adverse. It is a matter of judgement on site inspection as to whether this is acceptable in all of the circumstances of the case.

3.8.3 The removal of an established hedgerow along Gamford Lane will have an adverse impact on rural character. It is a matter of judgement as to its acceptability.

3.9 All matters of design detail are not material now

3.9.1 The appellant indicates at para 14.1 that as the application is in outline only the determination should be on the basis of principle of development only.

It follows that all of the submission in the application on design, layout, appearance, landscaping, impact etc are not material to the determination of this application (as set out in the objection at paras 1.1, 3.1-3.4, 3.6). The LVIA must therefore also be considered with caution.

3.10 No satisfactory planning balance conclusion

3.10.1 The appellant's statement does not set out a coherent 'planning balance' conclusion which sets the inappropriate nature of the development against the very exceptional circumstances required by policy to overcome the definitional harm and other impacts.

3.10.2 The appellant does not even reference or acknowledge the most significant policy provisions of Green Barrier set out in PPW and does not deal in any detail with UDP Green Barrier Policy EC1. The status of inappropriate development and the requirement for very exceptional circumstances and consideration of relative weights as described above are not considered by the appellant.

3.10.3 The only reference to weight by the appellant is to Section 5 of TAN1 which sets out the need to give weight to residential planning applications where there is less than a 5 year land supply **provided** that the development would otherwise comply with national policies. There is no doubt in this case that there is conflict with national policy and this TAN

provision does not apply let alone add weight to the planning balance. It is however also settled practice (and law) that lack of a five year land supply does not set aside the 'substantial weight' to be attached to Green Barrier policy harms (PPW 4.8.14).

3.10.4 The appellant's conclusion on planning balance is at para 14.7:

"It is believed that due to the information within the supplied documentation, in this instance there are exceptional circumstances that would regard residential development within the application site as acceptable. As such, it is respectfully requested that the application be approved."

This is an unsatisfactory balance exercise, it is not evidenced and far away from a coherent case for a very exceptional circumstances justification.

3.10.5 The appellant makes reference to other (older) cases where planning permission for housing has been granted by the local authority in Green Barrier locations. Every application is determined on its unique circumstances and merits - there are not site specific precedents.

3.10.6 However, the general application of Green Barrier policy and the planning balance is well illustrated in the appeal decision at Minera Hall Road, Minera, Wrexham in February 2016 - attached at Appendix 3.

3.10.7 In this appeal the Inspector identified Green Barrier harm and very exceptional circumstances, flooding and visual impact as the main issues.

3.10.8 Accepting that the site related circumstances are different between sites the key elements of this decision to note are:

- (1) Policy EC1 of the UDP was accepted as up to date and applicable (para 7).
- (2) Openness is one of the most important attributes of Green Barrier (para 8).
- (3) The purpose of Green Barrier in safeguarding the countryside from encroachment is significant even when merging or coalescence does not physically take place (para 9).
- (4) The status of inappropriate development carries substantial weight against a development (para 10).
- (5) Although lack of a requisite housing land supply will carry significant weight it does not override Green Barrier policy presumptions against development (para 11 and 16).

It is worth noting that the Inspector points to para 6.2 of TAN1 and quotes that the need to increase (housing) supply "should be given considerable weight when dealing with planning applications, **provided that the development would otherwise comply with national planning policies**" (our emphasis).

In the current appeal the development clearly does not comply with national policy and could **only** be justified by acceptance of very exceptional circumstances.

- (6) The Inspector in that case gives weight to flooding risk and the visual extension of the settlement into the countryside in dismissing the appeal.

3.10.9 As a recent appeal these findings are of general relevance to how policy is properly applied and to the determination of this appeal.

The objector's case

- 4.1 The objections set out to the planning application as first made are maintained (Appendix 1).
- 4.2 The appellant's case is flawed (for the reasons given above) and cannot be relied upon for the determination of this appeal.
- 4.3 The objector's case in summary is that:
 - (1) The proposed development is indisputably inappropriate development in Green Barrier and that the claimed shortfall in housing supply does not provide a case of very exceptional circumstance to allow a grant of planning permission in conflict with national and development plan policy.
 - (2) There are not other matters claimed as very exceptional circumstances by the appellant.

The acceptability (asserted) of a development in technical terms (flooding) or visual terms (appearance) or non guaranteed promises (affordable housing) cannot be regarded as contributing to the very exceptional circumstances cases - and in fact are not even argued as such by the appellant.
 - (3) There will be an acknowledged visual impact which will adversely change the character and appearance of the site and Gamford Lane.
- 4.4 We request that the appeal be dismissed.

Post script

As submitted previously (see letter accompanying objection at Appendix 1) we are of the view that the release of land for housing that is much needed should be carried out through a development plan process that is inclusive of all the counties and stakeholders that might be affected. This might result in the release of Green Barrier land through proper process. Ad hoc appeals are not the preferred route.

APPENDIX 1

Letter and Statement of Objection
dated 12th August 2016

White Cottage
Gamford Lane
Rossett
Wrexham
LL12 0EW
12th August 2016

Planning Service
Wrexham County Borough Council
16 Lord Street
Wrexham LL11 1LG

Dear Mr Forster,

APPLICATION P/2016/0712

THE BUNGALOW, DARLAND LODGE, DARLAND LANE, ROSSETT

I enclose an objection to the above planning application that I would ask be taken fully into account in the assessment and determination of the proposal. You will see that I have copied it to my Ward Councillors and Chair of the Planning Committee.

I would also like to add a social context to the objection by way of balance.

We appreciate that there is a national housing crisis and that there is a significant shortfall of housing land in Wrexham Borough. This needs to be addressed urgently and through the proper consultative and professional process.

This process is undoubtedly the emerging Wrexham LDP. I see that consultation versions are addressing growth requirements, where development should be located to meet the overarching sustainable objectives of the Welsh Government and if and where existing protected land could most reasonably be released - including Green Barrier land.

This process will in due course consider the potential contribution to housing provision from land in and around the principal settlements, including Rossett. I note that a Green Barrier assessment for Rossett and surrounds is being carried out.

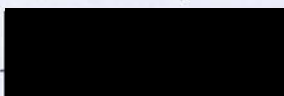
We would be pleased to contribute to this debate as residents of Rossett and do not take the position that no new housing land at all should be provided across the Borough or even in Rossett.

However, ad hoc planning applications (or appeals) like the one at Darland Lane is not the way to proceed. It is piecemeal and premature. I would invite the land owners and intending developers to join the LDP preparation and consultation process so that proper provision can be made but in the right place at the right time and most importantly to deliver the most sustainable housing strategy for Wrexham.

Would you please keep me informed over the process and determination of this application.

Thank you.

Yours sincerely



Mr & Mrs G. Lister

Enc cc: Ward Councillors
Chair Planning Committee

Planning Application at

Gamford Lane, Rossett
Wrexham LL12 0BA

Application ref
P/2016/0712

Objection by

Mr & Mrs G Lister

August 2016

Contents

1. Overview
2. The Site and its Context
3. The Proposed Development
4. Planning Policy and Presumptions
5. The Planning Balance: Conclusion
6. Objection

Appendix - Appeal decision APP/H6955/A/15/3138885

1. Overview

1.1 This document sets out:

- (a) A critique of the planning application P/2016/0712 being an outline proposal for the development of 47 dwellings.
- (b) An objection and explanation of why a grant of planning application is not justified.

1.2 Of fundamental significance are:

- (a) The outline form of the application. This makes all of the illustrative and outline design summaries irrelevant and non-material considerations in the determination of the application.
- (b) The clear presumption against a grant of planning permission arising from the Green Barrier and Special Landscape designation⁽¹⁾ unless there are shown to be 'very exceptional circumstances'⁽²⁾.

The only such circumstance claimed by the applicant is the lack of a five year housing supply. For a Green Barrier site in this location this is wholly insufficient (as the appeal record shows - see 5.8 below).

1.3 A refusal of planning permission would be in accordance with national policy, the development plan and precedent.

1.4 The planning application is in any event deficient in that:

- it relies upon extensive design led justification which is not material to this outline application
- there is no scale layout plan submitted against which the impact of the illustrative layout can be assessed
- conclusions are drawn on traffic acceptability without any Transport Assessment or Appraisal to provide evidence
- a formal flood risk assessment is required but is absent
- the site is in agricultural use but a land quality assessment is absent
- the policy analysis submitted by the applicant and assessment is incomplete and misleading.

1.5 The remainder of this document sets out a more detailed justification for the points summarised above.

⁽¹⁾ Wrexham UDP Policy EC1, EC5

⁽²⁾ Planning Policy Wales (PPW) para 4.8.15

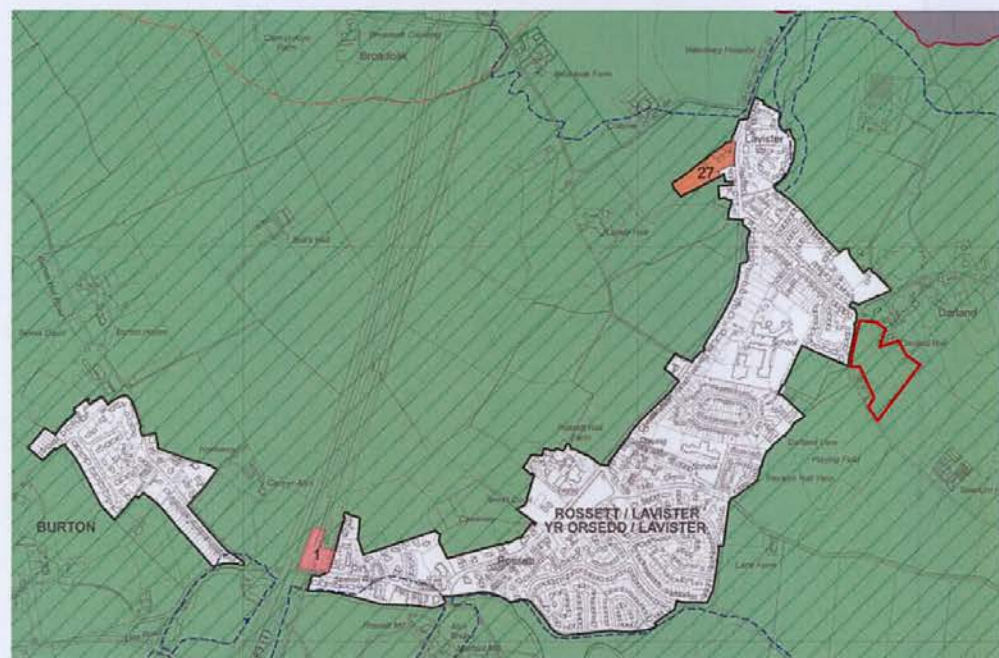
2. The Site and its Context

- 2.1 The site is described in the Planning Statement (page 2) and the Design & Access Statement (page 4).
- 2.2 The description presents an inaccurate and misleading impression of the site and its context which is important for later assessment.
- 2.3 The deficiencies are (as will be obvious from a site visit):
- (1) The site is in active agricultural use for which an agricultural land quality assessment is required to respond to UDP Policy EC2 (see policy section at para 4.19 following).

- (2) The site is repeatedly described as 'adjacent to the settlement boundary of Rossett and 'on the edge of the village'. This is used as a form of justification for the development. The description is meaningless as any proposed extension to any settlement anywhere could be so described and can be given no weight.

The site is repeatedly described as having development to the north, north-east, west and south west as if enclosed, with the development forming a 'natural extension'. This is misleading as it ignores the actual settlement boundary and the Green Barrier and Special Landscape Area designations.

The effect of this is shown on the plan below.



- Green Barrier / Ffin Gwyrdd - EC1
- Special Landscape Area / Ardal Tirlun Arbennig - EC5

Extract from Wrexham UDP

The correct and fairer description is therefore a salient into open countryside.

- (3) The village of Rossett is described as being 'within a few minutes travelling distance of the centre of Wrexham'. It is not. Wrexham is c 7 miles and between 15 and 20 minutes by car, longer by public transport.
- 2.4 These matters are raised for record rather than substance and illustrate the selective presentation of the applicants. The decision makers will be able to see the physical considerations of relevance by site inspection.

3. The Proposed Development

- 3.1 The application refers to a development of 47 family homes with associated open space.
- 3.2 The dwellings are described as of a "high standard of specification, incorporating environmental and energy efficient design features along with some of the latest modern facilities and technology" (page 3, Planning Statement).
- 3.3 The Design & Access Statement presents a significant amount of detail in relation to the layout, design and access.
- 3.4 All of the design detail is acknowledged to be illustrative and is promissory. None is included for approval. There is no proposed mechanism for the capture and conditioning of any of this detail - such as inclusion within a design brief, design codes, parameter plans or other means as part of any outline planning permission.
- 3.5 There is no Transport Assessment or Appraisal that can safely justify a grant of outline planning permission given that access is reserved. The acceptability of the scheme in traffic terms is unevidenced and unknown.
- 3.6 There is sketch Landscape and Visual Impact appraisal that is defective because:
- it relies wholly upon an assessment that the site forms "a relatively minor extension of the existing settlement..." (page 13, D&A). It is not as is evident from the plan at para 2.3 above. This error infects all of the accompanying analysis.
 - it proposes removal of trees and hedgerows to accommodate the layout although this cannot be controlled through an outline planning permission.
- 3.7 It follows that none of the design detail can be relied upon in the determination of the planning application and is therefore not a lawful material consideration. In short it is irrelevant and highly misleading to local residents.
- 3.8 There are technical drainage and flood issues to satisfy the relevant utility authorities which are not considered in the planning application and which would be material to the grant of an outline planning permission. The most significant is lack of a flood risk assessment.

4. Planning Policy and Presumptions

The decision making framework

- 4.1 The planning application falls to be determined in accordance with the development plan unless material considerations indicate otherwise (Sec 38(6) Planning and Compulsory Purchase Act 2004) (Fig 4.3 Planning Policy Wales (PPW)).
- 4.2 Where there are relevant development plan policies which are not outdated or superseded the determination should follow the development plan - unless material considerations justify otherwise.
- 4.3 Where the development plan is outdated or superseded or not relevant the determination should be made with a presumption in favour of proposals in accord with the key principles and objectives of sustainable development (para 4.2.4 PPW).
- 4.4 Planning Policy Wales is a material consideration.
- 4.5 The housing land supply position in Wrexham Borough is a material consideration.

Policy presumptions - Green Barrier, SLA

- 4.6 The most relevant and applicable policies are for Green Barrier and Special Landscape Area.
- 4.7 These are in the adopted Wrexham UDP at EC1 and EC5.

Green Barrier

- 4.8 This is a longstanding designation that includes the application site which is not susceptible to outdatedness by time. Changes to Green Barrier can only be made by a full plan review. (PPW para 4.8.1)
- 4.9 The effect of EC1 is to only permit development that 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 purposes of including land within it.

Green Barriers

Policy EC1 Within Green Barriers, development will only be granted planning permission 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.

- 4.10 The applicant's Planning Statement accepts that this is a relevant and applicable policy.

- 4.11 The Green Barrier policy is almost identical to Green Belt/Green Wedge policy (in Wales and England) and the UDP confirms this save for their long-term permanency (UDP para 5.2; PPW para 4.8.1)⁽³⁾. Green Barriers have coped with a wide variety of development pressures in Wrexham Borough and successfully served their purpose according to the UDP. The policy persists and should be afforded very significant weight.
- 4.12 The Green Barrier status creates a clear presumption against development.
- 4.13 PPW includes Green Belt and Green Wedge (synonymous Green Barriers) policy in much the same form as the UDP and with the same strength of control. Inappropriate development is not to be granted planning permission unless very exceptional circumstances can be shown that outweigh the presumption (as PPW para 4.8.15).

Special Landscape Area

- 4.14 The application site falls within an SLA where Policy EC5 sets a priority for conservation and enhancement of the landscape.

Special Landscape Areas

Policy EC5 Within Special Landscape Areas, priority will be given to the conservation and enhancement of the landscape. Development, other than for agriculture, small-scale farm-based and other rural enterprises, and essential operational development by utility service providers, will be strictly controlled. Development will be required to conform to a high standard of design and landscaping, and special attention will be paid to minimising its visual impact both from nearby and distant viewpoints.

- 4.15 This policy works in support of Green Barrier and reinforces a presumption against the form of development included in the application.

Other relevant policies

Settlement limit

- 4.16 Policy PS1 sets detailed settlement limits within which provision for development is to be made.

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

⁽³⁾ This is confirmed by Inspectorate decision making which identifies Green Wedge policy as synonymous with Green Barrier - para 7, APP/H6955/A/15/3138885 - see Appendix

- 4.17 The settlement limit for Rossett is shown on the plan at para 2.3 above. The application site falls beyond the settlement and is open countryside. This is a significant policy conflict with associated harm.

Open countryside

- 4.18 Policy H5 works together with the settlement limits policy above and sets out a range of criteria of exception, none of which are met by the proposed application. The GB presumption above adds to this constraint.

Housing in the Countryside

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

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

Any permission will be conditioned to limit residential occupancy to essential workers.

Agricultural land

- 4.19 Policy EC2 sets out a constraint on the permanent loss of Grade 1, 2 or 3a agricultural land.

Agricultural Land

Policy EC2 Development on agricultural land of grades 1, 2 or 3a will only be permitted if it does not lead to the irreversible loss of that land.

- 4.20 The applicant has not submitted an agricultural land quality assessment to allow testing against this policy.

Hedgerows, Trees and Woodland

- 4.21 Policy EC4 provides for the conservation and management of hedgerows, trees, orchards, woodland, wildlife and other natural landscape and water features.

Hedgerows, Trees and Woodland

Policy EC4 Development proposals should provide for the conservation and management of hedgerows, trees, orchards, woodland, wildlife and other natural landscape and water features, and include new planting in order to enhance the character of the landscape and townscape. Development which results in the loss or significant damage to valuable trees, important hedgerows or ancient woodland sites will not be permitted.

- 4.22 The application scheme (illustrative) has not demonstrated why the existing natural features and assets cannot be retained. However, bearing in mind the comments on the non-material status of design, this is an issue which can be left aside now.

Settlement Strategy

- 4.23 The UDP sets out a settlement hierarchy of Main Town (Wrexham), Urban Villages and Rural Villages.
- 4.24 Rossett is identified as a Rural Village where new development is restricted to small sites.
- 4.25 The emerging Wrexham LDP refines the settlement classification to include the five tiers of settlement in which Rossett is defined as a Tier 3 Local Service Centre where some new development may be appropriate subject to scale (LDP para 5.2).
- 4.26 The identification of development sites by tier is however a function of the Development Plan and allocations exercise rather than ad hoc release by planning application.
- 4.27 This Plan is not sufficiently advanced to be afforded any material weight in the determination of the application.

Flood Risk

- 4.28 Policy EC12 indicates that development in flood plain land will not be permitted subject to detailed assessment.
- 4.29 A technical flood assessment is required for this application although is not yet provided.

Design

- 4.30 The applicant considers the illustrative scheme against the requirements of Policy GDP1. This is a policy that clearly would apply if the development was acceptable in principle (it is not) and if design was being considered for approval (it is not). The policy is of limited, if any, relevance to the determination of this application.
- 4.31 In summary, the Planning Statement concludes that the “design of the proposed scheme would serve to enhance the general appearance of the area....” (page 3, Planning Statement).
- 4.32 The development of an agricultural field in open countryside for a residential scheme is impossible to describe reasonably in this way. Put in a more balanced way the character and appearance of the site will change completely and create a significant visual extension to the settlement into the countryside. This can only be adverse to visual and residential amenity. Taken together with the other fundamental policy conflicts the inclusion is unacceptable.

5. The Planning Balance : Conclusion

- 5.1 The proposed scheme is contrary to development plan and national policy - a point acknowledged by the applicant (page 6, Planning Statement).
- 5.2 The policies of the UDP are relevant and, for those of determining relevance, not out of date. This is accepted by the applicant by their inclusion in the Planning Statement and Design & Access Statement.
- 5.3 A presumption against development clearly arises from the relevant Green Barrier and Special Landscape Area policies.
- 5.4 The scale of policy conflict is high and the impacts significantly adverse - the impact on openness and the purposes of Green Barrier policy is substantial. PPW provides that the presumption against development and resultant harm should be given ‘very substantial weight’ (para 4.8.14).
- 5.5 The applicant seeks to minimise harm to the Green Barrier policy by reference to matters of claimed enclosure (not an open site, natural extension) and a continuing function of the remaining Green Barrier (page 10, Planning Statement).

This analysis is deeply flawed.

Openness is the absence of built development not a visual test⁽⁴⁾.

The site would not represent a natural extension of Rossett at all as clearly shown on the plan above at para 2.3.

Harm by way of loss of openness, encroachment into countryside, urban sprawl is obvious and not mitigated by a ‘residual’ Green Barrier land claim. Coalescence or merging of settlements does not have to practically take place to be adverse.

Over development is not a Green Barrier or Special Landscape Area criterion.

⁽⁴⁾ See para 8 of Appeal Decision - Minera, Wrexham (Appendix)

- 5.6 The degree of harm and policy conflict is therefore substantial and adverse.
- 5.7 The applicant makes an incoherent case for exceptional circumstances apart from a claim in the last sentence of the Planning Statement that a lack of a 5 year housing land supply deems the development to be appropriate. This is not the right test nor is a planning balance drawn. In summary the lack of a 5 year land supply does not justify the ad hoc, non-development plan-led release of Green Barrier land.
- 5.8 This position is consistently reflected in the Council's decision making. For example, in the vicinity of Rossett:
- Land north of Burton Road, Burton, Rossett
(Application ref ROS P/2015/0699)

Application for outline planning permission for the erection of 19 dwellings with all detailed matters reserved except layout and access.

Refused 7 December 2015
- 5.9 The application was refused on grounds of:
- (1) Outside of settlement limit within a Green Barrier; not a sustainable location and resulting in coalescence. Inappropriate development in Green Barrier contrary to Policies PS1, PS2, PS3, PS4, EC1, H5 of UDP.
 - (2) Loss of best and most versatile agricultural land contrary to Policy EC2 of UDP.
 - (3) Inappropriate standard of design contrary to PS2, GDP1 and EC5 of UDP.
- 5.10 The interpretation set out is also reflected in the appeal record across Wales. For example:
- Land north of Minera Hall Road, Minera, Wrexham (attached at Appendix)
(PINS ref APP/H6955/A/15/3138885)
Appeal dismissed 23 February 2016
- 5.11 This was an outline application for 50 dwellings adjacent to the settlement of Minera. The key determining issues were Green Barrier, flooding and visual intrusion (para 4, Appeal decision).
- 5.12 The Inspector noted the Green Barrier presumption against development which carried substantial weight against a grant of planning permission. This was not outweighed by the claimed exceptional circumstances of lack of a five year housing land supply. The Inspector also recorded concerns over encroachment into countryside, lack of sustainability and precedent (para 16). All these concerns are repeated in the current application.
- "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."* (para 25)
- 5.13 All of the design matters are not relevant to the determination of the application.

6. Objection

- 6.1 The proposed scheme lies outside of the settlement limit of Rossett in designated Green Barrier and Special Landscape Area. It is inappropriate development in respect of which a presumption against grant of planning permission arises to which very substantial weight must be given by the decision maker. The harm to Green Barrier and Special Landscape Area policy is substantially adverse. There are no material considerations or exceptional circumstances that justify overriding the negative presumptions in order to justify a grant of planning permission. A refusal of planning permission on this ground above is justified.
- 6.2 The application is incomplete and unable to be positively determined even in outline given the lack of technical submissions on transport, agricultural land, drainage and flood risk that are required.
- 6.3 The design submissions are all illustrative and promissory. They cannot be afforded any weight in the determination of the application.

For these reasons a refusal of planning permission is justified.

APPENDIX 2

Planning Policy for Wales Section 4.8

uses in accessible locations can increase social inclusion, reduce the need to travel and make towns safer for people both day and night. Mixed use can incorporate all or a selection of office, industrial, leisure, retail, community and residential uses if sensitively designed (4.11.7 and 4.11.8). Mixed use can increase the feasibility of delivering local renewable and low carbon energy solutions such as district heating schemes (see Section 12.8). Development plans should identify the range of facilities and activities that communities wish to be provided and maintained in urban locations. Plans should encourage the clustering of complementary enterprises in industrial and commercial areas so as to reduce traffic generation.

4.7.7 For most rural areas the opportunities for reducing car use and increasing the use of walking, cycling and public transport are more limited than in urban areas. **In rural areas the majority of new development should be located in those settlements which have relatively good accessibility by non-car modes** when compared to the rural area as a whole. Local service centres, or clusters of smaller settlements where a sustainable functional linkage can be demonstrated, should be designated by local authorities and be identified as the preferred locations for most new development including housing and employment provision. The approach should be supported by the service delivery plans of local service providers.

4.7.8 **Development in the countryside** should be located within and adjoining those settlements where it can be best be accommodated in terms of infrastructure, access and habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where it meets a local need for affordable housing, but new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should respect the character of the surrounding area and should be of appropriate scale and design.

4.8 Managing urban form by means of green belts and green wedges⁹

4.8.1 Around towns and cities there is often the need to protect open land. Local planning authorities need to **consider establishing Green Belts and making local designations, such as green wedges**. Both Green Belts and green wedges must be soundly based on a formal assessment of their contribution to urban form and the location of new development and can take on a variety of spatial forms. The essential difference between them is the issue of permanence. **Land within a Green Belt should be protected for a longer period than the current development plan period, whereas green wedge policies should be reviewed as part of the development plan review process.**

4.8.2 Both Green Belts and green wedges can:

- provide opportunities for access to the open countryside;
- provide opportunities for outdoor sport and outdoor recreation;
- maintain landscape/wildlife interest;
- retain land for agriculture, forestry, and related purposes;
- improve derelict land; and
- provide carbon sinks and help to mitigate the effects of urban heat islands.



However, the extent to which the use of land fulfils these objectives is not a material factor in determining whether land should be included within a Green Belt or green wedge.

4.8.3 The **purpose of a Green Belt** is to:

- prevent the coalescence of large towns and cities with other settlements;
- manage urban form through controlled expansion of urban areas;
- assist in safeguarding the countryside from encroachment;
- protect the setting of an urban area; and
- assist in urban regeneration by encouraging the recycling of derelict and other urban land.

4.8.4 All local planning authorities in parts of Wales which are subject to significant pressures for development must consider the need for Green Belts. Green Belts will not necessarily need to extend in a continuous band around an urban area.

4.8.5 **The most important attributes of Green Belts are their permanence and their openness.** In respect of permanence, the boundaries of Green Belts should be altered only in exceptional circumstances and land within a Green Belt should be protected for a longer period than the current development plan period. To maintain openness, development within a Green Belt must be strictly controlled. The general policies controlling development in the countryside apply in a Green Belt but there is, in addition, a general presumption against development which is inappropriate in relation to the purposes of the designation (see 4.8.14 to 4.8.18).

4.8.6 Green Belts should be established through development plans. Before designating land around an urban area as a Green Belt, local planning authorities must consider and justify which would be the most appropriate means of protection. When including Green Belt policies in their plans, authorities must demonstrate why normal planning and development management policies would not provide the necessary protection.

4.8.7 Green Belt boundaries should be chosen carefully using physical features and boundaries to include only that land which it is necessary to keep open in the longer term. Where the designation of a Green Belt is likely to affect more than one local authority, consultation will be necessary with all authorities likely to be affected.

4.8.8 Since Green Belts require long term protection, when considering Green Belt designation local planning authorities will need 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 Belt, bearing in mind the longer term need for development land, the effects of development pressures in areas beyond the Green Belt and the need to minimise demand for travel. This may require land to be safeguarded, and boundaries of a proposed Green Belt must be carefully defined to achieve this.

4.8.9 Settlements and other developed sites within a Green Belt should only be included as part of the Green Belt if no new building, or infilling only, is proposed. Policies should list and define the boundaries of settlements where infilling would be permitted. Settlements and other sites where limited expansion is proposed should be excluded from the Green Belt and policies for those settlements should be included in the development plan.

4.8.10 **Local designations such as green wedges** may be justified where land is required to serve the same purpose to a Green Belt (see 4.8.3), but these designations do not convey the permanence of a Green Belt.

4.8.11 Like Green Belts, green wedges should be established through development plans. Local planning authorities should only maintain green wedges where they can demonstrate that normal planning and development management policies cannot provide the necessary protection. They should state in their development plans the areas that require extra protection and why.

4.8.12 In defining green wedges it is important to include only land that is strictly necessary to fulfil the purposes of the policy. Factors such as openness, topography and the nature of urban edges should be taken into account. Clearly identifiable physical features should be used to establish defensible boundaries. Green wedge policies should be reviewed as part of the development plan review process. The general policies controlling development in the countryside apply in green wedges, but there is, in addition, a general presumption against development which is inappropriate in relation to the purposes of the designation (see 4.8.14 to 4.8.18).

4.8.13 As with Green Belts, when considering green wedges local planning authorities will need 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.

Inappropriate development

4.8.14 When **considering applications for planning permission in Green Belts or green wedges**, a **presumption against inappropriate development** will apply. Local planning authorities should attach substantial weight to any harmful impact which a development would have on a Green Belt or green wedge.

4.8.15 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. Green Belt and green wedge policies in development plans should ensure that any applications for inappropriate development would not be in accord with the plan. These very exceptional cases would therefore be treated as departures from the plan.

4.8.16 The construction of new buildings in a Green Belt or in a locally designated green wedge is inappropriate development unless it is for the following purposes:

- justified rural enterprise needs;
- essential facilities for outdoor sport and outdoor recreation, cemeteries, and other uses of land which maintain the openness of the Green Belt or green wedge and which do not conflict with the purpose of including land within it;
- limited extension, alteration or replacement of existing dwellings;
- limited infilling (in those settlements and other development sites which have been identified for limited infilling in the development plan) and affordable housing for local needs under development plan policies; or
- small scale diversification within farm complexes where this is run as part of the farm business.



4.8.17 The **re-use of buildings in a Green Belt or green wedge** is not inappropriate development provided that:

- the original building is substantial, permanent and capable of conversion without major reconstruction;
- the new use will not have a greater impact on the openness of the Green Belt or green wedge and the purposes of including land within it. Strict control will need to be exercised over the extension, alteration or any associated use of land for re-used buildings; and
- the building is in keeping with its surroundings.

4.8.18 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.

4.9 Preference for the re-use of land

4.9.1 Previously developed (or brownfield) land (see Figure 4.4) should, wherever possible, be used in preference to greenfield sites, particularly those of high agricultural or ecological value. The Welsh Government recognises that not all previously developed land is suitable for development. This may be, for example, because of its location, the presence of protected species or valuable habitats or industrial heritage, or because it is highly contaminated. For sites like these it may be appropriate to secure remediation for nature conservation, amenity value or to reduce risks to human health.

4.9.2 Many previously developed sites in built-up areas may be considered suitable for development because their re-use will promote sustainability objectives. This includes sites:

- in and around existing settlements where there is vacant or under-used land, commercial property or housing;
- in suburban areas close to public transport nodes which might support more intensive use for housing or mixed use;
- which secure land for urban extensions, and;
- which facilitate the regeneration of existing communities.

4.9.3 If the Welsh Government's objectives for the more sustainable use of land and buildings and the re-use of previously developed sites are to be achieved, local authorities and other stakeholders will need to be more proactive. Wherever possible, local authorities should work with landowners to ensure that suitable sites are brought forward for development and to secure a coherent approach to renewal. In some instances the local authority may need to purchase land in order to facilitate redevelopment. Wherever possible this should be done by negotiated agreement, but it may involve the use of **compulsory purchase powers**.

APPENDIX 3

Minera Hall Road, Minera, Wrexham
appeal decision (Feb 2016)



Penderfyniad ar yr Apêl

Appeal Decision

Ymweliad â safle a wnaed ar 28/01/16

Site visit made on 28/01/16

gan Kay Sheffield BA(Hons) DipTP
MRTPI

by Kay Sheffield BA(Hons) DipTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

an Inspector appointed by the Welsh Ministers

Dyddiad : 23 Chwefror 2016

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