

Land Planning Limited

## Grounds for Planning Appeal

**PROPOSED RESIDENTIAL DEVELOPMENT AT**  
GAMFORD LANE,  
ROSSETT,  
WREXHAM  
LL12 0BA

Local Authority Planning application reference: P/2016/0712

April 2017

## **1.0 INTRODUCTION**

- 1.1 This appeal is in response to the decision of Wrexham County Borough Council (the LPA) refusing an outline planning application for the residential development of land at The Bungalow Darland Lodge, Darland Lane, Rossett.
- 1.2 The purpose of this statement is to set out the appellant's grounds of appeal submitted as part of a written representation.

## **2.0 THE PLANNING APPLICATION**

- 2.1 The application seeks outline approval, with all matters reserved, for residential development of forty seven dwellings, including 25% affordable housing provision.
- 2.2 Local Authority Planning application reference: P/2016/0712

## **3.0 THE SITE**

- 3.1 The site is situated adjacent to the settlement boundary of Rossett, within the north eastern part of the village. To the north, north east, west and south west of the site there are residential properties. To the east is a woodland area with agricultural land to the south. The site runs parallel to Gamford Lane and has an existing access point to the North West of the site.
- 3.2 The application site is a relatively flat site, currently comprising grazing land. There are existing boundaries to the site, comprising established hedging and trees.

## **4.0 THE SITE LOCATION & SUSTAINABILITY**

- 4.1 Rossett is a well-established village and the application site is within walking distance of all community facilities.
- 4.2 The application site has good accessibility to existing local services, including shops, schools and public transport links and due the size of the site it can offer a significant contribution to the need for local housing.
- 4.3 The village is also within a few minutes travelling distance of the centre of Wrexham (10 minutes, 6 miles) and is well connected to the established road infrastructure. Wrexham is a sustainable location containing a host of

services and facilities including regular bus services, train station, shops, schools, a university and hospital, as well as various recreational facilities. The site is also only 17 minutes (8 miles) to Chester and only 10 minutes to the Business Park, offering employment opportunities.

- 4.4 The proposal provides improved opportunities for access by public transport, walking and cycling, thereby offering the opportunity to reduce carbon emissions, as households will be able to take advantage of utilising transport other than the car to reach key services and facilities.

## **5.0 CHRONOLOGY OF APPLICATION**

- 5.1 An initial, informal discussion with the planning case officer (Mr Philip Forster as Duty Officer) took place in May 2016. The planning application was then submitted in July 2016.
- 5.2 Throughout the application process, the planning agents (on behalf of the applicant) communicated with the case officer and offered to provide any further information, if required, once consultees had reviewed the documentation submitted. Following initial comments from the Highways officer in August 2016, the agents offered to amend the proposed scheme, but were told that wasn't required at this time as the recommendations could be conditioned. The agents were also asked to submit a 'flood consequence assessment and surface water management plan', following comments from the flood team. This was produced by TerraConsult.
- 5.3 No other comments were published from the flood officer, in light of the further information submitted, until the case officer's report was published less than one week prior to the committee meeting, leaving us only 3 working days in which to respond. Nonetheless, a further drainage appraisal was commissioned and produced by drainage consultant engineer Alan Kane of Kane Design, to respond to the comments and submitted as late information. This information did not appear to be taken into account at the committee meeting, perhaps due to the very short notice given. Clearly we would have made this information available much sooner had it been made clear by the planning officer that this was required.
- 5.4 In December 2016 the case officer suggested that we organise a meeting in January 2017 to discuss the scheme and any relevant comments received. Unfortunately, despite requests to book a date for the meeting, the case officer finally responded on the afternoon of Tuesday 31<sup>st</sup> January to state

that he was “under increasing pressure to determine the application both politically and 'in house'. As such the application will be presented to the February Planning Committee with a recommendation for refusal.”

- 5.5 The application had now taken 7 months to decide. The applicants were not minded to appeal on the grounds of non-determination as they had wished to work with the planning department, being committed to discuss any concerns throughout the process and provide any additional information requested. Unfortunately, lack of communication from the case officer led to three working days’ notice for us to provide additional reports. A request was submitted to defer the decision, but that was not accepted and the application was refused by committee on the 6<sup>th</sup> February 2017.

## **6.0 GROUNDS OF APPEAL**

- 6.1 The application was refused on the following key issues:

- The proposed development lies outside the settlement limits and within an area designated as Green Barrier.
- The proposed development would be in an area designated for its special landscape character (SLA).
- The means of disposal of surface water is deemed unsustainable and could lead to the possibility of local flooding.
- Insufficient information has been submitted to assess the impact of the development on protected species.
- The removal of the hedgerow along the boundary with Gamford Lane will have a detrimental impact on the visual amenity of the area and an adverse effect on the rural integrity of the lane.

- 6.2 Each of the key issues will be addressed individually below.

## **7.0 Settlement boundary**

- 7.1 This proposed development is on the edge of the village, adjacent to the settlement boundary and as can be seen from illustrative overlay images, the site creates a natural extension to the village.
- 7.2 With regard to Local Policy, PS1 of the UDP directs residential development to within settlement limits. However, within the Officer’s Report (6<sup>th</sup>

February 2017), it is acknowledged that as Policy PS1 is now out of date it can only be afforded limited weight.

- 7.3 Section 5 of TAN1 states that where supply of housing land is below 5 years, the need to increase supply should be given considerable weight when dealing with planning applications and local planning authorities must take steps to increase the supply of housing land.

## **8.0 Green Barrier designation Policy EC1**

- 8.1 It is acknowledged that planning policy would ordinarily restrict residential development on land designated as Green Barrier. However, Green Barrier is not a permanent designation and is meant to be reviewed as part of the development plan review process. As the Wrexham UDP is out of date and the Local Development Plan is unlikely to be in place until 2018 at the earliest, it is likely that some residential development will be required on land currently designated as Green Barrier, in order to address the current, significant shortfall in housing land supply.
- 8.2 Following comments received from the Case Officer's report for committee, at the end of January 2016, Land Planning engaged Robert Rodger Associates Ltd to produce a Landscape Visual Impact Assessment (LVIA). Again this document was commissioned, produced and submitted at very short notice as late information prior to the committee meeting. In summary *"this LVIA concludes that the strategy for the proposed development will not result in any coalescence with other settlements. The location of the site within existing built form on three sides, will result in a 'rounding off' the urban area between Gamford Lane and the woodland south of Darland Hall, and not encroach into the wider countryside. Furthermore, there will be no significant adverse effects on the visual amenity of the residential and recreational receptors."*
- 8.3 Although the site is within an area designated as Green Barrier and Special Landscape Area, it is enclosed on three sides by established natural tree and hedge boundaries as well as Gamford Lane to the west and residential development to three sides and is therefore not an 'open site' offering key views and nor would development here encroach on the open countryside.
- 8.4 The role of the green barrier is to retain openness and restrict the merging of settlements. However, in this instance, with agricultural land to the south of the site and to the east, beyond the area of woodland, the development of

this site would not create over development or urban sprawl, but would create a natural extension to the village, of suitable, sustainable scale. The Green Barrier would therefore be maintained between settlements and the openness of the Green Barrier would be retained. The nearest settlement would be Trevalyn to the south east which is approximately half a mile away from the southern tip of the site.

## **9.0 Special Landscape Area designation Policy EC5**

- 9.1 Comments from NRW merely noted that as the proposal may affect a Landscape of Interest, although not a statutory designation, chapter 6 of Planning Policy Wales (PPW) states that it is a material consideration in the planning process. No objection was put forward or any further detail given on any landscape features of specific importance that may be affected by the development.
- 9.2 The planning case officer stated that pressure to develop land is weakening rural character and that *“whilst it would be possible to carry out the development in a manner to incorporate existing hedgerows and hedgerow trees, the increase in the urban form will change the rural character of the field parcels.”*
- 9.3 Clearly any development will alter the rural character of Greenfield land. However, with careful landscaping and sympathetic scheme design, the rural character overall can be retained, whilst enabling much needed quality, family housing to be constructed.
- 9.4 With regard to Policy EC5, the LVIA stated the following:
- 9.5 *“It is our opinion, based upon our review of the LANDMAP data – and in particular the Visual and Sensory Aspect Area Dee Terraces - and from our detailed site survey, that the key qualities of the landscape within the SLA in this locale have already been partially compromised by the adjacent built form and urban edge of Rossett, and that the integrity of the wider SLA would not be significantly affected by the proposed development given the proposed tree and hedgerow planting along the southern boundary, and within the site itself.”*
- 9.6 Given the information from the LVIA, it is therefore believed that development of the application site will not unduly affect the character of the local landscape. Furthermore, a detailed landscape scheme would be

conditioned and required as part of a reserved matters application, which would then address the rural character of the surrounding area and the suitable types, numbers and locations of plants required to create a sympathetic scheme.

- 9.7 Additional planting of native species hedgerow along the proposed boundary (south side) would mitigate against any loss. Hence, it is believed that the harm to visual quality and landscape character would be limited and outweighed by the urgent need to increase housing land supply.

## **10.0 Disposal of surface water**

- 10.1 The site lies entirely within Zone A as defined in TAN 15 Development & Flood Risk (2004) and shown on Welsh Government's Development Advice Map, which under the Justification Test - Application Test for Proposed Development Sites (in Accordance with TAN 15), would make it appropriate for residential development (highly vulnerable).
- 10.2 Following submission of the application in July 2016, initial comments from Welsh Water, the Flood Officer for Wrexham County Borough Council and an officer representing Natural Resources Wales (NRW) were published in August 2016.
- 10.3 Welsh Water did not object to the proposal, but stated that discharging to the mains sewer network would not be acceptable and that a condition of an approval should require a drainage scheme for the site to be submitted to and approved in writing by the local planning authority.
- 10.4 NRW stated they would not object to the application provided a condition relating to the disposal of surface water was submitted and approved in order to reduce the risk of surface water flooding.
- 10.5 Neil Taunt, Flood Officer for Wrexham County Borough Council commented on the application stating that the site is identified as being at risk of surface water flooding as defined on NRW's updated flood map for surface water and that there were reports of flooding associated with the highway network along Gamford Lane adjacent to the proposed site, and around the junction with Darland Lane. Due to potential surface water flooding concerns, a Flood Consequence Assessment was requested along with an indicative drainage proposal.

- 10.6 In September 2016 TerraConsult produced a flood consequence assessment and conceptual surface water management plan. At that time, it was assumed that no existing discharge consent was applicable to the site, therefore maximum permissible discharge rates and volumes were based upon calculated Greenfield discharge rates. The initial concept for management of the surface water generated from areas on the site was through the design and construction of a roadway pipe drainage network. Drainage from this network would then be attenuated in a pond or cellular storage structure for rainfall events up to and including the 1 in 100 year + 40% climate change rainfall event. It was then proposed that water from the attenuation ponds and / or cellular storage structure would discharge to the existing sewerage network within Gamford Lane. It was concluded that surface water generated from the assessable site area can be successfully directed to, and contained in, the proposed attenuation structure to appropriate Greenfield runoff discharge rates.
- 10.7 As this application was in outline only, it was noted within the report that further details and mitigation methods would be addressed through the development of an indicative surface water drainage assessment and sustainable drainage system design to attenuate and release surface water flows generated on site to an acceptable level. It was also stated (P28) that if infiltration is to be further explored as a means of discharging surface waters from the site, further intrusive site investigation to assess for soakaway potential will be required.
- 10.8 It was assumed, given the application was in outline with all matters reserved, that further detailed drainage designs would be conditioned, subject to approval. However, further comments were then received from the flood team at Wrexham Council. These comments stated that discharge of surface waters generated by the new development on the site into the combined sewerage system was not acceptable to Welsh Water and that the proposed alternative means of surface water disposal to a local watercourse is deemed inappropriate at this stage due to issues with the truncation of the local drainage network, resulting in flooding in the area during periods of excessive rainfall.
- 10.9 The surface water flooding in the area is a critical issue, and one that is currently being investigated by Wrexham County Borough Council (WCBC). As such, Patrick Lomax of Land Planning Limited contacted Neil Taunt (of WCBC) to discuss the issue of surface water flooding in the area around Gamford Lane / Darland Lane at Rossett. Mr Taunt said that he'd consult further with

an engineer on the matter and get back to us. In addition, Mr Lomax made enquiries locally and found out that the drainage pipe in question had been blocked at some stage, the problems having first occurred after the houses at Pippin Lane were constructed by Charles Church Developments, and this is the cause of the surface water flooding which occurs periodically in the area, during periods of extreme rainfall.

- 10.10 Mr Taunt responded once he had discussed the drainage issues in this area with the local authority Engineers. He stated there were ongoing issues associated with a truncation of the existing drainage systems and that they were currently in the process of trying to secure a remedial scheme to reinstate flow within the system, which would resolve the problem of surface water drainage.
- 10.11 Once it was confirmed that discharging to the mains was not acceptable, Land Planning then commissioned a further drainage appraisal from Alan Kane (Kane Design) in February 2017. This was submitted as late information prior to the committee meeting. This drainage appraisal consists primarily of analysing the potential for soakaway drainage and drainage to the adjacent culvert / ditch. It is acknowledged that further, detailed investigations are required, but nonetheless, from the investigations carried out the soakaway test suggested soakaways will work within this site and that could provide the primary method to be used for surface water drainage, with the drainage ditch / culvert in Darland Lane offering an alternative method of surface water disposal if required (subject to the existing drain being reinstated).
- 10.12 Therefore, it is suggested that a suitable, sustainable scheme of surface water drainage can be designed that will not require the disposal of surface water via the mains network. As such, a detailed drainage scheme could have been made a condition of planning consent in the form of a 'Grampian Condition', rather than the application being refused on the grounds that no evidence had been provided to ensure a sustainable drainage scheme can be designed, to demonstrate that any potential flood risk can be acceptably managed.
- 10.13 Furthermore, the significance of the blockage of the existing drain has subsequently been confirmed by Neil Taunt of WCBC. WCBC engineers having put a camera along the drain and found that someone had fixed a tarpaulin over the drain, (this is the truncation that is referred to); the result being that some of the gardens are periodically subjected to flooding, along with the flooding around the road junction, as there is 'backing up' of water occurring here.

- 10.14 The original drainage scheme previously worked well, with the drain formerly feeding into the large pond to the east. Reinstating the original drain system is proven to be viable and would resolve the current problem, and in the event of the existing drain being successfully reinstated, we believe the Local Authority flood team would accept the use of the drain for the proposed scheme, subject to run-off data. However, it is acknowledged that this is an ongoing project which although technically viable has yet to be approved by all interested parties.

## **11.0 Impact on protected species**

- 11.1 An extended phase 1 protected species survey was carried out by Peter Lancashire in July 2016. No signs of bats, Great Crested Newts or Badgers were found within the site area.
- 11.2 Clwyd Badger Group noted concerns about badgers in the vicinity. The results from the Phase 1 survey found no signs of badger activity within the grounds of the survey area and moreover, there were no objections from Gareth Thomas of Natural Resources Wales (NRW) who stated the following:
- 11.3 *"We consider the ecological assessment to have been completed to a satisfactory standard, and agree with the conclusions. In our view the proposal will not affect any European or fully protected British protected species."*
- 11.4 Given these comments above from NRW, it appears that the ecological grounds for refusal, as given on the decision notice, are in conflict with the LPA's consultant and as such, that reason for refusal should be discounted as erroneous.

## **12.0 Visual amenity and rural integrity of Gamford Lane**

- 12.1 Although comments from the highways officer suggested that a section of hedgerow along Gamford Lane would need to be removed, in order to comply with required highways improvements, the hedgerow could either be transplanted further back within the site or a new hedgerow (made up of equivalent native species) could be planted to retain the hedgerow boundary to the site. Therefore there is no reason to conclude that the visual amenity and rural integrity of the lane will be unduly affected by the proposal.

### 13.0 OTHER APPLICATIONS OF INTEREST

- 13.1 Other similar applications have received approval or confirm that under suitable circumstances, development on Green Barrier land or land within a Special Landscape Area is acceptable. For example, an application at Boozey Field, Gwersyllt (planning reference P2015/0790) was granted approval for 56 dwellings on greenfield land, outside of but adjoining the settlement limit and within the Green Barrier. The planning officer in this instance stated that although the site was within the green barrier, there was “a strong, logical and defensible barrier (Griffiths Road and Mold Road) to the south and east of the site which is well landscaped with mature trees and hedgerows forming a logical rounding off of the settlement. The development of the site would not result in the coalescence of settlements and the function of the green barrier would remain even if this site is developed given the distance between the two settlements (Gwersyllt and Wrexham Town).”
- 13.2 The application at Gamford Lane, Rossett is similar to that noted above at Boozey Field. There are boundaries around the site including Gamford Lane to the west, housing to the north and an established woodland to the east. The site is adjacent to the settlement limit of Rossett and the nearest settlement would be Trevalyn to the south east which is approximately half a mile away from the southern tip of the site. Although comments from the highways officer suggested that a section of hedgerow along Gamford Lane would need to be removed in order to comply with required highways improvements, the hedgerow would either be transplanted further back within the site or a new hedgerow planted to retain the hedgerow boundary to the site.
- 13.3 In an appeal decision for a site in Ruabon, (APP/H6955/A/14/22295), the Inspector acknowledged that Green Barriers/wedges do not have the permanence of Green Belts and should be reviewed as part of the development plan review process. The UDP only covers the period 1996-2011 and stated it appears that Wrexham will not have an adopted Local Development Plan (LDP) in place until 2018 at the earliest. *“Furthermore, the Council accepts that it will have to release suitable Green Barrier sites to address the current significant shortfall in housing land supply.”* The Inspector also stated that *“the Council accepts the need to use appropriate Greenfield sites outside existing settlement boundaries to satisfy the existing housing need.”*
- 13.4 The Inspector went on to say, *“Insofar as the Green Barrier issue is concerned, the harm needs to be weighed against the urgent need to increase housing*

*land supply. The Council acknowledges that it will have to release suitable Green Barrier sites to address the significant shortfall in housing land supply, there has been a considerable delay in reviewing Green Barriers as part of the development plan review process...*" He also confirmed that there are very exceptional circumstances sufficient to outweigh the Green Barrier objections to development.

13.5 An application for residential development in Summerhill, Wrexham (LA planning reference P/2014/0262) was approved in February 2015. The application site was within the Green Barrier. The case officer noted the following:

13.6 *"Many of the settlements in the County Borough that can be considered sustainable places are either partially or wholly bound by Green Barriers. It will therefore be difficult to significantly increase the supply of housing land if the current UDP policies, including Green Barrier designations, are strictly adhered to in every case."*

13.7 As with the application at Gamford Lane, there were existing boundaries to the Summerhill site, including a significant section of trees. The case officer for the Summerhill application noted that as there was a *"substantial belt of trees"* along one boundary, there was a *"clear visual and physical break to the relatively open landscape beyond"*. In addition it was determined that this break separated the two adjacent settlements, hence there would be no coalescence of settlements or encroachment on the open countryside and the development would form a logical extension to the built up area. The case officer concluded that *"Whilst representing a departure from the policies of the adopted UDP the development of the site is justified in this instance due to the lack of a 5 year land supply in Wrexham, the sustainable location of the site and the fact that an acceptable form of development is achievable."* It is strongly believed that the same reasoning should be applied to the Gamford Lane appeal site application.

## **14.0 CONCLUSION**

14.1 This is an outline application, with all matters reserved. Therefore, at this stage, only the principle of development at the application site for residential development is sought. The application was refused on five issues and these have been addressed within this document.

- 14.2 The Local Authority does not have a 5 year housing land supply and the UDP is out of date, with the Local Plan not expected to be in place before 2018. As such, the local policy relating to new development being within the settlement limits carries little weight.
- 14.3 The Green Barrier designations should be reviewed as part of the plan process and this has been delayed, along with a steady decline of available and suitable housing land. The Council acknowledges that it will have to release suitable Green Barrier sites to address the significant shortfall in housing land supply and the application site is within an edge of settlement position, in a sustainable location; it is available and deliverable.
- 14.4 The issues relating to the surface water drainage of the site can be overcome and further detailed reports could be conditioned to be submitted as part of the detailed application stage. Indeed from other local applications it is not unreasonable to expect that a 'Grampian Condition' would be an acceptable condition to put on the drainage.
- 14.5 The concern surrounding the drainage primarily stems from an existing problem around the Darland Lane, Gamford Lane junction. This was due to the drain blockage caused at the time of the construction of Charles Church Developments houses off Darland Lane at Pippin Lane. This issue is feasible to be resolved by Wrexham County Borough Council and should not be used as a reason to halt expansion of this part of the village. Indeed, other similar developments in Wrexham have been approved with drainage matters conditioned, for example application LA reference P/2015/0178, land at Pont Adam Crescent, Ruabon.
- 14.6 The LVIA disputes that any significant harm will be caused by the development and there would appear to be no reasonable grounds to refuse the application based on ecology.
- 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.