

**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 APPEAL AT
HOME FARM GRESFOR ROAD LLAY**

**THE LOCAL PLANNING AUTHORITY'S STATEMENT ON PLANNING
OBLIGATION REQUIREMENTS**

PLANNING REF: P/2014/0905

PINS REF: 3147116

1.0 EXISTING PLANNING OBLIGATIONS

- 1.1 There has been one obligation entered into on or since 6 April 2010 that is intended to secure contributions towards Welsh Medium secondary education in Wrexham. There is only one Welsh Medium secondary school in Wrexham, Ysgol Morgan Llwyd. Details of the development the obligation relates to are set out below:

Permission Reference: P/2014/0931.

Site: Site of Westminster Industrial Estate, Off Mold Road, Gwersyllt, Wrexham, LL11 4AE

Development: Outline application for residential development (up to 65 dwellings) with all matters reserved except access.

Date of obligation and planning permission: 10.3.2016

- 1.2 The above mentioned obligation is also intended to secure:
- i) The long term management and maintenance of public open space provided on-site as part of that development;
 - ii) Provision for a financial contribution towards off-site open space provision;
 - iii) On-site affordable housing;
 - iv) A financial contribution towards the monitoring of a travel plan;

- 1.3 There has been one obligation entered into on or since 6 April 2010 that is intended to secure contributions towards primary school provision in Llay and secondary school provision in Rossett. Details of the development the obligation relates to are set out below:

Permission Reference: P/2016/073

Site: Land south of the Miners Welfare Institute, Llay New Road, Llay, LL12 0TH

Development: Outline application for residential development and formation of new access.

Date of obligation and planning permission: 10.11.2016

- 1.4 It should be noted that the obligation referred to in paragraph 1.3 does not specifically refer to a primary or secondary school. However the obligation was entered into because the Local Education Authority advised the Local Planning Authority that contributions towards primary school provision in Llay and secondary school provision in Rossett were required. There is only one primary school in Llay (Park Primary School) and one secondary school in Rossett (Darland High School) therefore it is expected that the contributions will be used to provide additional capacity at those schools.
- 1.5 The obligation mentioned in paragraph 1.3 is also intended to secure the long term management of open space provided on the development site.
- 1.6 In both of the above cases, the contributions payable will be determined using the formulae set out in Local Planning Guidance

Note 27: Contributions to Schools. A copy of LPG27 is enclosed with this statement.

2.0 POLICIES/SUPPLEMENTARY PLANNING GUIDANCE

Public Open Space

- 2.1 Policy CLF5 of the Unitary Development Plan sets out a requirement for on-site open space:

Open Space Requirements from new Residential Developments

Policy CLF5 New development of ten dwellings or more must provide informal public open space within the site at a minimum level of 0.4 hectare per 50 dwellings, be conveniently located for users, and usable for playing field(s) and/or equipped children's play area(s) and open amenity area(s). In exceptional circumstances, the application of these standards may be varied, in the case of small urban infill housing development, where the developer enters into a legal agreement for financial contributions towards the cost of public open space provision where:-

- a) the site is unsuitable for public open space provision; or
- b) the development would not place significant additional pressure on public open space facilities in the vicinity of the site.

- 2.2 Where open space is provided on site it is essential that adequate provision is made for its long term ownership and management to ensure the open space area(s) remain usable and do not fall into a state of disrepair to the detriment of the amenity of occupiers of the development as well as the appearance of the site. Local Planning Guidance Note 10: Public Open Space in New Housing Development provides advice regarding the finance and future maintenance of open space. A copy of LPG10 is enclosed with this statement.
- 2.3 Historically, public open space has been transferred to the Council along with a commuted sum payment towards future maintenance costs. LPG10 does however allow for developers to make other arrangements, such as a resident's management company.
- 2.4 The Council is generally now unwilling to take on the ownership and management responsibility for open space provided on new housing developments. It is therefore the case that long term responsibility for managing areas of open space needs to be vested with another organisation such as resident's management company.

Affordable Housing

- 2.5 Policy H7 of the Unitary Development Plan sets out the Council's requirements in respect of affordable housing:

Affordable Housing

Policy H7 Where there is a proven lack of affordable housing to meet local needs, the Council will negotiate with developers to provide an element of affordable housing in new proposals of 25 or more homes. The initial benefit of discounted prices will be retained for subsequent and future occupants through the scheme's management by a suitable local housing body with the aid of legal agreements.

- 2.6 Local Planning Guidance Note 28: Affordable Housing advises that 25% of total site capacity should be affordable. It also advises that where the on-site affordable site requirement results in the fraction of a dwelling, the Council will expect the fraction to be provided as a commuted sum. A copy of LPG28 is enclosed with this statement.
- 2.7 A Housing Market Assessment (HMA) was completed in March 2015 and identifies the requirements for affordable housing throughout the County Borough. The HMA was commissioned primarily to inform the preparation of the Local Development Plan however it is the most up to date assessment of affordable housing needs and is therefore also a material consideration in determining planning applications.
- 2.8 The HMA divides the Country Borough into 5 sub-areas. Llay is located the Western Border sub-area where there is currently an annual requirement for 69 affordable houses – see below:

Table 6.5 Needs Assessment Summary by sub-area

Element and step in calculation	Calculation	Sub-area					Total
		North East	South East	South West	Western Border	Wrexham	
Total households >>>		5030	3774	1959	29072	19422	59257
C. CURRENT NEED							
1. Existing households in need of alternative housing		487	365	218	2841	2706	6617
2. plus Current non-households in need	%	61	11	9	221	149	451
	No.	41	22	35	28	49	175
3. minus cases where they can afford to meet their needs in the market	1+2-3	200	79	77	806	1320	2482
4. equals Total current housing need		348	297	150	2256	1535	4586
A. AVAILABLE STOCK TO OFFSET NEED							
5. Current occupiers of affordable housing in need		27	6	27	856	771	1687
6. plus Surplus stock		0	0	0	0	0	0
7. plus Committed supply of new affordable units		12	9	11	205	128	365
8 minus planned units to be taken out of management		0					0
9. equals Total available stock to meet current need	5+6+7-8	39	15	38	1061	899	2052
10. equals Total Current Need	4-9	309	281	112	1195	636	2534
11. times quota progressively to reduce level of current need	Policy judgement	20%	20%	20%	20%	20%	20%
12. equals Annual need to reduce level of current need	10x11	62	56	22	239	127	507
N: NEWLY ARISING NEED							
13. New household formation (gross p.a.)		23	4	3	131	193	353
14. times proportion unable to buy or rent in the market		57.20%	57.20%	57.20%	57.20%	57.20%	57.20%
15. plus existing households falling into need		5	10	5	159	17	197
16. minus potential out-migrants unable to afford market housing			2		20		22
17. plus in-migrants unable to afford market housing	(13x14)+15-16+17		2	5	63		71
18. equals newly-arising need		18	13	12	277	127	448
S. SUPPLY OF AFFORDABLE UNITS per year							
19. Net supply of social re-lets		26	21	23	447	280	797
20. plus supply of intermediate housing available for re-let or resale at sub-market levels	19+20	0	0	0	0	0	0
21. equals Affordable supply		26	21	23	447	280	797
NET SHORTFALL OR SURPLUS							
22. Overall shortfall or surplus (annual imbalance)	12+18-21	54	48	12	69	-26	157

March 2015



Education

- 2.9 Policy GDP2 sets out a requirement for a planning obligation to secure additional infrastructure capacity and/or funding towards the provision of the additional capacity where existing infrastructure is unable to accommodate the new development:

Capacity of Infrastructure and Community Facilities

Policy GDP2 Where the capacity of infrastructure, including community facilities, is likely to be deficient as a consequence of new development, a planning agreement/obligation will be negotiated whereby the developer provides the additional capacity either on or off-site, and/or provides funding for the Council to provide the additional capacity itself. Requirements will be fairly and reasonably related in scale and kind to the proposed development.

- 2.10 Local Planning Guidance Note 27: Contributions to Schools sets out formulae that will be applied to determine the contributions required for individual developments where school capacity is insufficient to cater

for the likely demand arising from a new development. In summary, this applies a per dwelling tariff, therefore the larger the development, the larger the financial contribution. This is considered fair and proportionate given that larger housing developments are likely to generate greater demand for school places than smaller developments. In turn this will a requirement for greater investment if additional school capacity is needed to accommodate that additional demand.

- 2.11 The Local Education Authority have confirmed that Park Community Primary School Llay and Darland High School Rossett are unable to cater for the likely demand arising from the appeal proposals. A summary of the capacity at both schools and existing numbers of pupils is included below:

Park Community Primary School:

School capacity:	315
Number of pupils:	315

Darland High School Rossett:

School capacity:	840
Mainstream pupils:	808
Resource pupils:	41
Total number of pupils:	849

- 2.12 Based on the formula set out in Local Planning Guidance Note 27 the development could generate up a requirement for 102 primary school places and 73 secondary school places. It is clear that the two schools referred to above do not currently have sufficient capacity to accommodate additional demand without extensions.

Ecology

- 2.13 Policy EC6 of the Unitary Development Plan deals with Biodiversity Conservation:

Biodiversity Conservation

Policy EC6 Development either within or close to sites of biodiversity interest will only be permitted where it can be clearly demonstrated that the need for the development outweighs the need to safeguard the intrinsic nature conservation value of the site. Where such development is permitted, damage should be kept to a minimum, and compensatory measures should be provided. Measures to improve the biodiversity value of sites and enhance their natural conservation interest and landscape quality including the establishment of local nature reserves, will be supported.

- 2.14 Paragraph 5.8 of the UDP makes it clear that the policy is applicable where a development may impact upon protected species:

5.8 Sites of biodiversity interest in the County Borough require protection by virtue of their special and exceptional flora, fauna, geological and physiographical features. These sensitive nature conservation sites are often subject to pressures for change and can be affected or even destroyed by operations which are harmful to a protected site, such as changes in farming techniques, which may not be subject to planning control. The continuous survey and assessment of nature conservation sites could bring statutory protection for other hitherto unscheduled sites. This policy applies to, in order of importance: nature conservation sites of international importance comprising Special Protection Areas, Special Areas of Conservation, and Ramsar Sites; nationally important Sites of Special Scientific Interest; regionally important Geological Sites; locally important Wildlife Sites; **and other protected species and their habitats.** The Council will require a survey to be undertaken in order to evaluate the impact of development on the intrinsic qualities of these sites. Local nature reserves comprising habitats of local

- 2.15 In addition to the above, section 4.7 of Technical Advice Note 5: Nature Conservation and Planning advises on the use of planning obligations to secure habitat mitigation.
- 2.16 There are Great Crested Newts known to be present in the locality therefore it is essential that the development of the site takes account of this.
- 2.17 The Statement of Common Ground sets out a list of suggested planning conditions that the appellants and the Council consider to be necessary in the event of the appeal being allowed. Condition 6 (p24 of the Statement of Common Ground) requires habitat mitigation/compensation provision. It is therefore considered necessary that there is an obligation to secure the management of any areas of compensatory/new habitat provided on site. This will ensure value of the habitat area(s) to Great Crested Newts is secured in the long term.

Contributions towards travel plan monitoring

- 2.18 The draft Unilateral Undertaking includes provision for a financial contribution to be made towards the monitoring of the implementation of a travel plan. The submission and implementation of travel plans for each phase of the development is required by condition 17, as set out in the Statement of Common Ground (p27). The contributions were requested by the Highways Authority.
- 2.19 There is no UDP policy or Local Planning Guidance Note that sets out requirements for contributions towards the monitoring of travel plans.
- 2.20 Whilst paragraph 9.13 of TAN18 advises *“The weight to be attached to a travel plan when determining a planning application will depend upon the extent to which it (or parts of it) can be secured through a planning condition or obligation and the extent it affects the acceptability of the development proposed”*. This arguably only allows for contributions to be secured that aid the delivery of a travel plan and/or mitigate against transport or highway impacts associated with a development, for example funding towards improved public transport, highway improvements, improvement pedestrian and cycling provision.
- 2.21 In light of the above it would be difficult to argue that funding towards the local authority's cost of monitoring the implementation of the travel plans is necessary to make the development acceptable in planning terms. The Council would therefore have no objections if an amended version of the Unilateral Undertaking is presented to the Inspector that omits this particular obligation.

3.0 CONCLUSIONS

- 3.1 The Council is of the opinion that the above demonstrates that the Unilateral Undertaking presented by the appellants complies with the limits imposed by Regulation 123(3) of the Community Infrastructure Levy Regulations 2010 as to the number of obligations entered into on or since 6 April 2010 that make provision for the same infrastructure provided for by appellant's Undertaking.
- 3.2 The Council is also of the opinion that the above demonstrates that the obligations within the Unilateral Undertaking are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development. The Undertaking therefore accords with Regulation 122 of the Community Infrastructure Levy Regulations 2010.