

**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 APPEAL AT
LAND SOUTH OF HOLT ROAD**

**UPDATE ON THE COUNCIL'S POSITION FOLLOWING
THE ADOPTION OF THE LOCAL DEVELOPMENT PLAN**

**PLANNING REF: P/2019/0005
PINS REF: 3263516**

1.0 BACKGROUND

1.1 Application reference no. P/2019/0005 was submitted to the Council in January 2019. The application was reported to Planning Committee on 27 July 2020 with an Officer recommendation that permission be granted. However, the Planning Committee refused planning permission for the following reasons:

1. *The proposed development lies outside the settlement limit and within a designated green barrier. To allow the development would be contrary to policies PS1, EC1, EC2, H5, MW9, GDP1, GDP2 and CLF5 of the adopted Wrexham Unitary Development Plan.*
2. *The proposal has failed to apply the sequential test and justify the loss of BMV agricultural land in accordance with the procedure required by PPW 3.54 and 3.55.*
3. *The proposed development conflicts with PPW10 paragraph 3.21 in failing to consider the impact upon health facilities and the need for further provision to meet increased demand.*

1.2 At the time of the decision, the Unitary Development Plan remained the adopted development plan, despite the plan period having expired in 2011. The (then) emerging Local Development Plan (LDP) was still subject to Examination in Public. Members were aware that the appeal site forms part of the LDP allocated housing site known as Key Strategic Site 2 (KSS2), given that the Council was yet to receive the Inspectors report. However, at the time of the decision, there was no certainty regarding the content of the Plan and in particular, whether the Inspectors were content for individual allocations to remain within the Plan.

1.3 Members were also concerned that the delivery of the KSS2 allocation went to the heart of the plan and therefore to grant permission for development on part of the site would predetermine decisions about the scale, location or phasing of new development which ought to be properly to be taken through the conclusion of the EiP and publication of the binding report by the LDP Inspectors.

1.4 The Council received the LDP Inspectors report on 27 February 2023. The report found the LDP to be sound. The LDP was formally adopted by the Council on 20 December 2023. Notwithstanding pending legal challenges, it is therefore the adopted development plan for the purposes of development management decisions at the time of writing.

1.5 The adoption of the LDP means there have been significant changes in circumstances since the planning application was refused in July 2020. There has also been two other matters that need to be considered. A more detailed assessment of the changes in circumstances and the implications of these changes for each of the reasons for refusal are set out in detail in a report to

Planning Committee dated 8 April 2024. A copy of the report can be found at **Appendix 1**.

2.0 COUNCIL'S UPDATED POSITION

- 2.1 On 8 April 2024, the Planning Committee resolved to endorse the three recommendations set out in the report referred to in paragraph 1.4. The Council therefore hereby formally withdraws all 3 reasons for refusal.
- 2.2 The appellants have submitted a number of updated technical documents in support of both the appeal proposals and also the second planning application, reference P/2021/0436. The latter seeks outline planning permission for the same development as the appeal. The following have been re-consulted for their comments on the updated technical documents:
- WCBC Highways
 - Natural Resources Wales
 - Welsh Water
 - Welsh Government (Trunk Roads)
- 2.3 The responses are included in **Appendix 2**. Consideration of key technical issues are set out below.

3.0 CONSIDERATION OF KEY TECHNICAL ISSUES

Local Development Plan

- 3.1 The site is within a defined settlement limit and allocated for housing. Policies SP1, SP2, SP4, SP5, SP7, SP11, SP12, SP13, SP14, SP16, SP18, SP19, H1, DM1, NE1, NE3, NE6, MW11, RE1, T1 and T2 apply.
- 3.2 Given the considerable time the appeal has been held in abeyance it is necessary to assist the Inspector by commenting on three key technical matters, namely, ecology, highway safety and the likelihood of the development having a significant effect on the River Dee and Bala Lake SAC

Ecology

- 3.2 Consideration of the potential impact of the development on the River Dee and Bala Lake SAC are dealt with separately below.
- 3.3 The Ecological Impact Assessment undertaken in January 2024 demonstrates that there have been no material changes in respect of the likely impacts of the development on habitat and protected species and confirms the conclusions set out in the 2020 Committee report on these matters.
- 3.4 Condition 6 as set out in the Schedule of Agreed Planning Condition appended to the Statement of Common Ground and the provisions of the Planning Obligation in respect of a Habitat Management Plan appropriately

address the matters raised by NRW in their consultation response of 25 March 2024.

- 3.5 The applicants have prepared a Green Infrastructure Statement. This would satisfy the requirements of Chapter 6 of PPW12 and provides. When read in conjunction with the Ecological Impact Assessment, the Landscape and Visual Impact Assessment and the Preliminary Arboricultural Impact Assessment, that significant consideration has been given to existing green infrastructure. The Ecological Impact Assessment and Masterplan also demonstrate that the protection and provision of green infrastructure have been also considered. More detailed consideration of these matters would be given at reserved matters such, however subject to the conditions set out in the Schedule of Agreed Planning Condition appended to the Statement of Common Ground and the Planning Obligation provisions to secure a Habitat Management Plan, sufficient information has been submitted to satisfy the requirements of PPW12 as well as LDP policies SP14, NE1 and NE3 and to demonstrate that a step wise approach has been applied to the development in order to avoid impacts upon habitats and species.

Highway Safety

- 3.6 A considerable amount of time has passed since the traffic assessments that underpinned earlier Transport Statements were undertaken. The appellants have therefore carried out updated traffic counts. These are discussed in the submitted Addendum Transport Statement (ATS) dated 23.2.2024. The ATS demonstrates that the conclusions of earlier assessments and also the position set out in the 2020 committee report remain robust. The previously agreed measures of mitigation could be secured by conditions 5, 19 and 20 as set out in the Schedule of Agreed Planning Condition appended to the Statement of Common Ground and also the Planning Obligation.
- 3.7 Having regard to the above, it has been demonstrated sufficiently that the proposed development would not give rise to highway safety concerns and as such, the requirements of LDP policies SP4, DM1 and T1 are met.

River Dee and Bala Lake SAC

- 3.8 The Five Fords Wastewater Treatment Works benefits from an up to date Environmental Permit.
- There is capacity to treat additional wastewater from the proposed development within revised Environmental Permit limits, or
 - The necessary treatment capacity to remain within revised Environmental Permit limits will be delivered within the agreed Asset Management Plan (AMP) and that when implemented the treatment capacity will ensure that additional wastewater generated in consequence of the proposed development will remain within the revised Permit limits; and
 - That the sewer network and associated WwTW has the hydraulic capacity to accommodate additional wastewater without contributing to an increase in frequency or duration of storm overflows.

- 3.9 Welsh Water have confirmed that there is capacity at Five Fords to accommodate the foul water flows from the proposed development within the limit of the Permit.
- 3.10 Welsh Water have advised that a Hydraulic Modelling Assessment (HMA) is required to assess capacity in the wider sewer network. However they have advised that this, together with any scheme of mitigation as may be required, could be secured by a suitably worded condition. Welsh Water's response also confirms that they could not agree to a condition being discharged unless the HMA and any scheme of mitigation demonstrates that the sewer network would have capacity to accommodate the foul water flows without leading to an increase in the environmental impact of storm water overflows.
- 3.11 The responses from Welsh Water should provide the Inspector with sufficient information to be able to complete a Habitat Regulations Assessment. In the event of the appeal being allowed, condition 12 as set out in the Schedule of Agreed Planning Condition appended to the Statement of Common Ground could be imposed to secure:
- A foul water drainage scheme, informed by a HMA, prior to the commencement of development in each phase of the development; and
 - The implementation of any mitigation measures identified as necessary in the HMA to be implemented prior to the first occupation of dwellings in that phase.
- 3.12 Subject to the above, it would be possible to conclude that the proposed development is unlikely to have a significant effect on the River Dee and Bala Lake SAC. In such terms it would comply with LDP policies NE1 and NE6.

4.0 CONCLUSION

- 4.1 The previous reasons for refusal are withdrawn. Subject to the conditions set out in Schedule of Agreed Planning Condition appended to the Statement of Common Ground and the requirements of a Planning Obligation, there are no outstanding technical issues that would prevent planning permission being granted.