

# Appendix 1



## Penderfyniad ar Apêl

Ymchwiliad a gynhaliwyd ar 04-06/02/15  
Ymweliad safle a wnaed ar 10/02/15

**Arolygydd a benodir gan Weinidogion Cymru**

**Dyddiad: 9 Mawrth 2015**

## Appeal Decision

Inquiry held on 04-06/02/15  
Site visit made on 10/02/15

**an Inspector appointed by the Welsh Ministers**

**Date: 9 March 2015**

**Appeal Ref: APP/A6835/A/14/2220730**

**Site address: Land off Old Hall Road/Greenhill Avenue, Ewloe. CH5 3JH**

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Anwyl Construction Company Ltd. against the decision of Flintshire County Council.
- The application Ref 051613, dated 17<sup>th</sup> December 2013, was refused by notice dated 4<sup>th</sup> June 2014.
- The development proposed is the erection of 41 dwellings, open space and access works.

## Decision

1. The appeal is allowed and planning permission is granted for the erection of 41 dwellings, open space and access works on land off Old Hall Road/Greenhill Avenue, Ewloe in accordance with the terms of the application, Ref 051613, dated 17<sup>th</sup> December 2013, and the plans submitted with it, as subsequently modified by further plans submitted on 31<sup>st</sup> March 2013 & 10<sup>th</sup> April 2014, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than two years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans unless specified otherwise by subsequent conditions of this permission:

Site Location Plan (AH052/LP)  
Planning Layout (AH/052/01 Rev K) submitted 10<sup>th</sup> April 2014  
House Types-

    - 2 Bed
    - The Ruthin Render
    - The Ruthin Brick
    - The Kinmel 2.5 Storey

The Dolwen Render

The Dolwen Brick

The Beaumaris

The Alwyn Render

The Alwyn Render II

3 Bed

The Alwyn Brick

Amended Alwyn, Brecon & Hope house types submitted 31<sup>st</sup> March 2013

Alwyn 5 bed submitted 10<sup>th</sup> April 2014

- 3) Prior to commencement of development a phasing plan for the timing of the construction and completion of the dwellings hereby approved shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved plan unless any variation is first agreed in writing by the local planning authority.
- 4) Prior to the commencement of development a scheme for the disposal of foul water from the site shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme or any variation there from agreed in writing by the local planning authority.
- 5) Prior to the commencement of development a scheme for the disposal of surface water from the site, including the provision and implementation of a surface water regulation system and measures to prevent overland flow from surcharging the site's surface water drainage system, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme or any variation there from agreed in writing by the local planning authority.
- 6) No works associated with the proposed development shall commence unless and until a detailed scheme for the realignment of Greenhill Avenue has been implemented in accordance with details previously submitted to and approved in writing by the local planning authority.
- 7) The front of the garages hereby approved shall be set back a minimum distance of 5.5 metres behind the back of the footway.
- 8) Prior to the commencement of development the detailed layout and alignment, design, means of traffic calming and signing, surface water drainage, street lighting and construction of the internal estate roads and means of site access shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details or any variation there from agreed in writing by the local planning authority.
- 9) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development, and boundary treatment.
- 10) All planting, seeding, turfing, fencing, walling, other boundary treatments and other treatment comprised in the approved details of landscaping shall be

carried out in the first planting and seeding seasons following the commencement of the development. Any trees or plants which, within a period of five years of the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

- 11) Prior to commencement of any site works a scheme for reasonable avoidance measures in relation to amphibians shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to the commencement of development.
- 12) No scrub clearance or removal of hedgerows shall take place within the bird nesting/breeding season unless otherwise agreed in writing by the local planning authority.
- 13) Details of the proposed external materials shall be submitted to and approved in writing by the local planning authority prior to their incorporation into the fabric of the buildings hereby permitted.
- 14) No development shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The submitted plan shall provide details of:
  - Contact name and numbers of personnel responsible for adherence and monitoring of the plan;
  - Contact name(s)/number(s) for any site related enquiries including out of office times;
  - Anticipated duration of the works;
  - Position of gates – preferably set-back 12m to allow a delivery vehicle to park/wait;
  - Proposed signage types and locations;
  - The access and egress route with appropriate traffic monitoring in order to control traffic movements;
  - Measures for avoiding depositing mud, dust or other debris onto the highway by incorporating wheel wash and dust suppression equipment;
  - The timing of deliveries and main construction traffic arrivals and departures to avoid peak times;
  - Working hours;
  - Site notices informing construction workers and other site operatives of agreed working hours;
  - The parking of site operatives and visitors vehicles;
  - Loading and unloading of plant and materials;
  - Storage of plant and materials used in constructing the development.Development shall be carried out in accordance with the approved plan.
- 15) No development shall take place until the finished ground floor levels of each dwelling have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved levels.

## Procedural matter

2. An executed Unilateral Obligation was submitted at the Inquiry, but the appellants were given a further week to provide an amended version incorporating changes sought by the Council. This was done within the above timescale and the Council confirmed that the revised document complies with the formal requirements of Section 106 of the *Town and Country Planning Act 1990* and is enforceable by it.

## Main Issues

3. I consider the main issues in this case to be:
  - (a) Whether the proposal accords with planning policies that seek to strictly control new development outside settlement boundaries;
  - (b) Whether the proposal would result in the unacceptable loss of best and most versatile agricultural land;
  - (c) Whether the proposal would result in Ewloe having an unacceptable housing growth rate; and,
  - (d) Whether any harm and/or conflict with policy in respect of one or more of the above is outweighed by the lack of a 5-year housing land supply.

## Reasons

### Settlement boundaries

4. The site is in agricultural use and is located immediately adjacent to the settlement boundary for Ewloe, with existing housing on its northern, eastern and western sides and the land to the south being within a green barrier. The appellants acknowledge that the proposal conflicts with *Flintshire Unitary Development Plan* (UDP) policy GEN3, which states that development proposals outside settlement boundaries will not be permitted unless they fall into one of the exceptions listed, and policy HSG4, which does not permit new dwellings outside settlement boundaries unless essential to house a farm or forestry worker. In my opinion, it also conflicts with policy STR1, which only permits development outside settlement boundaries, allocations and principal employment areas where it is essential to have an open countryside location.
5. One of the objectives of these policies is to protect the character and appearance of the countryside. However, the UDP Inspector considered that development of the site would be a logical rounding off of the settlement and would harm neither the character of the locality nor the integrity of the green barrier. There is nothing in the evidence before me that would lead me to a different conclusion.
6. The Statement of Common Ground (SoCG) records that the majority of properties to the west of the site are two-storey semi-detached dwellings with two large two-storey detached properties to the south west. Whilst there are bungalows elsewhere, the SoCG notes that some of these have been altered and extended significantly in some cases to dormer/two-storey properties. In such circumstances, I am satisfied that the proposed 2 and 2.5 storey dwellings would not adversely affect the architectural quality of the area and the proposed brick and render finishes would reflect the local vernacular.

## Agricultural land

7. The Agricultural Land Classification Map indicates a substantial portion of the site as Grade 2 with the remainder being Grade 3. In considering the appeal site, the UDP Inspector noted that such grading is only intended as a broad guide but did not consider that it should be dismissed lightly. Whilst it had been suggested that the land is of much poorer agricultural quality and should not be considered as being within the 'best and most versatile' category, there was some doubt as to whether the report was prepared in accordance with the relevant guidelines. The Inspector accepted the merits of many of the points made in favour of retaining the housing allocation on the site but they did not outweigh the need to resolve the agricultural land classification issue and recommended the allocation be deleted on that basis.
8. A subsequent assessment in 2009 by Reading Agricultural Consultants Ltd., carried out in accordance with MAFF's revised guidelines and criteria, classified approximately 0.4 ha (24%) as Grade 3a with around 1.3 ha (76%) as Grade 3b. Grade 3b is capable of producing high yields of grass or moderate yields of cereals whilst Grade 3a is capable of producing moderate to high yields of cereals. The assessment notes that there is no facility to grow arable crops at Kearsley Farm, the field shape is awkward for turning machinery and access from other farms is problematic such that the agricultural utility of the land is restricted.
9. The assessment required interpolation of auger and soil pit tests and an interested person suggests that an alternative interpolation could result in a higher proportion of Grade 3a land. Whilst that may be so, I have no reason to believe that the figures provided are not the best estimate. Furthermore, the Welsh Government's Department for Natural Resources and Food concluded that the survey appears sound and that a mixture of subgrade 3a and 3b would probably have been predicted. Although at 1.9ha the appeal site extends slightly beyond the 1.7ha surveyed, the area not surveyed is adjacent to subgrade 3b land such that the overall proportion of subgrade 3a land could be slightly less. Interested persons also suggest that a further survey was carried out in 2013, but in response to my questioning Mr Goodwin stated that he had no knowledge of such a survey.
10. UDP policy RE1 only permits development which would result in the loss of agricultural land of Grades 1, 2 or 3a where there is an overriding need for the development. It could be argued that the lack of a 5-year housing land supply and failure to meet the UDP's housing target represent an overriding need, but the policy also requires that the development cannot be accommodated on derelict, non-agricultural or lower grade agricultural land or available lower grade land has an environmental value or designation which outweighs the agricultural considerations. Addressing the shortfall in UDP housing provision and achieving a 5-year housing land supply is likely to require the release of some greenfield sites adjacent to existing settlements, but there is no evidence before me to show that this could not be done utilising lower grade agricultural land and I conclude that the proposal conflicts with UDP policy RE1 as well as policy GEN1.
11. For the same reason, it also conflicts with *Planning Policy Wales* (PPW). This states that the best and most versatile agricultural land should be conserved as a finite resource for the future and considerable weight should be given in development management decisions to protecting such land from development, because it is of special importance.
12. I will return to the question of whether this loss of Grade 3a land would be unacceptable in my overall conclusion.

## Housing growth rate

13. The UDP designates Ewloe as a Category B settlement, where additional development which would cumulatively result in more than 15% growth over the plan period will need to be justified on the grounds of housing need. Such justification could include local housing need and/or an explanation of why the development needs to take place in a category B rather than a category A settlement. The UDP is intended to cover a 15 year period between 2000 and 2015, but it cannot be from 1 January 2000 to 31 December 2015 as that would be 16 years. The UDP Housing Requirements 'Balance Sheet' at Table 2 was produced to enable changes that had occurred in the first ten years of the Plan period to be taken into account in determining the residual requirement. As that Table has a date of April 2010, it could be argued that the UDP expires in April of this year but the only safe assumption is that it runs from a date in 2000 to the same date in 2015.
14. As of April 2014 there had been 357 completions in Ewloe since 2000 representing a 15.7% growth rate. At that time there was a commitment of a further 46 units from unimplemented planning permissions and if they were all completed by the UDP end date that would see Ewloe experiencing 17.7% growth over the Plan period. Both planning witnesses accepted that the actual figure would be likely to be between 15.7% and 17.7%. The UDP Inspector was of the view that additional growth of some 2% in Ewloe would not be excessive, although this was in the context of an anticipated 13% growth following adjustments to allocations, sites with planning permission and planning applications since 2005 would have increased that slightly, and the overall increase would still have been just outside the 15% indicative limit.
15. The Inspector who determined Appeal Ref: APP/A6835/A/14/2217325 for a single dwelling within Ewloe's settlement limits noted that the proposal before her would result in unplanned growth prejudicial to the Council's settlement hierarchy and spatial strategy. If permission had been granted, there would have been a reasonable prospect of the development being completed by sometime in 2015 and there is no suggestion that delaying commencement was considered. As a result, the development would have contributed to Ewloe's growth over the plan period which has already exceeded 15%. In this case, start on site is not envisaged until Spring 2016 with completion in Spring/Summer 2018. There is, therefore, no realistic prospect of any dwellings being occupied before the end of the current year such that the proposal would not contribute to Ewloe's growth during the UDP period or conflict with the UDP's spatial strategy.
16. It is also notable that the UDP spatial strategy has not been particularly successful in the way growth has been distributed across the various settlements. The growth of category A settlements varies between 1.8% and 27.2% against an indicative range of 10%-20%, category B settlements have grown between 2.2% and 27% against an indicative range of 8%-15%, and category C settlements have seen growth of between nil and 27.5% against an indicative range of up to 10%.
17. Interested parties are concerned as to the impact on local services. The Council agreed that any impact on school numbers was capable of being addressed through a financial contribution provided through a planning obligation and I will return to that. Insofar as impact on health services are concerned, there are no objections from the relevant practices or the health authority, and Cllr Mackie acknowledged that getting GP appointments may be an issue elsewhere as well as in Ewloe.
18. For the above reasons, I conclude that the proposal would not result in Ewloe having an unacceptable housing growth rate and there is no conflict with UDP policy STR4.

5-year housing land supply

19. PPW requires local planning authorities to ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan. For land to be regarded as genuinely available it must be a site included in a Joint Housing Land Availability Study (JHLAS).
20. The 2012 JHLAS with a base date of 1<sup>st</sup> April 2012 showed a 4.5 years supply based on the residual method. Whilst the Council had argued in favour of using the past completions method, the Inspector who reported to the Welsh Government on the JHLAS did not consider that a departure from the residual method was justified. Although objectors suggested that more recent figures would show an improvement, the latest 2013 JHLAS with a base date of 1<sup>st</sup> April 2013 actually shows a worsening position with only 4.1 years supply on the residual method. The Welsh Government's letter to Chief Planning Officers of 19 January 2015 states that the residual methodology based on the housing requirements in an adopted LDP (or adopted UDP) will be the only methodology allowed for calculating housing land supply and the use of the past build rates methodology, which was based on the past performance of the building industry, will not be accepted. As a result, I give no weight to the Council's initial arguments in respect of past completions.
21. The Council states that sites which are predominantly strategic development sites not constrained in any way and are shown within the 3i category of the JHLAS through a combination of economic circumstances and developer conservatism represent a latent supply which could be accelerated in response to any improvement in market conditions and demand. Nonetheless, the inclusion of those sites within the 3i category has been agreed and for sites to be genuinely available they must be within Category 1 or 2. The Council also refers to examples of sites coming forward which are not currently falling within the 5 year figure and indicate that the draft 2014 study shows a much higher level of completions. That is not consistent with the statement in the 2013 JHLAS that low developer build rates are being put forward for the 2014 study, and I have no substantive evidence to indicate that the next JHLAS will show a 5-year housing land supply.
22. *Technical Advice Note 1: Joint Housing Land Availability Studies (TAN 1)* states that where the current study shows a land supply below the 5-year requirement, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies. For the reasons given in respect of the first and second main issues, the proposal does not comply with development plan and national planning policies, but I will return to the weight to be given to the lack of a 5-year housing land supply in my overall conclusions.

Other considerations

23. Interested persons are concerned as to the impact of the additional traffic generated, although there are no objections from the highway authority and the UDP Inspector was of the view that the highway network was suitable and would not be overloaded or unacceptably congested by development of the appeal site.
24. It has been suggested that the network peak hours considered in the Transport Statement do not reflect what occurs locally. The Transport Statement refers to the traditional AM and PM network peak rush hour periods of 08:00-09:00 and 17:00-



- 18:00, respectively. The raw traffic count data submitted in response to my request confirms that the AM peak hour at the B5125/Wood Lane junction is 08:00-09:00. However, the data also shows that the PM peak hour at the same junction is 16:30-17:30, rather than 17:00-18:00. Nonetheless, the difference between the 16:30-17:30 flow and the 17:00-18:00 flow is within the likely normal daily variation and is not so significant as to invalidate the conclusions drawn in the Statement.
25. The trip rate assessment used in the Transport Statement is based on data from the TRICS trip rate estimation software which is generally accepted as the most appropriate means of assessing the likely trip generation from development sites. The subsequent assessment used the more robust 85<sup>th</sup> percentile estimates of trip generation rather than the average estimates. As a result, I am satisfied that the traffic likely to be generated by the proposal has not been underestimated and it would not, in my view, be so significant as to materially impact on pedestrian safety. Furthermore, junction capacity assessments have confirmed that this level of additional traffic would not result in any notable effects on highway capacity.
26. Although interested parties suggest that the carriageway width on Old Hall Road is as narrow as 4.61m in places, measurements taken on Greenhill Avenue, Old Hall Road and Kearsley Avenue during the accompanied site visit confirmed that no widths are less than 4.8m which, according to *Manual for Streets*, is sufficient for a car and a commercial vehicle to pass each other. The appellants' highways evidence shows that the junctions of Kearsley Avenue and Wood Lane as well as Kearsley Avenue and Greenhill Avenue are capable of accommodating two-way traffic. The same evidence demonstrates that visibility at the junction of Wood Lane with the B5125 is adequate.
27. I do not share the concerns expressed that level differences and changes of gradient are so severe as to create blind crests at the existing terminations of Greenhill Avenue and Old Hall Road. Furthermore, requiring prior approval of the detailed layout and alignment of the internal estate roads and means of site access would ensure that the forward visibility was in accordance with recognised standards. The Section 38 and Section 278 agreements with the highway authority would provide a further safeguard. The impacts of construction traffic could be adequately controlled through a Construction Traffic Management Plan.
28. I acknowledge that there are parking problems in certain parts of Ewloe, including in relation to employment sites at St. David's Park and in respect of parents dropping off and picking up their children at the start and end of the school day. Nevertheless, given that the proposed dwellings would be within walking distances of the employment sites and Hawarden High School, I have no reason to believe that the proposal would materially exacerbate existing problems.
29. The SoCG notes that the proposed layout is in accordance with the Council's *Local Planning Guidance Note 2: Space around Dwellings* (LPGN 2). This recognises that residents and their neighbours are entitled to a reasonable degree of space, privacy and daylighting around their homes and provides guidance necessary to protect the residential amenity of new developments and of existing properties affected by nearby new proposals. Neighbouring occupiers who currently look out over an agricultural field would obviously experience a totally different outlook but, given the compliance with LPGN 2, the changed circumstances would not be so severe as to have a significant adverse impact on their living conditions.
30. Representations were made to the effect that the rights of neighbouring occupiers under the *Human Rights Act 1998* would be violated if the appeal were allowed. I do

not consider this argument to be well-founded, because I have found that the proposed development would not have a significant adverse impact on the living conditions of these occupiers. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Article 8 and Article 1 of the First Protocol.

31. The appeal site lies within a Mineral Safeguarding Area and UDP policy MIN8 requires evidence as to what extent any non-mineral development within it may sterilise or restrict the working of mineral resources. In response to my questioning, Mr Goodwin confirmed that applying the buffer zones required by *Minerals Planning Policy Wales* and *Minerals Technical Advice Note (Wales) 1: Aggregates* to the existing situation would take up the whole of the site and only a very small additional area would be sterilised with the appeal proposal in place. As a result, I am satisfied that there would be no unacceptable impact on mineral resources and there is no conflict with policy MIN8.

#### Unilateral Undertaking

32. The Unilateral Undertaking provides for three things. These are transferring four affordable housing units to the Council for a nominal consideration, laying out Open Space Land and a Management Agreement to secure future maintenance, as well as an Education Contribution.
33. The affordable housing and open space aspects are agreed between the Council and the appellants. Interested parties query the transfer of four units as opposed to a 30% provision of affordable units within the development as required by UDP policy HSG10. Nonetheless, the Council's experience is that discounted market value housing has resulted in a slow take up due to difficulties in obtaining mortgages and requested the 4 units to ensure delivery of affordable housing and to meet the area's need. Such an approach was considered appropriate by the Inspector who determined Appeal Ref: APP/A6835/A/11/2166719. He concluded that the aims of the policy would still be supported and I have no reason to reach a different conclusion in this case. I am, therefore, satisfied that the affordable housing and open space land provisions are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. As a result, they can be given weight in my decision.
34. The Education Contribution is not agreed although the Undertaking provides for the payment of the sums sought by the Council, should I decide that they are justified and comply with the *Community Infrastructure Levy Regulations 2010* (CIL Regulations). The Contribution is divided into a primary element and a secondary element.
35. The extent of the disagreement in respect of the former is limited to whether attendance at Welsh Medium schools should be considered and whether the number of pupils likely to be generated by the development should be rounded to the nearest whole figure. The appellants note that across the County some 6.3% of primary pupils attend Welsh Medium Schools, but that is likely to fluctuate across different areas and currently only one pupil from the whole of Ewloe attends such schools. On this basis, it is unlikely that any pupils of primary school age generated by the development would attend a Welsh Medium primary school.
36. Given that the Council allows rounding up and down to the nearest whole figure, there will be an element of 'swings and roundabouts' and the appellants' position seems overly pedantic. Furthermore, it is clear from the examples given in *Local Planning*

*Guidance Note No. 23: Developer Contribution to Education* (LPGN 23) that figures would be rounded. This LPGN was subject to consultation prior to formal adoption and should be afforded significant weight in line with my colleague's decision in Appeal Ref: APP/A6835/A/14/2217030 which found its methodology to be sensible and generally fair. I am, therefore, satisfied that a primary element of £122,570 to the Education Contribution is necessary, directly related to the development and fairly and reasonably related in scale and kind to the development such that it can be given weight in my decision. As a result, it is justified and complies with the CIL Regulations.

37. The disagreement over the secondary element is somewhat more fundamental with the appellants arguing that there is capacity available at other schools within a reasonable distance despite the nearest being over capacity. Nonetheless, LPGN 23 clearly states that contributions will be required for the nearest suitable school, which in this case is Hawarden High. The appellants draw attention to Appeal Decision APP/R0660/A/13/2204723 and Report to the Secretary of State Ref: APP/C3105/A/13/2189896. Whilst some comparisons can be made with the case before me, there is no evidence that either of the local planning authorities in those cases had any relevant and adopted Supplementary Planning Guidance. The appellants also suggest that the LPGN approach would not be appropriate where the nearest school is a Welsh medium one. This might well be so, but would very much be an exception and possibly an argument for a different approach could be made in such circumstances. Such circumstances do not exist in this case and I see no reason to set aside the provisions of the LPGN.
38. The appellants draw attention to the Planning Inspectorate's Good Practice Advice Note 16 on Submitting planning obligations, although strictly speaking it is only relevant to English cases. Be that as it may, the appellants have accepted the Council's pupil factors and number of expected pupils and that provides quantified evidence of the additional demand likely to arise from the proposed development. Up to date quantified evidence of the extent to which Hawarden High is unable to meet those demands has been provided. The LPGN provides the methodology for calculating any financial contribution which is shown to be necessary.
39. Only one pupil from Ewloe attends a Welsh medium secondary school and it is unlikely that the proposal would result in this figure increasing. My previous comments on rounding apply equally to secondary contributions. I am, therefore, satisfied that a secondary element of £129,283 to the Education Contribution is necessary, directly related to the development and fairly and reasonably related in scale and kind to the development, and can be given weight in my decision. As a result, it is justified and complies with the CIL Regulations.

#### Conditions

40. Conditions to be imposed in the event of the appeal being allowed were discussed at the Inquiry. The only difference between the Council and the appellants related to the need for a phasing condition. In my view, this is justified on the basis of providing some certainty as to how the development would be implemented.
41. Given the pressing need to address the lack of a 5-year housing supply, I agree that it would be appropriate to require commencement within 2 years rather than the default 5 years. The approved plans should be listed to comply with Circular WGC 016/2014 on *The Use of Planning Conditions for Development Management* and facilitate any future minor material amendments. Drainage systems should be subject to prior

approval to prevent flooding, hydraulic overloading of the public sewerage system, nuisance, pollution and accumulation of surface water on the highway.

42. Off-site highway improvements should be completed in accordance with previously approved details in the interests of providing a safe and satisfactory means of access. For the same reason, the actual access and internal estate road details should also be subject to prior approval with garages set back at least 5.5m from the back of the footway. However, there is no need for it to be stipulated that the off-site highway improvements be subject to an Agreement under the *Highways Act 1980* as this involves a separate procedure under different legislation and the highway authority is unlikely to allow such works to take place without such an agreement. A Construction Traffic Management Plan is required to safeguard residential living conditions, highway safety and the free movement of traffic during the construction period.
43. Landscaping, including boundary treatment, as well as external finishes and finished ground floor levels should be subject to prior approval in order to ensure an acceptable visual appearance and protect residential living conditions. Amphibian reasonable avoidance measures and a ban on scrub clearance or removal of hedgerows during certain periods are required to safeguard protected species and breeding birds.

#### Overall conclusion

44. I have identified conflict with the statutory development plan in respect of the site being located outside settlement boundaries and the loss of some Grade 3a agricultural land. Notwithstanding that the plan has not delivered the anticipated housing numbers by some margin, I consider that the proposal also conflicts with the plan read as a whole. However, that conflict is tempered by the site having residential properties on three sides such that its development would represent a logical rounding off that would not harm the area's character. Although PPW requires considerable weight to be given to protecting Grade 3a land, the relatively small amount of such land that would be lost and its restricted agricultural utility should also be taken into consideration in the overall balance.
45. The site is located adjacent to a sustainable settlement which has a range of services and facilities and is accessible by transport modes other than the private car. It has previously been selected for housing as part of the UDP process adopting a sequential approach, although it was subsequently dropped because it was deemed that there was no longer a need for it within the Plan period. In its evidence to the UDP Inquiry, the Council fully acknowledged that the site is a suitable candidate for development in the next plan period and the UDP Inspector noted that if the agricultural land classification issue could be resolved, the site could be considered again as part of the Local Development Plan (LDP).
46. However, it was expected at the time that a new plan would be in place by 2015 to provide continuity to the Plan led system. The reality of the situation, despite the Minister for Housing and Regeneration stating that the need to have an up-to-date adopted LDP in place is non-negotiable, is that adoption is not envisaged until 2018 at the earliest.
47. The UDP seeks to deliver 7,400 units in the Plan period (i.e. up to 2015) (equivalent to 493 per annum), and only 37% of the requirement could be delivered on previously developed sites with the majority of new sites allocated being sustainable extensions to existing settlements. Nonetheless, in its first 10 years or so only 3,288 units had

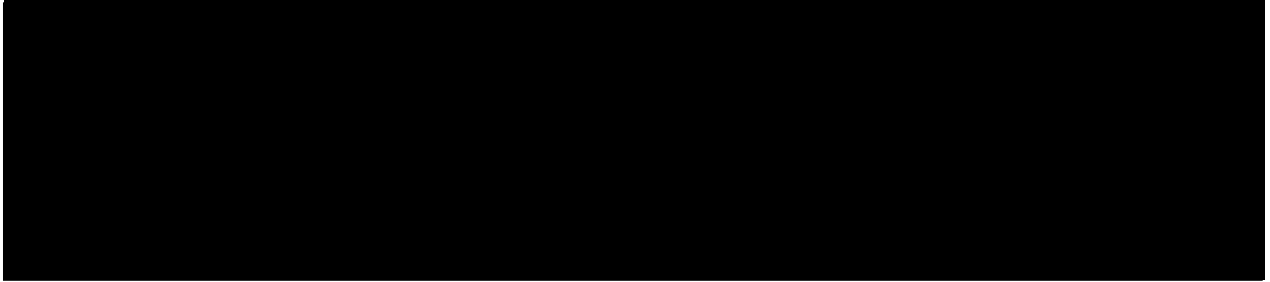
been provided, leaving 4,112 to be shared out over the remaining 5 years (equivalent to 822 per annum). Clearly a step change was required over the last 5 years, but a central premise of the Plan was that this could be achieved. Any failure was to be identified in annual monitoring reports and addressed in reviews to the Plan or interim policies to release more land.

48. The actual completions to April 2013 were only 4,213 units such that 3,187 needed to be provided during the last 2 years or so of the Plan period. However, the 2013 JHLAS predicts that only 1480 units will be delivered over the 3 years to 31 March 2016, leaving a substantial shortfall of at least 1707 at the end of the Plan period with the UDP clearly failing to deliver the necessary level of housing. No reviews or interim measures have been implemented and the Council has indicated that it does not intend to implement any formal steps to increase housing land. Had it done so, any additional release would in all probability also have been largely reliant on greenfield sustainable urban extensions. This substantial shortfall will need to be addressed in the early phases of the LDP, but that will not be in place for some time and there is a clear need to deliver additional housing now.
49. Looking forward, the 5-year requirement amounts to 4667 units. This is equivalent to 933 per annum and almost double the 493 per annum that would have resulted from the UDP delivering its requirement evenly across the Plan period. However, the 2013 JHLAS has identified a deficit of 871 units against this requirement, which further reinforces the need to increase supply. Although the proposal does not comply with development plan and one aspect of national planning policy, I am of the view that the need to increase supply should still be given significant weight in the overall balance.
50. The Council suggest that sequentially preferable sites should have been considered first, but housing provision in Flintshire is largely dependant on greenfield sustainable urban extensions and I see no evidence that this will change beyond 2015. Even if additional sites could be made available adjacent to Category A settlements or on poorer quality land adjacent to category B settlements, the reality of the situation is that they would be unlikely to come forward for some time or be included in the next JHLAS. Furthermore, the extent of the deficit is so great that even if 3i sites in Category A settlements, such as the appellants' development at Croes Atti, could be accelerated, by themselves they would not be sufficient to address the problem.
51. I also note that the Minister for Housing and Regeneration views building more homes as his priority, noting that this will not only meet growing housing need, but also generate growth and jobs, provide work to help people out of poverty and ameliorate the effects of the bedroom tax.
52. There is a danger that the need to increase supply and lack of a 5-year housing land supply could be used to justify development in inappropriate locations. However, in the particular circumstances of this case the benefits of the scheme outweigh the conflict with the development plan and one aspect of national planning policy and the balance clearly falls in favour of allowing the appeal such that the limited loss of Grade 3a land is not unacceptable.
53. For the reasons given above I conclude that the appeal should be allowed.

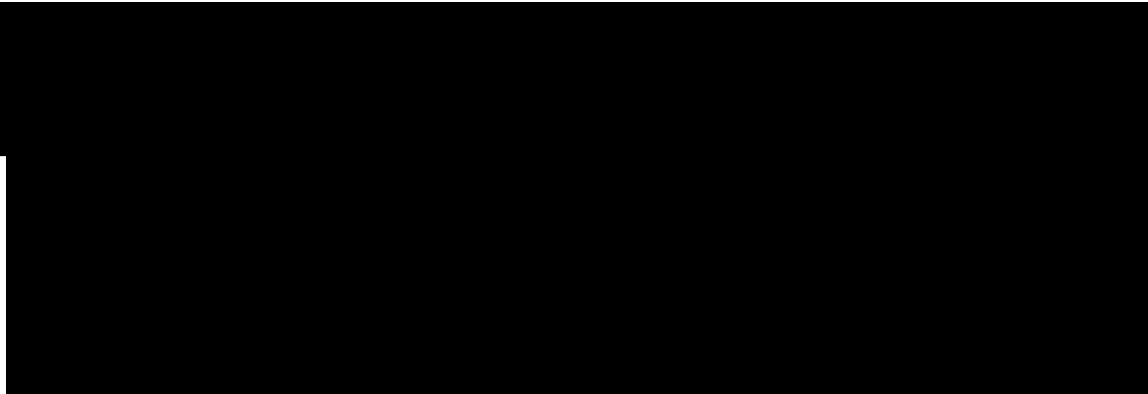
  
Inspector

**APPEARANCES**

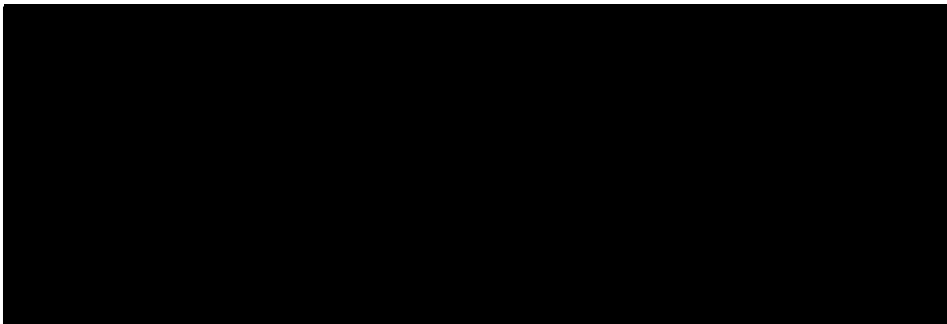
FOR THE LOCAL PLANNING AUTHORITY:



FOR THE APPELLANTS:



INTERESTED PERSONS:



## DOCUMENTS

Document 1	[REDACTED]
Document 2	Sefton MBC v Secretary of State for the Environment, Transport and the Regions [2002] EWHC Admin 119 [2002] P.L.C.R. 23
Document 3	UDP policy MIN8 and extract from Proposals Map
Document 4	E-mails from Council's Education Access Officer re. no. of pupils from Ewloe attending Welsh Medium Schools
Document 5	Draft conditions
Document 6	Full version of Agricultural Land Quality Report
Document 7	Planning Inspectorate's Good Practice Advice Note 16: Submitting planning obligations
Document 8	[REDACTED]
Document 9	[REDACTED]
Document 10	Full version of Transport Statement
Document 11	Raw traffic count data
Document 12	Sample Executed Unilateral Undertaking
Document 13	Petition and covering note
Document 14	[REDACTED]
Document 15	[REDACTED]
Document 16	[REDACTED]
Document 17	[REDACTED]

Documents 1 – 5 were submitted by the Council and the appellants submitted documents 6-12