

Adroddiad

Ymchwiliad a gynhaliwyd ar 15 – 17/11/2017 & 18/12/17

Ymweliad â safle a wnaed ar 19/12/17

gan Joanne Burston BSc MA MRTPI
Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 23.02.2018

Report

Inquiry Held on 15 – 17/11/2017 & 18/12/2017

Site visit made on 19/12/17

by Joanne Burston BSc MA MRTPI
an Inspector appointed by the Welsh Ministers
Date: 23.02.2018

TOWN AND COUNTRY PLANNING ACT 1990

Sections 78 and 322

LOCAL GOVERNMENT ACT 1972

section 250(5)

Appeal by Redrow Homes North West (NW)

Erection of 186 dwellings and ancillary development

Chester Road, Pen-y-ffordd, Flintshire

Cyf ffeil/File ref: APP/A6835/17/3174699

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Site address: Chester Road, Pen-y-ffordd (grid ref 330764 , 362108)

- 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 Redrow Homes NW against the decision of Flintshire County Council.
- The application Ref 055590, dated 6 June 2016 was refused by notice dated 19 April 2017.
- The development proposed is the erection of 186 dwellings and ancillary development.

Summary of Recommendation: That the appeal be allowed and planning permission granted.

Procedural Matters

1. The appeal has been recovered for determination by Welsh Ministers as the proposed development is for residential development of more than 150 units.
2. During the determination of the planning application the layout of the site was amended, reducing the number of proposed dwellings from 190 to 186.
Accordingly, I have used the description of development as set out on the Council's Decision Notice as this more accurately reflects the development proposed.
3. At the Inquiry a Statement of Common Ground in respect of surface water drainage was provided, dated 15 November 2017¹. This stated that the Council accepts that there is no longer a technical issue with regard to the potential drainage of the site that gives rise to a concern in relation to flooding, either on the site or elsewhere.
Accordingly the Council's second reason for refusal has been withdrawn.
4. A signed Unilateral Undertaking (UU) dated 21 December 2017 was submitted² and provides obligations to: provide on-site affordable housing; secure the management and maintenance of on-site public open space / green space; and contributions towards off site affordable housing, education, ecology and highways.
5. A screening direction was given by the Planning Inspectorate under the authority of the Cabinet Secretary for Energy, Planning and Rural Affairs as to whether the proposal is Environmental Impact Assessment (EIA) development within the meaning of the then relevant Environmental Impact Assessment (England and Wales) Regulations 1999 (as amended). The direction given was that the proposal is not EIA development.
6. I undertook an unaccompanied site visit on the 14 November 2017 and carried out an accompanied site visit on the 19 December 2017.
7. The Inquiry was formally closed in writing on the 8 January 2018.

The Site and Surroundings

8. The appeal site lies to the north east of the village of Pen-y-ffordd and comprises six small fields, bounded by mature hedgerows and trees. Public Right of Way (RoW) footpath 305/8 runs through the site and a RoW bridle path 24 forms the northern boundary.
9. To the north of the appeal site lies the play area and open space associated with the '*Heritage Park*' development. **To the west and southwest are existing single and two**

¹ Doc 1

² Doc 26

storey dwellings. To the south and south east runs the Chester Road and to the east lies further fields and agricultural land.

10. The village of Pen-y-ffordd has a number of services and facilities including a train station, bus services, two primary schools, a spar mini supermarket with post office, butcher, pharmacy, three places of worship, dentist, veterinary practice, MOT garage, hairdresser/barber, takeaway, café, and two public houses.

Planning Policy

Local Policy

11. The Development Plan is the Flintshire Unitary Development Plan 2000 - 2015 (UDP) which was adopted in September 2011. The appeal site is not identified for housing development within the UDP and is situated outside of the defined settlement boundary. Although the UDP remains the adopted development plan, it time expired in 2015.
12. **Relevant UDP Policies are set out in the Council's** first reason for refusal, namely Policies STR1, GEN3 and HSG4. At the Inquiry other UDP Policies were brought to my attention including STR4, STR7, HSG1, HSG3, L1, TWH1, TWH2 and IMP1.
13. UDP Policy STR1 is a strategic policy that sets out a number of factors to be considered **in relation to new development. Of particular note are points 'a', 'd' and 'g', which set** out that new development will generally be: located within existing settlement boundaries and on allocations; required to respect community identity and social cohesion; and assessed in terms of a precautionary approach where development proposals that would have a significant and uncertain environmental, social, economic or cultural impact, will be refused, in the absence of the best available information which proves that the impact can be negated or mitigated through proper risk control measures. UDP Policy STR4 sets out the strategic housing needs of the County and Policy STR7 provides the strategic approach to the safeguarding of the natural environment of Flintshire.
14. To protect the countryside from unsustainable development UDP Policy GEN3 sets out the types of development that may be permitted outside settlement boundaries and allocated sites. None of the criteria apply to this appeal.
15. UDP Policies HSG1, HSG3 and HSG4 deal with the quantity, location and quality of housing to meet future needs in Flintshire. Pen-y-ffordd is identified as a Category B settlement namely, a large village with a good nucleus of facilities, easily accessible by public transport and which have some potential for growth.
16. The UDP establishes that all landscapes including undesignated landscapes are important. In this respect UDP Policy L1 states that new development must be designed to maintain or enhance the character and appearance of the landscape. Similarly UDP Policies TWH1 and TWH2 seek to protect/safeguard from significant damage or loss important trees and hedgerows and will seek to ensure that, wherever possible, they are retained and incorporated into the layout of the development.
17. UDP Policy IMP1 **clarifies the Council's procedure on imposing conditions** on planning permissions and seeking planning benefits through planning agreements.

18. The Council is currently preparing its Local Development Plan (LDP). However a consultation draft is yet to be published and it is not anticipated that the Plan will be formally adopted before the end of 2019 at the earliest³.

National Policy and Guidance

19. The main sources of national policy relevant to this appeal are contained in the Well Being of Future Generations (Wales) Act 2015 (WFGA), Planning Policy Wales (PPW) and associated Technical Advice Notes (TANs), in particular TAN 1 Joint Housing Land Availability Studies; and TAN 5: Nature Conservation and Planning.
20. The WFGA establishes that public bodies in Wales must think about people now and in the future when they make their decisions, which equates to being sustainable. The Act sets out 7 wellbeing goals:
- A globally responsible Wales
 - A prosperous Wales
 - A resilient Wales
 - A healthier Wales
 - A more equal Wales
 - A Wales of cohesive communities
 - A Wales of vibrant culture and thriving Welsh language
21. Paragraph 4.2.2 of PPW states the planning system provides for a presumption in favour of sustainable development, with paragraph 4.3 setting out the key principles and paragraph 4.4 the objectives for sustainable development. In particular PPW paragraph 4.3.1 provides a number of points that all those involved in the planning system should adhere to, including ***“putting people and their quality of life now and in the future, at the centre of decision making”***.
22. Further at paragraph 4.2.4 PPW sets out ***that “a plan-led approach is the most effective way to secure sustainable development through the planning system and it is important that plans are adopted and kept regularly under review. Legislation secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise.”***
23. PPW and TAN 1 require local planning authorities to ensure that sufficient land is genuinely available or become available to provide a 5 year supply of housing.
24. TAN 1 paragraph 2.3 states that ***“the Welsh Government considers that having complete coverage of adopted Local Development Plans (LDPs) across Wales is critical in ensuring that the homes which are needed are delivered. Consequently, housing land availability needs to be soundly based on meeting the housing requirements identified by local planning authorities, which requires an adopted Local Development Plan (LDP) to be in place.”*** TAN 1 goes on to say at paragraph 8.1 that ***“It is recognised that for a temporary period some local planning authorities will not have an adopted LDP, but may have an adopted Unitary Development Plan (UDP). Local planning authorities in this position may use their adopted UDP as the***

³ Statement of Common Ground, dated 18 October 2017

basis for calculating their housing land supply, using the residual method, provided that the UDP is still within the plan period at the base date of the Joint Housing Land Availability Study (JHLAS)."

25. However, as stated the UDP expired in 2015 and TAN 1 at paragraph 8.2 states that *"local planning authorities that do not have either an adopted LDP or UDP will be unable to demonstrate whether or not they have a 5-year housing land supply and effectively will be considered not to have a 5-year supply."* However, TAN 1 establishes that local planning authorities without an adopted LDP should continue to carry out an objective assessment of their housing land supply on an annual basis in preparation for their LDP. This assessment will not be subject to the formal JHLAS process or carry the same weight for planning purposes as a formal study.
26. TAN 1 states in paragraph 6.2 that *"the need to increase supply should be given considerable weight when dealing with planning applications provided the development would otherwise comply with development plan and national planning policies"*. This is also reiterated in the letter from Cabinet Secretary for Environment and Rural Affairs issued in February 2017, it states *"the delivery of housing remains one of the highest priorities of the Welsh Government....."*, however *".....the principles of sustainable development and the creation of cohesive communities, which form the basis of the Welsh Government's planning policy, remains and should not be undermined by the need to increase housing land supply."*

The Proposals

27. The appeal scheme seeks full planning permission for the development of 186 dwellings with vehicle access off Chester Road and pedestrian links via the existing rights of way. The scheme incorporates a mix of 3 and 4 bedroom market dwellings and 27 affordable units together with a commuted sum equivalent to 14 units. The site layout also includes areas of open space and a multi-use games area.

Other Agreed Facts

Statement of Common Ground (SOCG)

28. The main parties have provided a SOCG. The SOCG sets out agreed matters in relation to specific points of agreement, the site description, planning history, relevant planning policy and housing land availability. Some of the main matters in agreement include the following:
- In accordance with TAN 1, the Local Planning Authority (LPA) are not able to demonstrate a five year housing land supply and that, consequently, in considering the appeal application, the need to increase the supply should be given **"considerable weight" in determining this appeal;**
 - The appeal site is grade 3b agricultural land, there is no objection to the proposal in relation to the loss of agricultural land;
 - There are no Tree Protection Orders affecting the appeal site;
 - Other than the fact that the site is located beyond the settlement boundary in open countryside, the site is not subject to any landscape designations;
 - There are no highway issues associated with the appeal proposals

- Existing facilities within Pen-y-ffordd are all within walking and cycling distance of the appeal site, it is also agreed that frequent bus and rail services from Pen-y-ffordd provide for access to other locations;
- Public open space provision included within the appeal proposals is in accordance **with the Council's standards;**
- The overall number of houses proposed and the mix of house types would make a contribution to improving housing land supply in Flintshire;
- The provision of affordable housing in relation to the development are agreed to be appropriate (including, in part, the provision of a financial contribution of £450,000 for the provision of affordable housing in areas of particular need in the County) and would be important contribution towards meeting housing need.

The Case for the Council

Introduction

29. Permission for this scheme can only be granted on one of two grounds,; either because it **accords with the development plan or because there are "considerations of such weight as to indicate that the development plan should not be accorded the priority which the statute has given it".**⁴
30. There is no reasonable basis on which it can be claimed that this proposal accords with the development plan. **It is common ground that the site's location conflicts with those policies in the plan which impose a general prohibition on new development outside settlement boundaries.** The main aims of those policies are to protect the countryside and promote sustainable patterns of growth. The prohibition applies, moreover, even in circumstances where there is a need to find additional sources of housing land. The UDP did not omit to make provision for increasing the supply of housing in such circumstances but did so only by relaxing control over unallocated land inside rather than outside settlements.⁵ This therefore clearly reflects a conscious decision about the importance of protecting the countryside from development which is also reflected in the key aims of the **plan's spatial strategy. Consequently, given the significance of this conflict, it is hard to see how the development could be judged to comply with the plan as a whole even if complied with its policies in all other respects.**
31. As a result, the appeal can only succeed if the Appellant can demonstrate that there are other material considerations of sufficient weight to justify departure from the plan.

Need

32. **It is important to note that the "need" to increase housing supply in accordance with TAN 1 is insufficient by itself to justify a grant of permission, notwithstanding the "considerable weight" which TAN 1 says should be given to it in cases where a local planning authority cannot demonstrate a five year supply.** TAN 1 paragraph 6.2 itself makes this clear in its final qualification – **"provided that the development would otherwise comply with development plan and national policies"**. The point has since been put beyond doubt by the letter from Cabinet Secretary for Environmental and Rural Affairs issued in February this year. The letter reiterates that the weight to be given to increasing housing land supply under TAN 1 is subject to compliance with

⁴ Per Lord Clyde in *City of Edinburgh Council v Secretary of State for Scotland* [1997] 1 W.L.R. 1447 at 1459D-H

development plan and national policies in other respects. It also gives examples of what is expected in this regard (i.e. development must relate well to the existing settlement form and must be acceptable in terms of its impact on economic, social and environmental infrastructure). Finally, it makes clear more generally that the principles of sustainable development and the creation of cohesive communities, which **form the "basis" of Welsh Government planning policy, take precedence over the need to increase housing land supply ("should not be undermined")**.

33. It follows therefore that if it is concluded that **this development would cause "material harm" to the social and/or environmental dimensions of sustainable development, and/or to community cohesion**, then the appeal must be dismissed.
34. **The "need" deemed** to arise from the absence of an up-to-date plan and housing requirement is not founded on any assessment of the balance between real need and supply. The real need (if any) is not something which TAN 1 provides any way to determine in these circumstances.
35. Further, **the "need" to increase supply cannot be "met" by increasing supply**. It can only be addressed by adopting a plan and housing requirement. Consequently, granting permission here will make no difference to either the existence or scale of the **"need"**. Indeed, planning permission could be granted to develop every field in Flintshire and the need would still exist.
36. **Third, the "need" relates to Flintshire, not this village**. The Appellant has not presented any case or evidence to show that there are local needs which this development would help address. Nor is there is any reason to believe that there might be. If one assumes that the growth band for the village during the UDP period (8-15%) would not have been set lower than the level required to meet local needs, the 25% growth which occurred over that period on any view far exceeded any need. Since then it has grown by another 9% in the last two years to 34% above the 2000 baseline. With the appeal scheme that would rise to 48%. Again, there is no plausible basis on which this could be justified on the grounds of local need.
37. As can be seen from the Ewloe decision⁶, there are other settlements where growth was significantly lower than indicated by their growth band. Logically, if seeking to **address any past undersupply against the plan's requirement, housing should be directed to those settlements rather than places like this**.
38. Equally, whilst there is anecdotal evidence that suggests there may be some local households in affordable housing need⁷, it has not been quantified or assessed comparatively. There is therefore no evidence that it is any more an issue here (or even as much as) than in other parts of Flintshire. Furthermore, even if it were, it could not justify a largely market-led scheme such as this.

Population Profile

39. It is claimed by the Appellant that the building of yet more new housing in the settlement would tend to help address potential adverse issues identified in the Rural Solutions report regarding ageing of the population. However, firstly, the trend applies to the population of Flintshire as a whole, and indeed to Wales and the UK more generally. It is not unique to this settlement. Second, the data on which the Appellant relies is outdated, relating to the intercensal period 2001-2011. Arcadis p11 table 3.2

⁶ Mr M Gilbert Apx6, decision no4 §16.

⁷ Mr A. Wight

shows that by 2015 in fact this settlement had a lower proportion of those in the 65+ age group than the Flintshire or Wales average. Overall, however, the population split is quite similar to both the average at county and national levels.

Scale and rate of growth

40. Pen-y-ffordd/Penymynydd was identified in the UDP as a Category B settlement, i.e. one **with "some potential for growth" during the UDP period.**⁸ This reflected, amongst other things, its size, limited range of services/facilities available and lower capacity for sustainable growth, as compared to those in nearby Category A settlements where the **majority of the County's housing requirements were (and still are) intended to be met.** See e.g. UDP paragraph 11.46: ***"The Plan's strategy seeks to direct new development to those settlements, having regard to the settlement categorisation and the ability of each settlement to sustainably accommodate new growth. Levels of growth significantly in excess of the indicative bands, weakens the spatial strategy and its aim of concentration of development in the larger more accessible areas. In order to promote sustainable development and control the location of development, the policy incorporates a robust regulatory mechanism to constrain growth in the smaller settlements."***
41. Pen-y-ffordd/Penymynydd has in fact grown well in excess of the identified range – from 1340 houses in 2000 to 1792 (+34%) in 2017.⁹ Within the UDP period it grew to 1675 (+25%). Although that was consistent with the level of growth implied by the allocations made, not all of the allocations had been developed out. The rate of growth was particularly steep ever since 2012 (i.e. the last 5 years). Development in Penyfford/Penymynydd accounted for 19.5 and 16.4% of the total new housing in the county in 2014 and 2015 respectively.¹⁰ If, on top of this existing growth, the 186 houses proposed by this scheme were to be added, this would result in the settlement growing by nearly half its size again in the space of around ten years (or possibly less)¹¹ (1796 + 186 = 1929, or +48%).
42. The fact that 8-15% (or 25% - based on the allocations) growth was considered sustainable for the period 2000-2015 does not imply any acceptance that the same scale/rate of growth again would be sustainable for the period 2015-2030.
43. This is also not what is proposed in the emerging LDP in which Pen-y-ffordd/Penymynydd is in the third tier of the new settlement hierarchy along with twenty-one other settlements. Instead of setting a growth range for these settlements, they are collectively expected to accommodate approximately a 15-20% share of the housing proposed across the county.¹² Although there are no specific proposals at this stage as to how the 15-20% will be distributed amongst those settlements, it is unlikely to result in anything like the same scale/rate of growth for Pen-y-ffordd/Penymynydd.¹³

⁸ UDP §11.13

⁹ Mrs D Barber POE pp35-36 tables 1 and 2

¹⁰ Mrs D Barber POE p35 §7.14

¹¹ Clearly this is dependent on build out rates, which in turn depend on demand, but as Mr D Barber notes at §7.13 of her proof, there is recent history of rates significantly in excess of 50dpa. Assuming commencement in approximately a year, 30 dpa would result in 120 completions by 2022, 40 dpa = 160, 50 dpa = all 186.

¹² Flintshire Preferred Strategy Consultation Version (November 2017), policy STR2 and §5.2.4. In other words, the settlements themselves are not intended to grow by 15-20%.

¹³ 15-20% x 7,645 total housing provision = 1147-1529 for all of tier 3 (or 52-70 on average per settlement)

44. The Appellant has also wrongly attempted to treat the fact that the appeal site is classed as an amber site in the candidate sites document as somehow supporting the view that the Council considers it would result in acceptable growth. That is also misconceived. As noted above, no decisions have yet been made about how exactly the 15-20% share for Tier 3 settlements is to be distributed. Therefore it would be difficult to justify sieving out any sites on the edge of Tier 3 settlements on size grounds alone. Insofar as the document does filter out some sites on grounds of size, this is either because they are in lower tier settlements where very little growth at all is envisaged or because they are too small to be considered in the context of allocations.
45. Nevertheless, even if 8-15% growth again were assumed to be sustainable for the period 2015-2030, the appeal proposals would result in that range being exhausted, and in fact marginally exceeded, in the first part of the new plan period.¹⁴ Thus, the **Appellant's case does not merely presuppose that the same growth range identified in the last period as sustainable can be carried over to the next, but rather that that level of growth can be sustainably accommodated right at the start of the period – despite the bulk of the growth in the last period having occurred towards the end of that period and despite the absence of any significant improvement in the services/facilities offered by the settlement since the UDP was adopted.**

Environmental Impact

46. UDP Policy **STR1 requires new development to respect (amongst other things) "physical and environmental considerations"**.¹⁵ Likewise, the supporting text to GEN3 explains that a crucial reason that new development is generally required to be located within **settlement boundaries is because of "the need to protect the countryside from unsustainable new development"**.¹⁶
47. The appeal proposals would cause environmental harm as a result of their impact on the landscape and views.
- **It is common ground that the impact on landscape would be at least "moderate" adverse**
 - **It was originally common ground that the impact on views from the public right of way running through the site would be "major" adverse (and is still at least on completion) –**
48. Whilst there was some broad consensus between the landscape witnesses regarding the overall categorisation of the impact on the landscape of the site and its immediate surroundings, there were some potentially significant differences of opinion regarding the following matters:
- (i) The baseline value of the landscape;
 - (ii) The degree of impact on the character of the site itself, as opposed to the landscape in which it sits – which [REDACTED] considered to be **"moderate/major" adverse;**

¹⁴ 2015 baseline = 1675 new homes. Additional housing completions/commitments since 2015 (plus appeal proposals) = 1929 (or +15.2% above 2015 baseline).

¹⁵ UDP, STR1e

¹⁶ UDP §4.9

- (iii) The degree of impact on views from the bridleway at the northern boundary of the site – which [REDACTED] considers would be at least “moderate” adverse” but the Appellant’s LVIA suggested would be “minor”;
- (iv) Whether or not the impact on views from the public right of way running through the site would remain “major” adverse at year 15 (per [REDACTED]) or would reduce to “moderate” adverse by year 15 (per [REDACTED]).
49. The Council accept the overall conclusion of the LVIA that the landscape is of “local value” albeit at the upper end of the spectrum. The appellant’s contention at the Inquiry that it would fall towards the bottom end of that spectrum appears inconsistent with that given in written evidence which suggested that *“the value of the appeal site tends more to ‘community value’ than local value as was assessed in the LVIA”*. It is evident that the Council’s position (i.e. that the site and its surroundings score at least “moderately well” in most categories¹⁷) is to be preferred. Turning to the relevant factors in GLVIA Box 5.1:
- Landscape quality: Both the Council and the appellant agreed that this is good.
 - Scenic quality: The appellant describes this as “fair” (i.e. “moderately good”).
 - Representativeness: The appellant ignores the fact that the presence (and quality) of one of the key features of the wider landscape identified by LANDMAP, namely the “strong pattern of small regular and irregular shaped pastoral fields enclosed by thick hedges with trees”. This is largely not replicated in other parts of the landscape nearby. Even if, as the appellant suggests it is replicated further away, in fields away from the other side of the settlement that does not detract from this conclusion.
 - Conservation interests: LANDMAP accords a “high” biodiversity value to the landscape in this area. This acknowledges that the same landscape elements can have more than one kind of value, each of which must be properly taken into account and not ignored.¹⁸ This is evidently the case in respect of the hedgerows on the appeal site which, in addition to what they convey by way of scenic quality and representativeness, also possess significant conservation interest given the presence of a number of hedgerows identified by the Appellant’s own consultants as “important” and thus meriting conservation. Furthermore, the reasons that the hedgerows in this case were classed as “important”, including the presence of a variety of different woody species, are included under the heading of “wildlife and landscape” criteria in Schedule 1 of the Hedgerow Regulations.
 - Recreation Value: The appellant accepts that the site has “some recreation value” because of the public right of way which crosses it. On that basis alone it is difficult to see how it would not score at least moderately well in this aspect. In addition, the Community Council also point to its particular importance for recreation as the only part of the village from which one can access the countryside directly without crossing a major road, the sense of transition into the countryside, and the breadth of the views afforded from it (e.g. to Cheshire and Hope mountain)
 - Perceptual aspects: the appellant describes the site as offering a “perception of ‘edge of settlement’ farmland which is heavily influenced by the adjacent settlement,

¹⁷ Mr N Folland POE p20 §5.39

¹⁸ Cf. PPW p76 §5.4.5 which refers to the potential for trees, woodland and hedgerow to have both ecological and amenity value.

very similar to the rest of the land on the edge of the settlement".¹⁹ However, this influence is significantly moderated. Firstly, by the quality of the edge in this location (e.g. the boundary hedgerows and strong field patterns, as well as the way **development 'steps down' to two storeys**). Secondly, as a consequence of the fact that the influence of the urban area fades away dramatically as one progresses into the eastern part of the site – a point which the appellant conceded.

50. As regards (ii) (impact on the character of the site itself), it is very difficult to see how the creation of a new housing estate of 186 houses could be regarded as having less **than a "moderate-major" impact** on the fields comprising the site itself. Not only would they radically change in character, but the tree protection plan²⁰ shows that the development is likely to have extensive adverse impacts on a key feature of the sites landscape character, i.e. trees/hedgerows and field pattern, including on those **identified as "important"**.²¹
51. The Appellant has sought, however, it is too late to make any substantial changes to the scheme and it is clear in any event there could only be quite limited scope to reduce any hedgerow losses within the site. The hedgerow at the boundaries of the site and the position of housing has not changed (save for very few exceptions) in any way that would allow for the retention of a significantly greater amount of hedgerow than originally shown on the tree protection plan.
52. As regards views from the bridleway, the rear gardens of adjacent new properties would abut the remains of the hedgerow boundary and the new houses would be visually prominent as their rear elevations would only be circa 12m to 15m from the bridleway. Thus, it is hard to see how a conclusion that this would result in only a **"minor" adverse impact on those views can be justified**.
53. Turning to the impact on views from the public right of way **the appellant's position at the Inquiry was inconsistent with the assessment in the LVIA which agreed it would remain "major" adverse**. Plainly, the experience when walking through the estate on a hard-surfaced path surrounded by housing would be entirely different in terms of both character and amenity from that which is gained at present. Furthermore, the **description of the landscape proposals as a "boulevard" can be said – at best – to be fanciful**.

Impact on community identity and cohesion

54. UDP Policy **STR1 also requires new development to "respect community identity and social cohesion including the adequacy and accessibility of community services and facilities"**.²²
55. As the Inspector in the Feniton appeal decision said:²³ Substantially increasing the number of residences in a settlement without proportionate increases in the provision of local shops, infrastructure, employment opportunities and other local services risks eroding community cohesion. This type of impact is always hard to quantify, given the difficulties of obtaining tangible evidence.

¹⁹ Ibid §41.6

²⁰ TBA drawing 5124.03 rev B

²¹ TBA Hedgerow Report §3.4 and drawing 1 which identify H8, H10, H11, H12 and H13 as "important".

²² UDP STR1d

²³ Mrs D Barber Apx11 §87

56. However, notwithstanding those inevitable difficulties, it is clear in the **Council's** submission that the impacts here would be real and markedly adverse. In particular:

- Scale/rate of growth: A key theme that emerges clearly from the Community **Council's Place Plan and the Arcadis report on community cohesion commissioned by the LPA²⁴** is that not just the scale but also, importantly, the rapid rate of recent growth in the village tended to erode its sense of identity and cohesion and would be substantially further eroded if it were required to accommodate yet further major growth in the form of this development so soon on the heels of the large allocations which have been developed out in recent years. The ability for smaller settlements like this to accommodate (or for its population to adjust to) such growth is diminished when a settlement is expected to accommodate e.g. nearly 50% growth in a period of around ten years (or possibly even less). Thus, even if the level of additional growth implied by the appeal scheme were considered potentially acceptable in principle, it is undesirable and harmful for it to come so soon on the back of those recent large-scale developments which have yet to be properly absorbed
- Failure to secure proportionate increases/improvements in the provision of services and facilities: As the inspector in the Feniton decision rightly observed, such problems are likely to be exacerbated where the provision of services/facilities fails to keep up with housing growth. That is evidently the case here.
- Retail provision: there has been no significant improvement in retail provision in the village since the adoption of the UDP. Arcadis describe it as insufficient to sustain the existing population (p.31). **In fact, the Place Plan states: "As with other towns and villages across the country we also lost almost all of its shops and businesses... The Royal Oak, the Horse & Jockey, the White Lion Inn, the Crown - all these pubs closed down, the grocers, drapers, greengrocer, hardware store and the others all gone. Most recently the Post Office was lost. The Spar supermarket has become the one-stop-shop for food, bread, milk, greetings cards, newspapers and the post office counter. Because development has been ad hoc, Pen-y-ffordd has lost its centre"** (p.38). It is evident from the responses to the questionnaire recorded in the plan that the inadequacies of the car parking at the Spar are regarded as a particularly significant problem (p.9). These will not be alleviated by adding another 186 dwellings to the settlement. In addition, it is clear that the relative dearth of retail provision in the village means that the existing residents rely heavily on those available in other settlements further up the hierarchy, no doubt mostly accessed by car (especially Broughton, Chester, Mold and Buckley – see p.71). It is highly likely that the same would apply to residents in the proposed development.
- Healthcare: there are no GP services in the village, the nearest being in Hope and Buckley (c2.2 and 3 miles away respectively). It is understood that most existing residents are registered in Hope. However, there are no bus services to Hope (Arcadis report, p21) and, according to the local health board, it is proving very difficult to recruit new GPs to serve even the existing population (ibid, p31). The addition of hundreds of new patients from this development could only serve to increase the strain on these services and erode community cohesion as a result.
- Dentists: there is a private dental surgery in the village but no NHS dentist. Again, therefore, local residents have to travel further afield e.g. to Buckley in order to

²⁴ Mrs D Barber Apx1

access such services which again suggests this is not the appropriate location for major additional growth.

- Public transport: although there is a reasonably good level of access to public transport for a village, it is not sufficient to properly compensate for the lack of services/facilities. The lack of a bus service to Hope has already been noted. Since the UDP was adopted, furthermore, bus provision has got worse, rather than better, as a result of the loss of the X55 service (Mold to Chester). Equally, the extent to which the train can provide a realistic alternative option is clearly limited by the restricted nature and infrequency of the service on offer on the Bidston-Wrexham route. The location of the station a fair distance from a significant proportion of the village also reduces its attractiveness.
- Schools and childcare: it is clear that there is insufficient capacity at Penyffordd primary and Castell Alun secondary schools to accommodate the projected pupils from the proposed development, hence the requirement for the Appellant to provide contributions towards expansion in both. However, the fact that there is the potential to increase capacity does not mean that the adverse impacts necessarily will be fully mitigated. For example, even if the contribution to secondary school places is deemed CIL-compliant and is paid, the continual expansion of a school is **not ideal as it can have its own effect on the school's identity and the cohesiveness** of its community. If, on the other hand, the secondary contribution is not deemed CIL-complaint, there are plainly likely to be adverse social consequences as, **in effect, the pupils from this development would be likely to "squeeze out" others** living further away whose parents may previously have expected them to get into Castell Alun.²⁵

Conclusion

57. There is no need that requires or justifies yet another major site to be developed in Pen-y-ffordd/Penymynydd at this time. To permit it would be socially and environmentally unsustainable and would further erode community identity and cohesion. The LPA respectfully submits therefore that the appeal should be dismissed and permission refused.

The Case for the Appellant

Introduction

58. There is an immediate need for additional housing in Flintshire. The appeal proposals comprise a sustainable location to bring forward such housing. Moreover the site is being promoted by a locally active developer who is keen to progress the site, thus, on the evidence if the site is consented then there is every reason to conclude that it will be rapidly delivered within 5 years.
59. Permission was refused for two reasons; the first relating to an alleged detrimental impact on the cohesion of the community and sustainable development principles and the second in respect of surface water flood risk.

²⁵ There is no reason not to treat the secondary contribution as CIL-compliant simply because there is spare capacity in other schools. The contribution is sought in line with the Council's supplementary planning document, the methodology of which has been confirmed as CIL-compliant and fair in other appeals and essentially the same argument against it was rejected (see the Ewloe decision, Mr M Gilbert Apx6 no4). If the contribution is not paid, there will be clearly adverse consequences as noted in the main text above.

60. Following the refusal of consent, it became clear that the **Council's** concern in relation to **the second reason for refusal, wasn't actually a flood risk point but related far more** to it wishing to see substantially more detail about the proposed drainage of the site than might ordinarily be expected at this stage of the process. As, as a result a detailed proof of evidence was put in by the **Council's drainage officer critiquing those** details. However, following a comparatively late clarification from Welsh Water as to the appropriate discharge rate to design to, agreement has now been reached that the **Council's concerns** are capable of being addressed by the imposition of an appropriate condition. Thus, on the evidence that has been put to the inquiry there is no proper basis to conclude that the site could not be satisfactorily drained; nor that such a drainage system would adversely impact to the existing or proposed landscaping to any material degree.
61. **There is no 'technical' reason why** the appeal site could not be brought forward which is maintained by any statutory consultee. Rather, the concerns that underpin the **Council's case now relate to the more** subjective judgmental issues of impacts upon community cohesion and landscape and visual impacts. The proposals will comprise sustainable development, have no more than highly localised impacts in terms of landscape and visual impacts, will not have an adverse impact on social cohesion but will help to meet the **Council's** immediate need for additional housing given that Flintshire County Council cannot demonstrate a 5 Year Supply as required by TAN1 and PPW. The latter being a consideration which should attract considerable weight in favour of allowing the appeal (TAN 1 paragraph 6.2).
62. It is readily acknowledged that the proposals are located outside of the boundaries of the settlement of Pen-y-ffordd/ Penymynydd as defined in the UDP and that in policy **terms the proposals fall within the "open countryside"**. Thus there is conflict with UDP policies STR1, GEN3 and HSG4. As to which, it is not suggested that those policies should be ignored but rather that the weight to be afforded to any such conflict has to be tempered by the following:
- (i) there is an immediate and significant need for additional housing, including affordable housing. This is a clear benefit of the proposals which is recognised by the LPA;
 - (ii) the appeal proposals are promoted by a locally very active developer who will bring forward the site within the five year period;
 - (iii) the UDP is time expired. Whilst that does not mean that its policies are **necessarily to be treated as being "out of date", since they need to be** gauged against their consistency with PPW and the TANs, nonetheless it is important to note that the UDP was not formulated on the basis that it would look at meeting housing needs beyond the plan period, such that the settlement boundaries cannot be considered to be up to date;
 - (iv) The LPA are currently engaged in the preparation of a new LDP, in which the appeal site is an obvious candidate site;
 - (v) There is no technical objection to the deliverability of the appeal proposals following the agreement that drainage can now be addressed by condition.
63. Taking all of these matters into account the weight to be afforded to the policies can only be very limited.

64. The sole reason for refusal which remains contends that the scale²⁶ of the proposals **would have an impact upon the “cohesiveness of the community” and “the principles of sustainable development”**. Up until the start of discussions upon the SOCG it had not been assumed that the Council would therefore be **“running” a landscape case**. However, shortly before the exchange of evidence it became clear that the Council intended to bolster its case by calling detailed evidence on landscape and visual issues. As the inquiry has progressed one might have been forgiven for thinking that LVIA issues were a mainstay of why the Council considered that planning permission should be withheld. However, the Council accepted at the Inquiry that impacts upon landscape and visual amenity were factors which weighed against the proposals but would not of themselves be determinative of the appeal.
65. This inquiry has therefore been treated to the consideration of lengthy evidence in relation to an issue which is not said by either of the principal parties to warrant the withholding of the permission. One might therefore rhetorically ask whether or not the motivation for the introduction of this as an evidential issue was motivated by the paucity of evidence to support the concerns **about an impact upon “social cohesion”**.
66. As to that it has always been unclear precisely how it is said that land use harm arises in this regard. Certainly it is not said (by the Council) that there are infrastructure concerns (such as traffic, drainage etc.) which warrant withholding consent, nor that the schools or services are at breaking point. Instead the inquiry has learnt a good deal about the vibrancy of the settlement despite the increases in its size over the last few years. Inevitably there will have been changes over time, many of which may have been unwelcome, but no coherent or systematic effort seems to have been made to break down where the changes arise from wider societal changes and where development will have resulted in an adverse effect upon the existing social fabric of the settlement.
67. What is clear is that the population structure of the settlement between the last two census returns changed significantly in that it is ageing. Whilst new development may have partly redressed that since 2011 the Council cannot have it both ways. It cannot say that there has been a beneficial ingress of new younger population to the settlement whilst at the same time arguing that that ingress is causing an un-evidenced breakdown in society. Few settled populations look forward to change, and no doubt every generation will look back to early times with rose tinted spectacles, but that is no substitute for the need for clear evidence to substantiate harm.

Landscape and visual impacts

68. There has never been a suggestion from the Council **that this is an “in principle”** concern, but rather it is no more than a point which weighs against the development in the planning balance. In reality, this is tantamount to no more than recognition that the development of a presently undeveloped site on the edge of a settlement will inevitably give rise to impacts which have to be weighed in the balance against the proposals²⁷.

²⁶ i.e. rather than the principle

²⁷ Pre-application consultation advice (Mr Gilbert Appendix 2) and the report to committee (Mr M Gilbert Appendix 4)

69. The reality is that the appeal site is well related to the existing urban area, and is largely influenced by it²⁸. It is very well enclosed by mature landscaping which will be largely retained, and the effect of the development will be no more than localised. It is notable that the View Points relied upon by Flintshire County Council are either within the site or alongside it. In short, the landscape and visual impacts are patently limited and it is a good site for development if additional housing is needed.
70. The appellant relies upon a LVIA prepared by TEP, the only LVIA before the Inquiry, and which is agreed to be methodologically sound. The LVIA was assessed at the application stage by an independent landscape architect who endorsed its methodology and its conclusions with only very modest reservations. A number of recommendations made to the appellant (resulting in revised LVIA²⁹), and which were then addressed in a revised layout such that, in that **expert's** opinion the landscape impact was acceptable.
71. The report to committee expressly indicated that there was not a significant effect arising from landscape and visual impact issues, sufficient to warrant a refusal, and the recommended reason for refusal understandably made no reference to landscape and visual concerns. Whilst it is right that the Council's Statement of Case makes reference to **"sustainability" having an environmental component, that is nothing to the point;** and it is clear that landscape and visual impact issues played no part in the Council's reasons for rejecting these proposals, until the eleventh hour – presumably on the basis that it was considered by Flintshire County Council's **advisors that community cohesion alone would not provide a compelling basis to dismiss the appeal.** That the Council sought to argue at the Inquiry that landscape and visual issues were all part of **the reason for refusal by virtue of the word "sustainability"** is patently contrived and does her professional judgment no credit.
72. The Council has not produced an LVIA, but has instead relied upon that of TEP. Thus the only LVIA before the inquiry is that provided by the appellant, which was revised before the determination of the appeal. It is perhaps telling that the **Council's original** landscape consultant has not given oral evidence to the Inquiry.
73. In contrast, despite accepting that effects are localised and that this is not a reason for withholding consent, the Council at the Inquiry went way beyond its original case, alleging conflict with policies not relied upon by the reasons for refusal and in effect arguing that any greenfield development that involves hedges and trees will in principle conflict with the policies cited. It is agreed that, in essence, the LVIA (in both iterations) was methodologically sound and has followed the guidance set out in 'The Guidelines for Landscape and Visual Impact Assessment' (**Third Edition**) ("GLVIA3"). **The appellant's landscape** expert has visited the site and the environs on a number of occasions, walking the footpaths on the site and the surrounds. In contrast the **Council's witness's** conclusion is based on **no more than "looking at Google Maps"** and is plainly wrong.
74. The LVIA sets out a summary of published landscape assessments, referring to each of the LANDMAP aspects. It gives proper consideration to the hedgerows and existing trees on site (a brief perusal of the photographs in the LVIA confirms the dense vegetation which encloses the site). The site is indeed well enclosed and the existing

²⁸ Obviously not all of it is – but as will be apparent on site the uninfluenced element is very much the minority.

mature landscaping provides capacity to enable development on the site to be accommodated without significant harm to the wider landscape or important views. Such landscaping provides an excellent basis upon which further planting can be brought forward. Thus, the proposed dwellings on this site, with mitigation, will form a logical extension to the existing settlement and would give rise to only localised changes in landscape character and views. The retention of important trees and hedgerows to be incorporated into open green spaces, landscape areas and gardens offers a strong landscape structure which can be supplemented by additional planting. That the Council engaged in cross examination which condescended to the detail of which trees and parts of hedges might be retained when this is a proposal which will be subject to conditions to ensure that important trees and hedges will be retained, evidences just how little it had to go on in opposing the scheme on this basis.

75. The conclusion that that the effect on landscape character would be of moderate adverse significance, remaining so after 15 years³⁰ but reducing within that impact range³¹, is accordingly one that is robust and fully supportable.
76. For almost any peripheral greenfield site there will be changes in the views from alongside the site as well as somebody passing through it. Thus, it is unsurprising that users of the PROW across the site would experience a visual impact of major adverse significance however well landscaped the area is through which they will pass; those on Chester Road alongside the site will experience a moderate adverse significance; those using the bridleway to the north will have their views substantially filtered by the mature hedge on the north of the site which will be further strengthened; and the majority of public receptors experiencing an impact of minor adverse significance to negligible³². The impact on private views was considered from the outset³³, but only to the extent that they are relevant in assessing landscape and visual impact, mindful that such impacts are upon residential amenity not that a private right to a view such be protected. However, in reality any impacts viewed in the context of residential amenity are addressed by meeting relevant standards, and by the imposition of conditions to ensure that the design relationship between housing in a residential area **will be a "polite" and acceptable one.**
77. The harm caused by the proposed development is limited by the characteristics of the site, in particular, its location adjacent to the settlement, and the influence of the latter upon the Site, the excellent enclosure of the undeveloped land and the presence of some built form upon the more open part of the site. It is not possible to identify any **landscape impact that might be appropriately described as "significant"** within the terms of the methodology which as noted above, has been agreed.
78. The difference between the two landscape witnesses on the impact of the proposals **upon the landscape itself as a receptor chiefly arises from the differential 'value' that each places upon the Site.** [REDACTED] has undertaken a careful assessment of the site in accordance with Box 5.2 of the GLVIA 3rd edition. Having done so, he considers that the **landscape value tends towards 'community value' noting that the site lies in a LANDMAP unit where the prevailing aspects score is moderate, which equates to 'local value'.** Taking account of that [REDACTED] concludes that the landscape value is at the **lower end of the range of "local value", immediately above 'community value'**³⁴.

³⁰ Mr I Grimshaw Proof of Evidence para 6.2-6.3

³¹ Mr I Grimshaw Evidence in Chief

³² Mr I Grimshaw Proof of Evidence 7.4-7.7

³³ Mr I Grimshaw Proof of Evidence 7.8 and 7.9

³⁴ Mr I Grimshaw Evidence in Chief and Proof of Evidence 4.17-4.19

Accordingly, ██████████ concluded that the landscape is of medium sensitivity to change, and when one is on the site one has a good awareness of the edge of the settlement. There is no impression of remoteness³⁵.

79. **The Council's witness** came late to the proceedings and accepted that his conclusions are at odds with the opinion of the landscape consultant engaged to assess the proposal at the application stage as well as the LVIA (in both of its iterations). However, the **Council's witness** agreed that when assessing the impact on landscape character arising from these proposals it is relevant to focus on the land immediately adjoining the site³⁶, rather than any wider tract of the landscape. It follows that he was therefore obliged to accept in cross examination that the effects of the proposed development are highly localised in landscape and visual amenity terms, but did note **that there are some very "distant" views, in visual impact terms, none of** which he contended were significant. Despite criticism in his proof, in cross examination he accepted that the LVIA has described the surrounding landscape adequately, particularly addressing the maturity and relevance of the hedgerows.
80. The Council criticise the **LVIA for not producing a plan of a "study area", rather than** describing it in the body of the LVIA. Accordingly it posited its own study area which was elliptical in shape and largely excludes land to the west of Pen-y-ffordd, which **doesn't follow any obvious physical features and doesn't centre** upon the appeal site. It then assessed the site and its environs and determined that the main issue is the loss of what is described **as a "scarce resource", elements of the** important hedgerows within the site. **The Council's witness** at the inquiry is the only one of the four landscape experts who have considered this site who has identified the hedgerows as a **"scarce resource". However, to put that determination of "scarcity" into context,** he has not walked the study area beyond the immediate confines of the site, and certainly has not walked the land to the west of the settlement but relied on Google Earth . Thus, he cannot have properly determined the nature and extent of local resources, **such as to describe the appeal site as "scarce"**. Indeed he accepted having carried out, **rather surprisingly only a "drive-round"**. **In contrast the appellant's witness** has done this work, and on the evidence before this inquiry therefore, it is clear that there are similar hedgerows elsewhere, outside of the skewed study area determined by the Council which might unfairly be assumed to have been cast in order to exclude other, **similar "scarce resources" lying** within a close distance of the appeal site. In short there is literally nothing in this point, which has no proper evidential foundation.
81. The study area determined by the Council is not appropriate nor in accordance with GLVIA3 as evidenced by its curious regularity, its centre point and that it extends to land beyond the settlement to the west and beyond or through wooded areas which have no landscape relationship or inter-visibility with the appeal site.
82. The Council also rely on the significance of the hedgerows within the site, in respect of the Hedgerow Regulations 1997 but accepted in cross examination that such importance under the Regulations should not be equated with intrinsic landscape value. The criteria for importance under the Regulations relates to the number of species, or heritage or archaeological reasons. Such criteria should not be conflated with landscape value and would not necessarily inform any finding of landscape value. Moreover even the briefest perusal of the study sheets in the Hedgerow assessment

³⁵ Mr I Grimshaw Proof of Evidence

³⁶ Cross Examination Mr N Folland

demonstrated that the reasons that some of the hedgerows were identified as falling within the Regulations was not because of their intrinsic landscape value.

83. The Council confirmed that the landscape impact is best judged from consideration of the LVIA and a site visit, the impact being best judged on the ground. To that end it is really important to note that the only systematic LVIA available is that prepared on behalf of the Appellant, which was undertaken in a methodologically manner which included detailed work on site. Even where the **Council's** witness undertook some independent work, some of his methods were a little odd, for example raising a point about the quality of the local landscape, having only experienced most of it from **Google Earth and from "driving around"**.
84. Whilst of course there will be an adverse change upon the site itself and of views from next to it and within the site, nonetheless the very limited area of impact actually tell in favour of the capacity of this site to accommodate development. Moreover, the layout proposed by the Appellant has been influenced by the presence of the hedgerows with the majority of the better quality trees retained within areas of public open space or the rear gardens of proposed dwellings. Mitigation by way of retention and supplementation of the hedgerows and trees is, as agreed by **the Council's original** landscape consultant an important and beneficial matter which can quite properly be subject to condition, there being no constraints that would prevent the implementation of a mitigation scheme.
85. The Council now take a contrary view. However, its evidence is undermined in its entirety given the failure of its witness to walk the footpaths in the area and that his assessment of impact on landscape character and visual appearance is reliant upon a consideration of various **documents and what he described as a "drive-round"**. With the skewing of the study **area to suit the identification of "scare resources"** the overall assessment of impact on landscape character and visual impact lacks credibility³⁷.
86. **The Council's** witness stands alone in his opinion, the other three experts, from both main parties, concurring as to the limited extent of impact of the proposed development on landscape character and visual impact. Any impact is localised in extent, and as the landscape matures the proposed development will be seen as simply a logical extension to the existing settlement. In reality the landscape and visual impacts of the proposals are highly localised and it is telling just how strongly the LPA considers its first reason for **refusal to be that it has sought to "strengthen" its position** by the inclusion of this unwarranted and unconvincing element.
87. The Appellant accepts that any adverse effects in landscape and visual terms weigh against the proposals (as they would any greenfield development on the edge of a settlement), but it is self-evident that this is not an issue which is, of itself determinative of the appeal.

Tree Issues

88. In a similar diversion from the substantive reasons for refusal the Council introduced at a very late stage the impact on existing trees, this being in the form of email correspondence from their tree officer who had identified various conflicts between the proposed drainage scheme and trees proposed to be retained on the proposed site layout plan. The issue was easily dealt with, however, by a straightforward amendment to the drainage layout. The revised drainage layout dealt successfully with

all of the tree officer's points. Having reappraised the impact on trees it has also been demonstrated that those trees originally proposed for removal could be reduced in numbers and that methods were available (by either piping beneath the root-zones or using porous surfacing on driveways) to minimise any other tree impacts that might arise.

Community Cohesion

89. It is fully recognised that an evidenced adverse impact upon community cohesion could be a factor which would weigh in the planning balance against the proposals even where there is an immediate need to increase housing supply.
90. However the Council's own advisors expressly warn that when assessing such a claim a decision maker should distinguish between "*tangible evidence of harm*" and "*generalised unease about change*"³⁸. There are very good reasons to conclude that in this case that the evidence relied upon by the Council and local residents is strongly indicative of their concerns falling into the latter category. There is in reality no tangible evidence of harm that are attributable to the proposed expansion of the settlement by the proposals.
91. The starting point is that in refusing the proposals Flintshire County Council had no systematic evidence of any harmful societal change that would be wrought by these proposals – what happened in this case was that the proposals were plainly refused **based upon "generalized unease" and the Council has subsequently sought to secure "tangible evidence of harm" to support that unease. That ought to lead any decision maker to some degree of caution as it reverses the scientific method, i.e. not "here is the evidence, so what do we conclude based upon it", but rather "we have arrived at a conclusion, now what evidence can we produce to support it".**
92. Thus, no "tangible" harm was identified in the Committee report, but rather the Council appear to have taken the concerns of the community at face value, without proper scrutiny. Subsequently, Flintshire County Council commissioned work from Arcadis to produce a Community Cohesion Assessment, **in order to substantiate objectors' concerns.** That report in turn placed great reliance upon a community questionnaire³⁹ **produced to support the preparation of a "Place Plan", which identified concerns which** are presented in the report at paragraph 3.3.3. However, not one of the conclusions set out in that summary indicate any harm that would be caused by the proposals.
93. Of more concern is that having now seen the community questionnaire itself, it is not a model of objective evidence gathering but contains containing highly leading questions especially where it relates to housing. In addition it was supplemented by a focus group⁴⁰ of a mere 13 local people, which only met once⁴¹, and none of whose members have lived in the village for less than 11 years. A focus group of 13 residents does not give rise to statistically significant results and if a professional body wants to rely upon the results of a questionnaire then it needs to properly report its results – e.g. whether the sample needs to be weighted to match population.
94. The Arcadis Community Cohesion Assessment (ACCA) considers a number of separate elements said to be appropriate to an assessment of community cohesion, giving each a comparative score, based upon a methodology which is not easy to understand. No

³⁸ Arcadis Community Cohesion Assessment para 2.3.8

³⁹ para 3.3.2

⁴⁰ para 3.3.4

⁴¹ Confirmed by Mr A Wight Community Councillor

explanation is given in the ACCA as to how those comparative scores were arrived at or how they relate to each other. The ACCA conclusions are presented at Section 4.2 (p.29). For example the delivery of affordable housing, where there is an immediate need, and the delivery of general market housing where there is no 5 Year Supply is plainly a good thing, but yet a negative result is cited based upon how much the authors of the report think that the houses might cost (without any attempt to evidence such obvious prejudice).

95. Indeed the **Council's** approach might be gauged by the fact that the only benefit cited in the summary of the ACCA relates to rebalancing the aging population, and yet having conceded that Rural Solutions were right to point to the fact that the settlement has a disproportionately aging population, the Council then sought to argue it **didn't** know if that was right since there has been further development since the 2011 census. With respect that is at odds with both Rural Solutions and the ACCA and was based upon no evidence at all other than the fact of housebuilding having taken place.
96. The same mind-set is in evidence in the locals who spoke in opposition to the proposals, who repeatedly expressed hostility to new development. At one point it was claimed that the housing to the North West of the appeal site was all for people who have moved in from Cheshire and that the only local person who lives there is the son of the former landowner. Between the adjourned days of the inquiry Redrow have reverted back to identify their purchasers. Whilst it is true that some purchasers have moved some **distance (from both 'old' and New South Wales), 64% of new residents** come from North East Wales with over 1/3 coming from Pen-y-ffordd / Penymynydd and adjoining wards and just under half coming from Flintshire. Hardly evidence of Redrow pricing itself out of the local market and appealing to incoming folk from Cheshire (who were only 16%). It is telling that un-evidenced concerns seem have been elided with a hostility to new development⁴² and that the ACCA gives the proposals a negative score on the basis of cost of new housing being inaccessible to the local market which is just wrong.
97. The robustness of the evidence base for the ACCA is ambiguous and the conclusions reached are equally questionable. Neither provides a robust basis to support the reason for refusal. **Indeed if one "drills" into the evidence one finds a very different picture.**
98. The Questionnaire led to the preparation of the Pen-y-ffordd Place Plan, which whilst it has plainly been written with a hostile animus to significant new development in the village, nonetheless it contains much that seriously undermines the contention that the social fabric of this settlement is at breaking point and that these proposals will degrade them still further, thus⁴³:
 - (i) the settlement is a **"socially cohesive community with activities and engagement of all ages ...[and] enjoys a real sense of community through its social activities"** (p.18);
 - (ii) there is a **"great community spirit"** notwithstanding **"Rapid housing development during the 1960's and 70's"** which **"joined" "Penymynydd to Pen-y-ffordd"** (p.22)

⁴³ All references in this paragraph are to pages of the Place Plan

- (iii) there is an impressively wide range of communities activities (see pages 23 to 26);
- (iv) the loss of a range of local shops within the settlement follows a wider pattern of societal change (p.38);
- (v) the population of the settlement is ageing, such that there a need for specialist accommodation for the elderly and need for housing for **"the next generation"** (p.42);
- (vi) a good number of the existing residents use the buses and some are able to rely upon them entirely (p.51). Just under half use the train and around 2/3⁴⁴ use the buses (p.54);
- (vii) **"The settlement has two schools...and a range of local shops and facilities and is considered to represent a sustainable settlement. There is significant development taking place at the village at the present time which will benefit existing services and facilities"** (p.84)

99. It is readily acknowledged that the Place Plan does not then conclude that there is a need for the appeal proposals, but neither does it provide the remotest evidence to support the second reason for refusal. If anything it demonstrates that despite the growth that has taken place (rapid in the 1960s/70s) and more recently that this is a settlement which has maintained an impressive degree of community cohesion, and there is no meaningful evidence to support the proposition that the cohesion is at breaking point, or that it cannot accommodate any more than the most trivial amount of growth. Indeed **if one considers the answers to the issue "These problems in the village affect me"**, reported on page 9, they contain the range of concerns that one might expect from any modern Welsh Village at a time of national austerity, but **"collapse of community cohesion" doesn't arise from any of the answers**. Indeed the **only "land use" issues that** are raised, education capacity, flooding, affordable housing, traffic, health centre capacity are all issues which do not form reasons for refusal of these proposals. In short change is rarely welcomed, but neither the nature of the resident population nor the **scale of the proposals gives rise to "tangible evidence of harm" sufficient to found a reason for refusal**.

100. Where some empirical information has been propounded it relates to population change which is claimed by the Council to lie at the root of what is claimed to be a potential major adverse impact. This concern arises only out of the continuation of the level of growth in recent years. The Council focus on the wording of the UDP which suggested a level of growth for Pen-y-ffordd / Penymyndd (15 to 20%) which was lower **than was actually committed by the time of the UDP Inspector's report**. However what it failed to then point out was that the UDP Inspector expressly considered that the **level of growth which comprised 25% did not undermine the settlement's role as a sustainable settlement**⁴⁵.

101. The Council also appeared to have not put the two obvious factors together: that the level of growth which was endorsed as acceptable by the Inspector precisely matched the growth that took place within the plan period (25% to 2015). In cross examination she readily accepted that the UDP said nothing at all as to what growth should occur post 2015, which is a matter for the emerging LDP which is at the earliest stage and

⁴⁴ The pie chart on the right does not carry any percentages, but is apparently split 1/3:2/3

⁴⁵ UDP Inspector's report is 11.139.2 – Mr M Gilbert's appendices page 33

can only be afforded very limited weight. Thus, there is literally nothing in the point that growth has exceeded a minimum in relation to a plan period which has expired and whose exceedance matched that which was considered acceptable by the UDP Inspector. Nor is there anything to the point that the expansion took place towards the end of the UDP period – it will be remembered that the UDP was long in its preparation and that the **Inspector's report was only in 2011 for a plan period which expired in 2015.**

102. The correct approach should be to assess what the baseline is against which the proposed expansion should be judged now. The Council accepted that the proposals comprised an 11%⁴⁶ increase against the housing which is consented now. That is palpably not out of scale with the settlement as it stands now, and as noted above as the settlement stands now it is a socially cohesive one, so why should a further 11% expansion over a 5 year period including proper provision for affordable housing, have a socially degrading effect?
103. There is no dispute that this is a sustainable location, nor that the scale of the development would alter the role of Pen-y-ffordd / Penymyndd in the emerging hierarchy of the LDP. **Thus whilst the "sense of belonging or identity" of the village is claimed to be impacted potentially in a major adverse way there is simply no evidence to support such a conclusion.** If that was the effect of development then one might have expected a study of some sort to have been undertaken which considers the impact of the recent level of growth or even the growth that took place 30 years ago, and yet tellingly no such evidence has been commissioned by Flintshire County Council, and it would in any event fly in the face of the Place Plan which demonstrates a vibrant and cohesive community in 2017 notwithstanding that the settlement is much larger than it was in the 1960s.
104. Thus the evidence points to the fact that integration of the residents of the current new **developments is actually taking place, despite the "feeling"**⁴⁷, as expressed in the ACCA. Indeed as society changes (e.g. the ageing population cohorts) there is no reason to consider that the residents of the new development will not contribute positively to the identity of the village. Moreover there is no reason at all to consider that the proposals comprise a means to transform the settlement into a commuter hub for Chester. Again it is important to reference the evidence and not merely prejudice. Page 72 of the Place Plan shows that the majority of the working population from the village work in NE Wales and not in England. There is no reason to consider that this will not continue into the future for prospective residents of the new estate.
105. As to the contention of the ACCA that there will be a moderately adverse impact on **social interaction and integration it candidly recognises that such a claim is "difficult to quantify" and expressly opines that the evidence available** indicates that social interaction and integration has been declining over a number of years, for reasons including changing lifestyles, longer commutes, reduction in level of volunteering, the loss of the village centre and the reducing opportunities for social gathering and interaction. However having expressed the opinion that such views are difficult to evidence, the ACCA makes no attempt to evidence in any way how such changes arise from changes in modern society rather than the growth of the settlement. Thus, a claim of an erosion of this aspect of society means that a credible conclusion cannot be

⁴⁶ 2015 - 1675 dwgs + 186 = 11.1%

2017 - 1743 dwgs + 186 = 11.07% i.e. whichever way you look at it, it is 11%.

⁴⁷ ACCA pg 30

drawn that the proposals will have any impact, never mind a moderately adverse impact on social interaction and integration.

106. Community facilities and services are also said to be likely to suffer a minor adverse impact. The impact is identified to be two fold, on schools and upon healthcare facilities, however the appeal proposals did not meet with an objection from either the National Health Service or the Local Education Authority. As to the latter an agreed contribution is provided for in respect of primary school education which will assist in facilitating the expansion of the proposed new school thereby ensuring that the children of the proposed development over years will be schooled in the village. For secondary school education the s.106 makes provision for the Supplementary Planning Document required contribution, on the basis of which children of the development will be schooled at one of the three secondary schools that the Place Plan provides at paragraph 2.16: ***"All of the ward should be able to attend Castell Alun, Hawarden or Elfed as first choice with siblings guaranteed a place at the same school."***
107. The council has identified those services that it considers to be at their limit, those being the doctors and medical facilities, the bus service, and parking at the Spar. As noted above there was no objection from the Health Board and no additional funding sought⁴⁸. The bus service is accepted in the SoCG as being of a good standard and no contribution is sought to improve the services⁴⁹. It follows that the Council do not consider that a contribution to either is necessary in order to allow the appeal. That then leaves the issue of car parking at the Spar – a point which is tenuous at best. There is no planned allocation for retail development in the local plan and no plans for the Council to actively intervene to improve facilities, if indeed that is necessary. The **ACCA refers to the Spar as a merely "local shop", but a measured and reasonable** observation of the facility shows it to be a well provisioned local supermarket of a scale of the type which would be expected for this settlement. Moreover it is within an easy walk for the overwhelming majority of the settlement, and all of the new development. This theme of negativity runs through the entirety of the ACCA, undermining the credibility of both the assessment and the conclusions contained therein.
108. The ACCA suggests that there will be a moderately adverse impact on spatial cohesion and a minor adverse impact on housing need. This is addressed largely in the submissions on the claimed landscape impact but a further point raised in the ACCA is **a suggested impact on the "historic urban grain"**. Such an assertion is devoid of evidential basis, and is demonstrably a non-point when one looks at pages 13 and 38 of the Place Plan. The morphology of the settlement is a modern creation which owes as much to the creation of the bypass as anything especially historic. There is nothing to substantiate any impact on spatial cohesion that goes to community cohesion.
109. If one views the position objectively then local resident and third party evidence has actually highlighted that the village is one that needs an influx of new residents in order to rebalance the demographic mix. Evidence was heard of the playgroup closing down because the staff have retired⁵⁰, the pantomime which has been an annual fixture is at risk due to a lack of participants, and the youth football teams and cub/scout groups are oversubscribed, which can only be a good thing. An influx of new

⁴⁸ The pre-application advice confirmed there were no concerns arising out of impact on existing medical facilities

⁴⁹ There is also a good train service from the local station linking with the national network

⁵⁰ Cllr Hynes

residents, some potentially the parents of those children attending those clubs is needed to provide volunteers to run the clubs⁵¹.

110. The ACCA, the residents and the third parties ignore or understate the obvious benefits of the proposals, and the ACCA takes an exceedingly negative and largely unjustified approach. On a larger scale the proposal will bring forward much needed market and affordable housing, will increase economic activity with jobs in construction and the economic activities of the residents. On a local scale the proposals will redress the population balance⁵². It is clear that the village contains an ageing population and, as concluded by both Rural Solutions and Arcadis⁵³ it would be advantageous to both bring in new residents and to adjust the demographic mix.
111. The village has indeed gone through some change over recent years but there is no evidence to suggest it is not resilient to such change, indeed such change appears to be advantageous. More residents results in greater vibrancy for the community, for the shops⁵⁴ and for the clubs and events that are suffering because of the ageing population. It is alleged that the developer intends to market only in Cheshire and to **the lack of "starter homes"**. The marketing point is grossly unfair and baseless and indeed an undertaking has been given to carry out a local marketing programme⁵⁵. The proposals do not prevent, but actively facilitate young families living in the village.
112. The contrast between the ACCA and the Rural Solutions reports could not be more stark with the latter properly assessing not simply the **"impacts" of development but** also its benefits, a matter which is afforded scant regard in the former, but is properly explored in the latter. It is firmly submitted that the approach of Rural Solutions is undoubtedly to be preferred and strongly contradicts the proposition that there would be any meaningful evidence to support the second reason for refusal.
113. Of course there will be impacts, but those will be positive as well as negative and overall there is no reason to suspect that a development of 186 units which will be brought forward over the next 5 years, against a base of around 1700 existing homes will create an adverse effect upon the existing community. To the contrary, the new housing will meet an existing need for additional housing in this County and the residents of those dwellings will be every bit as much a part of the community as if they had moved in and bought an existing home and not a new home from Redrow. Yes it will take some time for new residents to enjoy the full benefits of an existing and vibrant community in a changing society, but there is simply no basis to conclude that land use harm will arise from the proposed development.

Policy and the 5 year supply

(i) 5 Year Supply

114. It is common ground that in accordance with TAN1 Flintshire County Council cannot demonstrate a five year supply of deliverable housing⁵⁶. TAN1 provides that it is a

⁵¹ Cllr David Williams confirmed in questions from the Inspector that the problem with the clubs is the age of the **residents of the village, the aging population "...not being replaced..."**.

⁵² As agreed in the ACCA, by Rural Solutions and by Mrs D Barber in cross-examination.

⁵³ ACCA pg 32

⁵⁴ Mr A Wight Community Councillor confirmed that the local shops and businesses are thriving as a result of new residents

⁵⁵ Which can be secured by condition

⁵⁶ Notwithstanding that paragraphs 8 to 10 of **Mr J Hunter's** closing is in effect an argument against the application of national policy in Flintshire

- “key” policy that each LPA should have a LDP in place to ensure that a 5 year deliverable supply is “genuinely available”** (paragraph 2.1). If a LPA does not have an adopted LDP in place then it must be concluded that it cannot demonstrate a 5 Year Supply. Moreover there is a string of appeal decisions to the effect that considerable weight should be afforded to the provision of market housing where a **5YS can’t be demonstrated**.
115. Of course The Cabinet Secretaries letter is right to point out that the benefits of **housing in such circumstances should not be treated as “trumping” all other considerations** including community cohesion. But importantly the letter, read in full in no way dilutes the force of TAN1 or the weight to be afforded to the policy.
116. Nonetheless Flintshire County Council has provided a Housing Land Monitoring Statement 2016 which claimed just over 6 years supply. However the document recognises that this is not produced in compliance with TAN 1 and is based upon a past delivery rate methodology which is not endorsed in TAN 1. It is also clear from the briefest of perusals of the document that it is written in defiance of the policy approach in TAN1 with which it patently disagrees and claims is flawed (paragraph 3.1). It is respectfully submitted that for all of those reasons that it is not a document to which weight should be attached and it is understandable that the Council did not rely upon it in evidence in this case.
117. Since it is not relied upon by the Council **and hasn’t been subject** to scrutiny it would be demonstrably wrong for the Council to be permitted to place implicit reliance upon it by default, no weight should be placed on its content. Had the Council sought to rely upon its content to argue that **TAN 1 was indeed “flawed” or that it had a deliverable 5 Year Supply** then the Appellant would have robustly called evidence to disprove the same. As it is it forms no part of the Council’s **case and there has been no need to provide contradictory evidence**.
118. The LPA cannot demonstrate a 5 Year Supply, and it is accepted that there will be a need to release undeveloped peripheral sites on the edge of the urban areas of the district to meet its future needs. Moreover the evidence base of the emerging LDP includes a background paper⁵⁷ which assesses candidate sites against the emerging strategy and **concludes that the site lies alongside a “sustainable settlement” and that the appeal site “...complies with the Council’s Preferred Strategy, however there are site constraints that would need to be overcome to allow the site to be developed”**. Granted this document does not comprise policy, but it is considerable significance that in a district which is looking for additional greenfield sites to allocate to deliver its future needs that the appeal site is an obvious candidate site which in the view of the **document’s** author meets the Preferred Strategy. Moreover on the basis of the consideration of the Council in the context of this appeal, it is accepted that the appeal site does not have any intrinsic site constraints to overcome.
119. What is certainly not the case is any allegation that Pen-y-ffordd / Penymyndd should receive no more allocations due to strained community cohesion, or that there is some other feature of the site which might militate against its development. That said it is also agreed that it will a considerable time before the LDP will progress towards adoption.

⁵⁷ “The Preferred Strategy Consultation Document Background Paper Consideration of Candidate Sites against the Preferred Strategy” 2017

120. Thus, on the evidence the appeal site comprises the development of a site with localised impacts in a district which needs more housing, adjacent to a sustainable settlement in a manner which will meet the emerging strategy of the LDP. There is no technical objection to the release of the site, and even its landscape and visual impacts will be highly localised. Furthermore there is an immediate need for housing and it will a long time before those needs will be addressed in the context of the LDP. As against those powerful issues in favour of the release of the appeal site is raised a nebulous and unsubstantiated fear of impacts upon community cohesion. It is respectfully submitted that in those circumstances the case in favour of the release of the appeal site is a powerful one.

(ii) Policy

121. That said it is accepted that the release of the appeal site would be in conflict with the countryside policy of the UDP which places a binary presumption against the use of land out with the settlement boundary for housing purposes. Thus, it is readily acknowledged that the proposals are located outside of the boundaries of the settlement of Pen-y-ffordd / Penymynydd as defined in the UDP and that in policy terms the **proposals fall within "open countryside"**. As such there is a contravention of policies STR1, GEN3 and HSG4 of the UDP. It is further agreed that the approach of protecting the countryside is not inconsistent with PPW. However, what is out of date is the geographic extent of where the boundary between settlement and countryside is drawn.

122. That out of datedness necessarily tempers the weight to be afforded to that contravention:

- (i) the boundaries of the division between settlement and countryside were set to accommodate development needs for a plan period which expired in April 2015;
- (ii) those boundaries should have been reviewed well before the end point of the last UDP and certainly well before now;
- (iii) it is common ground that there will need to be additional greenfield land allocated in the emerging LDP to meet the needs of the district for a plan whose period commenced 2 years ago;
- (iv) there is an immediate and significant need for additional housing, including affordable housing due to the absence of a 5 Year Supply. This is a clear benefit of the proposals which is necessarily recognised by the Council.

123. The Council initially asserted that there was no support for the proposition that the geographic extent of policy can be out of date even if the policy is not. With respect that position is completely wrong. To the contrary exactly that approach has been taken by Inspectors time and again – for example:

- Wrexham appeal ref APP/H6955/A/16/3147116 see paragraph 14 & 15;
- Mynydd Isa appeal ref APP/A6835/A/15/3137719 see paragraph 18 & 19; and
- Cardiff appeal ref APP/Z6815/A/11/2160990 see paragraph 56

The Council no longer appears to pursue that point. **However, the Council's** interpretation that guidance regarding **the issue of community cohesion "trumps"** that of housing need is not supported in the letter from the Cabinet Secretary nor TAN 1 .

Nonetheless it is perhaps indicative of the weakness of the case being put that not only does Flintshire County Council not agree with TAN1, but **it's** advocating the decision maker to misinterpret it.

124. It follows that there are powerful reasons to outweigh the contravention of policy and the weight to be afforded to the contravention of policy has to be assessed in the light that the geographic extent of where that protective countryside policies apply is demonstrably out of date, a point expressly conceded by the Council in cross examination

Conclusions

125. There is strong emphasis at national policy level to ensure a deliverable 5 Year Supply of housing. That is not however at any cost as paragraph 6.2 of TAN 1 makes clear. However where there is a strong policy imperative then it should not be lightly put aside by unsubstantiated assertions. In this case there is no 5 Year Supply – the last appropriate assessment which is consistent with national guidance concluded that there was only 3.7 years, and it will be some time before a new LDP can bring forward plan led resolution to the issue.

126. The UDP Inspector expressly concluded that the level of development which has taken place in Pen-y-ffordd / Penymynydd was acceptable up to 2015, and there is no adopted plan which determines what an appropriate level of growth at the settlement post 2015 should be. Nonetheless there is clear evidence the settlement has repeatedly been considered to comprise a sustainable settlement to accommodate development over a number of years.

127. Thus, whilst there is a contravention of policy in the adopted development plan relating to the protection of open countryside – the weight to be afforded to such policy must be tempered by the fact that the geographic extent of the settlement boundaries was never intended to endure beyond the end of the plan period in 2015, and that there is an immediate need to release additional housing land to meet the clear deficit in supply. The appeal site is controlled by one of the leading national housebuilders with an excellent track record of delivery and there are no technical reasons which might inhibit delivery.

128. The Local Planning **Authority's** case on community lacks tangible evidence which is presumably why it spent more time articulating a landscape **case which isn't a reason** for refusal. It was expressly agreed that the Council do not invite the conclusion that there is a breach of UDP Policy L1 nor that landscape is a determinative issue in this appeal. Moreover the report to committee concludes that this is not an issue which gives rise to significant harm after the view of a professional landscape architect was sought by Flintshire County Council. The ACCA is partial and flawed, lacks any tangible evidential basis and fails entirely to consider the benefits of the proposals. The proposals would not have an adverse impact on community cohesion, rather they would bring tangible benefits to the village.

129. It follows that there are powerful material considerations to outweigh the limited contraventions of policy⁵⁸, and the land use impacts of the development of the site are

⁵⁸ NB paragraph 6 of Mr J Hunter's closing submissions is emphatically contested. Mr Gilbert did not concede that if the **appeal proposals gave rise to 'material harm' then the appeal should be dismissed. He did however** accept that harm would arise from the loss of greenfield land (which is self-evidently "material"), **at no stage** did he suggest that would give rise to dismissal of the appeal. The proposition is bizarre and the Inspector is invited to refer to her notes of the evidence in this regard.

limited (ironically as the pre-application response at [REDACTED] appendix 1 says so). Whilst the proposals may be unwelcome to those articulate members of the public who have attended the inquiry, the planning balance nonetheless overwhelmingly favours the grant of permission, and the Appellant invites you to allow the appeal.

Other interested parties or persons appearing at the Inquiry

The case for [REDACTED] (Flintshire County Council)

130. The appellant has made a forceful attempt to discredit the Council's officers and their opinions. However we all need to step back and consider the impact of the removal of this green field site with no justification on environmental grounds. Environmental issues are at the centre of the reason for refusal, which includes hedgerow and tree removal, impact on protected species and the loss of this rural environment. Whilst the increase in the housing supply is put forward as a benefit, this is a myth as Flintshire County Council has approved more housing developments than is actually required.
131. It is also clear that the appellant is exploiting the lack of a Local Plan and whilst the appeal site has been put forward as a candidate site in the emerging Local Plan it has also been promoted as a green barrier. There are far better suitable sites within the settlement limits which are smaller and more logical sites for housing. Furthermore, if the scheme were allowed to proceed there would be no defensible barrier to stop further speculative development. The existing stone cottage on the edge of the site and other natural features should remain due to these being important local features.
132. The appeal site is not in a sustainable location. It is distant from the railway station and the buses are unreliable. Only one general store remains. Because of the **unaffordability of housing built recently people don't have the opportunity to engage with the village as the occupiers are out working and don't use local services and facilities.**
133. There is a shortage of school places and children within the same family are being sent to different schools. Similarly there is a shortage of recreation space, which has been the case since 2005. Recent developments have become segregated rather than integrated. This shows that the scale, growth and housing mix of the village is wrong.
134. The appellant states that it is an active developer who supports the community. This is no longer true, they are now profit orientated. Common sense approach is needed, the scale is great and the community will suffer.

The case for the Community Council

135. The scale of objections in Pen-y-ffordd covers the whole village, not just the neighbours most directly affected, because the whole village is experiencing harm. Over 760 people completed the village questionnaire, over 600 people have signed up to the village Place Plan so far. The whole community is united in its frustration.
136. The Pen-y-ffordd Place Plan sets out a vision for how the community want the village to grow and change in the future. It was created from the opinions in the questionnaire, from across the village along with the Community Council and County Councillors. The creation of the Place Plan was encouraged by the Welsh Minister in writing, officials from Cardiff in person and the local authority. It sets out the need for modest growth over the next plan period but makes clear that we need to stop development until the proper LDP process is complete, to allow the village the chance to 'catch up'.

137. At the time of this Inquiry, there are 5 planning applications for 355 dwellings in Pen-y-ffordd, all outside of the settlement boundary. Two of them so far, including this one, are to be determined by public inquiry. With the LDP delivery date slipping to mid-2020 the community face a further 2 years of speculative developer speculation.
138. The community believe that there are local and national planning policies in place to protect against excessive growth in the countryside. Further that this approach is supported by the clarification from the Welsh Minister, Lesley Griffith that local and national policies have to be adhered to, with the lack of a 5-year supply a consideration, but not at any cost.
139. Observing the current precedents since this clarification, the most recent local decisions under TAN 1 indicate that the planning balance has shifted and less weight is being afforded to the lack of a 5-year housing supply where other policies apply. We have been monitoring TAN 1 decisions closely for the past 18 months and seeing the impact as far afield as Conwy and Barry.
140. There has been a number of appeal references submitted in evidence. The Community would suggest that the most local and most recent would be the best guide to the current interpretation of TAN 1:
- Rhosrobin, Wrexham (around 7 miles from the appeal site) – reference 3166936 Dismissed – outside the settlement boundary, incursion into green barrier not outweighed by the lack of a 5-year housing supply
 - Northop, Flintshire – LPA reference 055555
Loss of agricultural land and visual character not outweighed by the lack of a 5-year housing supply
 - Rossett, Wrexham – reference 3173915
Green barrier and openness not outweighed by the lack of a 5-year housing supply.
141. TAN1 is allowing sites to be considered and has weight but the extant UDP policies apply and have to be given appropriate weight in the planning balance.
142. In this appeal we have incursion into open countryside, loss of agricultural land, landscape and environment impact on established trees and hedgerow and above all it is unsustainable as evidenced by the potential harm to community cohesion.
143. There are many national, Welsh and Flintshire policies that apply. Whether any individual policy carries greater or less weight becomes immaterial when the intention of the whole policy framework is considered as a whole. We believe that significant weight needs to be afforded to the harm on the community. This case is likely to be viewed as setting a precedent.
144. For Pen-y-ffordd specifically, contemplating 5 active applications outside of the current plan – including this huge one from Redrow, then we believe that prematurity should be considered. Among those 5 applications there are some which we would consider bad for the community, like this one, and others which would clearly be much better and more suited to the community needs, as set out in our Place Plan.
145. The appellant introduced the latest LDP consultation document to the Inquiry. It contains a traffic light initial assessment of sites as required by Welsh Government policy. As a community we understand those assessments carry no significance in the final process.

146. The important elements of the Flintshire LDP are well progressed. In particular, the Council has established their ambition for 7,645 houses and have set out a 5-tier settlement categorisation. Strategic sites have been identified – including Warren Hall, which is a few minutes walk away from this appeal site and will deliver 300 homes – presumably using Pen-y-ffordd's schools and facilities.
147. With Pen-y-ffordd in the 3rd tier of settlements, similar 3rd tier settlements would only need to contribute a maximum of around 70 dwellings each under the new LDP. Pen-y-ffordd has already contributed 174 houses since the plan period started in April 2015 (if every other 3rd tier settlement had done the same then Flintshire would have 4,000 of the 7,000 they need over the next 13 years just from the villages).
148. In the UDP there is specific reference to why Pen-y-ffordd is under this planning assault ***“Chapter 11.17 “...avoid the over development in villages, and to protect against provision for displaced housing from Cheshire, especially in border areas around Chester. In the past such demand has led to excessive growth in some villages which cannot be sustained.”*** The UDP Inspectors report was referenced in that the examining Inspector was content to allow the 25% growth envisaged by the inclusion of the two UDP sites and the windfall site on Meadowslea. But she also went on to say ***“The most recent information before me indicates there is spare capacity in local schools. Whilst the additional number of schoolchildren from the two allocations would result in a shortage of school spaces this scenario would not happen overnight and there would be adequate time to address such matters through developer contributions towards additional school facilities.”*** She also said...***“The plan does not phase developments and I see no reason why it should do so in this case.”*** The UDP Inspector made a judgement about the sustainability of this settlement and the likely rate of build. Nevertheless, the two developments came forward together and were built quickly. The schools have reached capacity and there has been harm – that is why there is such opposition to the prospect of another development of this scale.
149. However you view the figures, change the period over which you measure them or diminish the relevance because of the UDP Inspectors comments – the fact is, Pen-y-ffordd is the Flintshire settlement with the highest growth. If all of the outstanding planning applications are successful, the total growth will be 55.7% since 2000, but actually almost all of it has been in the last 9 years. Practically, those decisions will all be made before this appeal decision is known. They will all be considered in isolation.
150. The growth has been too rapid for any infrastructure changes to keep pace. Schools are overloaded, Scouts and other groups are oversubscribed, and the availability of **doctor's appointments has become worse than ever**. Wait times at A&E in Wrexham can be over 12 hours.
151. The settlement is less sustainable since the UDP Inspectors assessment because we have lost some of our amenities. Last year alone: The No 3 bus service to Chester reduced their frequency to an hourly service. The Saturday service is every two hours and there is one bus on Sunday morning. The X55 service between Mold and Chester was lost altogether. The Post Office, which was a newsagent and local shop, closed. The playgroup has closed. There is a beautiful new medical centre in Hope. **Unfortunately, buildings don't provide care and there is a shortage of doctors.**
152. There is real harm being felt by residents following the recent growth. There are water pressure problems at the top of the village. That means adjacent to the Redrow site, a power shower taken at 5am reduces to a trickle if taken at 8am. Surface water flooding and overflowing sewer problems are throughout the village:

- Since the Groves development there have been instances of sewage flooding into **people's homes on Hawarden Road**
 - Since the Meadowslea development, surface water has redirected into neighbouring properties; as we suspect it will off the Redrow site.
 - Since the White Lion development there have collapsed drains on the adjacent Wellhouse estate.
153. Broadband connections have reached capacity with an effective wait list in effect. **And in the community, the intangible 'light' of community spirit has dimmed** – but has not yet gone out.
154. Children, instead of going to the school across the road are having to go to schools **in other villages or even towns. Their neighbour's children are increasingly attending a** different school. Even some families have siblings attending different schools. Some of the newest occupants on the Redrow Heritage site bought houses opposite the church school, because the school was there only to find their children having to leave the village.
155. These are examples of real life harm, where the consequence is a disconnect between neighbours. This community is not anti-development. It has grown and coalesced through new housing developments over the past 50 years. There have been normal levels of opposition in the past, as you would expect from new developments. Almost everyone in the village lives in a housing development – on Wellhouse, Bellway, The Towers, Abbotsford Drive, Riversmead, Meadowslea, The Groves or Heritage Park.
156. It is a community in the countryside. No house is further than 250 metres from a field because it has grown along the ribbon of the main roads. There would be real harm to the countryside and amenity if it is lost.
157. There are families who have lived here through generations and thankfully there are **families who were new to the village in the 1970's, 80's and 90's whose children and grandchildren are settling here now and some are preparing to retire here. It's a nice** place to live. This community will ultimately need some of the right type of housing to enable in-migration like this to continue, but it has to be done with the needed housing mix and at an appropriate scale. This development has neither of those. The last two developments brought forward just 10% affordable provision on site, with the balance in cash or gifted contributions. Yet we have people on the affordable housing register in the village, despite all of the new houses built. This type of development is not sustainable. A lack of social-cohesion affects pride and belonging. For example, there has been increasing instances of anti-social behaviour, including dog mess, inconsiderate parking as well as that usually associated with groups of youths, throughout the village. Just this week a car window was smashed next to the Spar.
158. The traffic impact of the increased population is not enough to register on traffic assessments, but the reality in Pen-y-ffordd is that over 90% of households use a car and more than two-thirds have 2 or more cars. With children unable to afford to move out, some homes have 4 and 5 cars on the pavement outside. Most people work and that means that traffic peaks at either end of the day, hence the problems with parking around the Spar and schools at certain times of the day.
159. In Pen-y-ffordd, the community remains. There are community groups, clubs, teams and well attended annual events. The pubs are successful – the one benefit from recent developments - the shops and businesses are successful and it remain a

- There is a strong local concern regarding this appeal. Redrow homes are targeting Chester residents on their marketing literature, rather than providing homes for local residents. This is already seen to some extent by the lack of Welsh speakers in the village;
- Suitable homes for the village would be starter homes, as the village is missing young families who in turn support the playgroups and toddler groups which help to build friendships and integrate new residents into the community;
- The development is not going to attract people who make a community cohesive. Their children will potentially end up going to different schools to others in the village which will divide families and friendships;
- There are red listed species using the appeal site including Song Thrush, Tawny Owl and Nut Hatch. These are sedentary species and therefore any development which impacts on their habitat will cause them to leave the area. Transient bird species using the area include Merlin and Kestrel. In the last 3 years Red Kite, Ringed Plover and several other species have been observed in the area. Other birds like Barn Owl rely on the appeal site for foraging and live in the surrounding area. Disturbance of the appeal site will mean that such species have nowhere to hunt. This is a diverse valued habitat and should be protected;
- Children will be unable to attend their nearest secondary school, which is Castell Alun. Accordingly, children from Pen-y-ffordd will have to attend Elfedd High School, which is not the preferred choice of many parents;
- Children will be separated from friends and siblings; and
- There are risks to child protection and safety as children will have to use public transport to access secondary schools further away.

The case for [REDACTED] (Local resident, representing Ramblers Wales Association and a member of the Flintshire Access Forum)

164. At the outset there had been no consultation with the Ramblers Association as required by the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016, which brought into effect the requirement to carry out pre-application consultation on planning applications for major developments in Wales. Furthermore whilst the planning application has been made in full, there appears to be a high level of uncertainty and the appellant wishes to design the scheme via conditions. This is reflected in the poor layout which fails to meet the Active Travel Wales Act 2013 and the lack of a soft landscaping plan.
165. The appeal decision (doc 19) refers to refusal on the grounds of impact on the local footpath. Therefore attention should be paid to the Rights of Way and the Flintshire Active Travel Plan. It should be noted that Chester Road is not part of the Active Travel Map 2017 (doc 20) which shows aspirational walk/cycle routes through Pen-y-ffordd.
166. The public footpath would become a path along an estate road, which is unacceptable in terms of government guidance (Doc 18). Furthermore there is no statement on how the path will be protected during construction operations or if a diversion will be in place.

167. Turning the Hard Landscaping Plan⁵⁹ there is a lack of explanation as to what standards the footpaths will achieve. Indeed some of the footpaths are not surfaced which is a major fault as this would fail to meet the Equality Act 2010 to provide access to wheelchairs.
168. From the application it is not clear whether the right of way or drainage pond is included within the open space calculation. This should be clarified. If they are the amount of open space should be reduced. Moreover there is no indication as to how the wildlife corridor will be managed in the future.
169. A Travel Plan has been prepared by the appellant which only considers peak hour travel patterns and, due to the layout of the site, would fail to significantly improve access to sustainable transport. In particular cycling would be along main roads and the footpaths are essentially paths along estate roads. Moreover a central spine footpath was rejected by the appellant and therefore permeability is insufficient. It is also relevant that the appellant is said to be promoting public transport, when in fact there are no bus stops in the vicinity of the appeal site.
170. Overall there are little in the way of hard links to the wider area and the proposed links are not placed on natural desire lines to encourage walking to local facilities. On some of the plots, such as plot number 107, there is a long and circuitous route to exit the site. **Social cohesion is a central issue of the Council's** case; the site is not well connected or well integrated into the existing community to aid this. The development will be isolated due to its layout.

Written Representations

171. The Planning Inspectorate received four **responses to the Council's letters regarding** the appeal. These included letters from [REDACTED] and [REDACTED] whose cases have already been reported. A response was also received from [REDACTED] who requested that the information contained in the Community Place Plan and other documentary evidence would be taken into account into the consideration of the appeal. The remaining response from [REDACTED] objected to the proposed development in respect of gross overdevelopment and the impact on the quality of life of local residents.

Conditions and Obligations

172. A draft planning conditions document⁶⁰ agreed between the parties was discussed at the Inquiry. Following these discussions both parties agreed to amend the conditions and supply an updated conditions document⁶¹.
173. A duly signed UU, dated 21December 2017, was submitted with the closing submission at the Inquiry and provides the following obligations: Affordable housing – shared equity units; Affordable housing – gifted units; Education contributions towards Pen-y-ffordd Primary School and Castell Alun High School; Ecology contributions; Highway contributions; Off-site affordable housing contribution; and Greenspace areas.

⁵⁹ Drawing ref 1164-02-02-111 rev D

⁶⁰ **Appendix 9 of Ms D Barber's Statement of Case**

⁶¹ Doc 25

CONCLUSIONS

175. These conclusions are based on the evidence submitted and given at the Inquiry and the written representations summarised above, and my findings at the accompanied and unaccompanied inspections of the site and surroundings. In my conclusions, numbers in [] refer to paragraphs earlier in this report.
176. I consider that the main issue upon which this decision should be based is whether, in the absence of a five year supply of deliverable housing land, the proposal would amount to a sustainable form of development, in accordance with national and local policy, with particular reference to the effect on: the cohesiveness of the community; and landscape character and visual amenity.

Policy Background

177. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise [29]. The development plan for the area comprises the Flintshire UDP adopted in 2011 and covers the period 2000 -2015 and it is the relevant plan against which this application should be determined [11], along with other material considerations.
178. **It is a matter of fact that the appeal site lies outside the UDP's defined settlement boundary for Pen-y-ffordd and there is no dispute between the parties that the appeal site fails to conform with the adopted development plan in this respect [30 & 62]. As such, the Council's refusal reason cites Policies STR1, GEN3 and HSG4 [12].**
179. The proposal would conflict with Policy STR1 as the proposal would fall outside the defined settlement boundary, the purpose of which is to define the areas in which development would normally be allowed and concentrate development within settlements.
180. Policies GEN3 and HSG4 deal with development and housing outside settlement boundaries and state that development proposals, including new dwellings, will only be permitted in certain limited circumstances. Those circumstances are not applicable here, and the appellant accepts the proposed development conflicts with Policies GEN3 and HSG4 of the UDP [62].
181. However, the UDP is time expired and the settlement limits in the UDP were defined in the light of a different housing requirement [127]. Indeed, the UDP formed part of a strategy which was designed to meet the development needs up to 2015 and fails to reflect the need to plan positively for the current development needs of the area. In this respect it is acknowledged that the settlement boundaries will have to be re-drawn to accommodate existing and future housing needs [122(iii)].
182. The Council is currently producing a LDP, which will include the allocation of greenfield sites, to meet its housing needs. The appeal site has been included within the Council's *'Preferred Strategy Consultation Document Background Paper: Consideration of Candidate Sites against the Preferred Strategy / Invitation for Alternative Sites'* (CCS) document⁶². Nevertheless, it is agreed with the main parties that the emerging LDP can be given little weight until it has been through its Examination [18, 101 & 125]. However, the CCS **clearly identifies the Council's need to release greenfield land [118].**

⁶² Doc 8

183. The UDP is now almost three years beyond the period for which it planned. The Plan was prepared with regard to an earlier version of PPW but the general principles of the identification of settlement boundaries to manage new development remain. PPW seeks to direct new development to the most sustainable locations and the UDP is consistent with these principles [21-23 & 30]. Nonetheless, the settlement boundaries defined by the UDP were informed by evidence on housing need and supply which is now long out of date which limits the weight to be attributed to them [62].
184. It is acknowledged that paragraphs 8.1 & 8.2 of TAN 1 state that for those Councils where a UDP is out of date and an LDP is not yet adopted then those Councils will not be able to demonstrate whether or not they have a 5 year housing land supply; in practice this means that Flintshire County Council has a zero housing supply figure. TAN 1 states that the housing land supply figure should be treated as a material consideration in determining planning applications for housing, and where the current study shows a land supply below the 5 year requirement the need to increase supply should be given considerable weight provided the development would otherwise comply with development plan and national planning policies [24-26, 28 & 114].
185. Whilst I acknowledge that the Council has produced a Housing Land Monitoring Statement 2016⁶³, which purports to identify a 6 year supply [116], it is not based on an assessment of housing need as required by PPW and does not comply with the guidance set out in TAN1. Consequently I afford it little weight. [25].
186. PPW sets out a presumption in favour of sustainable development to ensure that social, economic and environmental issues are balanced and integrated, at the same time, by the decision maker in taking decisions on individual planning applications [21-23].

Sustainable form of development

Landscape and visual effects

187. The site is in an area of gently undulating countryside with an enclosed character which limits immediate views in to and out of the site. It lies adjacent to the settlement boundary of Pen-y-ffordd and the Chester Road. There are also various public rights of way, both within the site and in the immediate vicinity, with various **other 'desire lines' within the site that provide evidence** of informal recreational use by the local community. The site is not the subject of any statutory or local landscape designations [28].
188. A Landscape and Visual Assessment version 2.0 (LVIA) was provided with the application and was initially assessed by a consultant commissioned by the Council. Following discussions with the Council a further LVIA was produced, namely version 5.0⁶⁴. A further **appraisal was provided with the appellant's landscape witness's evidence**⁶⁵ and the Council also provided a statement with regard to landscape and visual matters with their evidence⁶⁶.
189. **Whilst I note the Council's continued concerns with the methodology used in the appellant's LVIA** [48 & 73] I am satisfied that the various LVIA's and the evidence given at the Inquiry provide sufficient information for the potential landscape and visual

⁶³ Doc 13

⁶⁴ ID 1i

⁶⁵ ID 1iii

⁶⁶ ID 2iii

impacts to be understood. It is accepted that the conclusions reached are to a certain extent open to individual opinion. My findings have been informed by the various landscape assessments, the evidence given at the Inquiry, my visit to the site and viewpoints and from my own observations from other public vantage points.

190. LANDMAP is landscape guidance for Wales developed by the Countryside Council for Wales (CCW) now part of Natural Resources Wales (NRW). Landscape characteristics, qualities and influences on the landscape are recorded and evaluated into a nationally consistent data and retained as a Geographical Information Systems (GIS) based landscape resource. The information is recorded in five layers: the Geological Landscape, Landscape Habitats, Visual & Sensory, Historic Landscape and Cultural Landscape.
191. The LANDMAP methodology describes the visual and sensory aspect of the landscape as "lowland, rolling lowland and mosaic rolling lowland". With Kinnerton traditional farmland described as a "***gently rolling lowland farmland with a strong pattern of small pastoral fields enclosed by thick hedgerows with trees.***" LANDMAP affords it a moderate evaluation equating to an area of local landscape importance. The landscape habitat aspects of LANDMAP are afforded a high evaluation and the historic and cultural aspects achieve moderate evaluations. Finally the geological landscape aspect score is low. Overall the landscape and townscape are of local value.
192. **The appellant's LVIA concludes that** on completion the proposed development would have a moderate adverse significance of effect on the landscape character on the site and in the immediate vicinity of the site. There would also be a moderate adverse effect on the significance of effect on the landscape after 15 years. In terms of views from Rights of Way 305/8 and 305/80 walkers would experience a moderate adverse but brief impact both on completion and after 15 years.
193. **The Council's 'Landscape Matters Statement'** concludes that the landscape effect upon the appeal site will be Major/Moderate adverse and the landscape effect on the surrounding area would be Moderate Adverse. In terms of visual impact for users of the footpath crossing the site, the Council state that it will be Major Adverse, whereas the visual effect on users of the bridleway to the north of the site will be Moderate Adverse. **However, the amount of weight afforded to the Council's evidence in this regard is limited as it is based on driving around the local area and by the use of 'Google Earth'**
194. From the evidence before me and from my own observations on site I find the site to contain the characteristics and features of the wider mosaic rolling lowland. It comprises an attractive area of small to medium sized agricultural fields, strongly bordered by mature hedgerows and trees with an overall undulating landform. Whilst I note the contention that the site has an overall higher landscape value than other farmland bordering the village I do not concur with this view [49]; it does not comprise any national or local landscape designation and its value is influenced to a certain extent by the presence of the busy Chester Road and the surrounding pattern of development. I find the site to be an attractive area of farmland with a local landscape value.
195. PPW recognises at paragraph 5.1.1 that "***the natural heritage and valued landscapes of Wales are not confined to statutorily designated sites but extend across all of Wales – to urban areas, the countryside and the coast. Attractive and ecologically rich environments are important, both for their own sake and for the health and the social and economic well-being of individuals and communities.***"

That there must be an impact on the landscape from a development of up to 186 houses is undeniable. The nature of the appeal site would be changed from pasture land to a residential estate. That would be true irrespective of what mitigation is **sought to reduce the proposed development's impact**. The issue is how significant that impact would be and whether it would represent material harm. Indeed this would be true of many greenfield sites and the Council accept that greenfields will need to be developed to meet its housing need.

196. The planning layout drawing⁶⁷ shows how the appeal site would be developed for 186 dwellings by extending the built form of the settlement towards the north east, broadly in line with the extent of the existing residential estate to the west and the '*Heritage Park*' development to the north, with various pockets of public open space sited largely centrally in the appeal site. The existing boundary hedgerows would be retained, along with a proportion of those running through the site. Further tree planting would occur within the proposed development. It is noted that some of the hedgerows within and bordering the appeal site are protected under the Hedgerows Regulations 1997, due to the variety of woody species they contain⁶⁸. But, to my mind, they have no greater landscape value than any other hedgerows of a similar age in the wider area.
197. The site is outside the settlement boundary where approval would not be given for the construction of new buildings and further UDP Policy L1 states that new development must be designed to maintain or enhance the character and appearance of the landscape [16]. The proposed development would include the loss of some open countryside. However, the appeal site is contained and is located immediately adjacent to the built up area of Pen-y-ffordd. Moreover, the retention of many of the existing landscape features, including boundary hedgerows and trees, and the addition of further planting within the proposed development would assist in integrating the proposal into wider landscape. Given these factors, I do not consider that the proposal would introduce features that would be completely uncharacteristic of the immediate area or would represent a substantial intrusion into the landscape of the wider area. Nevertheless, given the nature and scale of the proposed development, it would cause some harm to the landscape character of the appeal site and the wider area.
198. The loss of limited sections of the mature hedgerows and trees would reduce the softening effect this currently has on the local landscape. Nevertheless, the benefit of the proposed layout is that the vast majority of the hedgerows and trees across the site would be retained, which the Council and appellant agree as being important landscape features. Whilst I agree that they are important features and form part of the character of the area, they are not unique to the appeal site. Similar mature and thick hedgerows can be seen in the wider landscape.
199. I accept that the existing screening would be materially reduced during the winter months. However, there would also be the opportunity for additional planting and further softening, which would to some extent improve the setting of the proposed development. Planning conditions could be imposed to protect hedgerows and trees during construction operations and to ensure the implementation of suitable landscaping.
200. In terms of the visual effects, for those users of the footpath that cross the site and the bridleway to the north the character of the area will be changed substantially.

⁶⁷ Ref 1164-02-02-101 rev G

⁶⁸ Doc 10

Rather than passing through the countryside with agricultural land on each side, users would be walking along a settlement path at the edge of the village. Further, I recognise that these Rights of Way provide open views across the surrounding landscape and that these views would be reduced. In my opinion, the proposed dwellings and associated infrastructure would appear dominant and visually obtrusive to users of the Rights of Way and would inhibit longer distance views to the open countryside beyond, to the detriment of these users. Nonetheless, the impact would be transient as people walk through the site to the open countryside beyond.

201. The proposed development would also be seen when approaching Pen-y-ffordd along the Chester Road, which would be most likely in cars. The hedges along the road would provide some screening, but particularly in winter the dwellings would be visible and there would be a large opening in the hedgerow for the new entrance. Nevertheless, in my opinion, the proposal would appear prominent and visually intrusive to users of Chester Road. Nonetheless, given the existing extent of built development, the proposal would be seen as a continuation of the existing settlement, rather than an isolated development.
202. The existing dwellings that border the appeal site would have clear views across the appeal site. However the existing hedge would limit views from ground floor windows and rear gardens of these properties. Although these views would change from rural to urban in nature, given the distance between these dwellings and the proposed houses, the proposal would not appear prominent and visually intrusive to the occupiers of these dwellings from within their homes. In forming this conclusion I have **taken into account the obvious loss of the site's present open aspect presently enjoyed** by those living in the houses bordering the site. But there is no right to a view and this cannot be a significant land use planning reason for preventing sustainable development.
203. The precise extent of any landscape character and visual effects that would arise from the proposal would depend on the extent to which such effects would be mitigated by the layout and design. I note that proposed buildings are located as closely as possible to the existing neighbouring development, they utilise local materials and vernacular design style, the design ensures that the retained open space is of an interesting landform, and that tree coverage within and around the site is enhanced.
204. Overall the proposed development would comply with UDP Policies TWH1 and TWH2 [16]. Nonetheless, the local landscape will fail to be maintained or enhanced as required by UDP Policy L1. The landscape would inevitably change as a result of the proposed development but its impact would be limited and localised due to the contained nature of the site and its relationship with the surrounding built form. Furthermore, the design of the development goes some way to mitigate the impact of the landscape change. To conclude the limited and localised harm to the landscape weighs against the proposal in the planning balance.

Community Cohesion

205. It is clear from the evidence of local residents that Pen-y-ffordd is a vibrant and healthy community [98, 130 - 171]. There are many local clubs and associations and residents evidently take a keen interest in their community, many of whom have lived in the village for a considerable time. Nevertheless, local residents express concern regarding what they perceive as continuing housing developments undermining the community and causing a loss of identity and village character [130 - 171]. The

Council maintain that the proposal when considered cumulatively with other schemes permitted in Pen-y-ffordd, would be of a scale disproportionate to the existing settlement, which would harm the social well-being of the community, risking its cohesion [54 - 57].

206. The 'Pen-y-ffordd Place Plan' (PPP) ⁶⁹ contains strategic aims and objectives for the community based on the issues of housing, community facilities, transportation, sports and greenspace, social, historic, environment and economic development. The vision of the PPP is *"the residents of Pen-y-ffordd ward continue to enjoy an attractive, viable, safe and well connected community and for the area to evolve and modernise in a sustainable way without compromising the rural setting or community spirit."* In particular the PPP states at paragraph 3.06 that *"the will of the village that there is no growth under the LDP but if developments are permitted, the maximum acceptable size of an individual site must not exceed 25 homes."* Furthermore, the PPP states that an important part of the village identity is that *"no house in Pen-y-ffordd is further than 230 metres from a field"*.
207. The village has experienced significant growth in the period 2000 – 2017 amounting to some 34% increase in house numbers [41]. 25% of which was within the UDP plan period. However such growth was to be expected, where the UDP examining Inspector set out a level of growth for Pen-y-ffordd of 25%. Not all the UDP allocations for Pen-y-ffordd have been built out [41] but this is not uncommon where windfall sites come forward or allocated sites prove difficult to deliver. Furthermore, that this growth has occurred within the latter stages of the UDP plan period [41], is perhaps not surprising given that it was not adopted until 2011 for a plan period that expired in 2015 [11].
208. The emerging LDP background document⁷⁰ sets out that Pen-y-ffordd/Penymynydd (along with 21 other settlements) is in the third tier of the settlement hierarchy, which are collectively proposed to accommodate a 15 – 20% share of the housing across the county [43]. There is no evidence as to the way in which this housing will be distributed but the 11% growth to Pen-y-ffordd which would occur as a result of this proposal would not undermine this emerging plan figure. In any event, as set out above, the preparation of the emerging LDP is at an early stage and can be afforded little weight.
209. As a result, it is difficult to predict the level of housing that Pen-y-ffordd will be **expected to accommodate, particularly when considered against the Council's current housing land supply position and the current stage of preparation of the LDP.** Therefore there is little to be gained from speculating about the LDP and it is more appropriate to focus on the specific impacts of this proposal.
210. The Health, Community Well-being and Cohesion Topic Paper (2015)⁷¹, prepared by the Council establishes that *"Social cohesion is the capacity of a society to ensure the welfare of all its members, minimising differences in wealth and income and generally making people aware that that they are members of the same community and that everyone can play a role in society. In terms of a Local Development Plan the many different facets to social cohesion, e.g., employment, housing, income, health, education and culture will be influenced by policies in relation to planning decisions and land use."* The Topic Paper states that the role of the LDP or the key objectives will

⁶⁹ ID 3ii

⁷⁰ Doc 12

⁷¹ ID 2ii Appendix 1, page 4, Mrs D Barber Proof of Evidence

include, amongst other matters, "*community identity - to preserve community life by limiting development to a level which can be reasonably sustained and assimilated within existing communities.*"

211. Further, the Wellbeing of Future Generations (Wales) Act 2015 (WFGA) puts in place seven well-being goals, one of which refers to "*A Wales of cohesive communities – attractive, viable, safe and well-connected communities*". In contributing to the WFGA, PPW states that planning policies, decisions and proposals should:

- "*Locate developments so as to minimise the demand for travel, especially by private car;*
- "*Ensure that all local communities – both urban and rural – have sufficient good quality housing for their needs, including affordable housing for local needs and for special needs where appropriate, in safe neighbourhoods.*
- "*Foster improvements to transport facilities and services which maintain or improve accessibility to services and facilities, secure employment, economic and environmental objectives, and improve safety and amenity. In general, developments likely to support the achievement of an integrated transport system should be encouraged;*
- "*Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone that the development of land and buildings provides. This includes helping to ensure that development is accessible by means other than the private car.*"

212. The Welsh Government has also published a '*National Community Cohesion Delivery Plan 2014*'⁷². It aims to continue to strengthen, mainstream and sustain both local and regional community cohesion approaches. The Plan describes community cohesion as "*how everyone in a geographical area lives alongside each other with mutual understanding and respect.*" A further Delivery Plan was produced for 2016-17 which follows the aims of the WFGA to meet localised need.

213. At a local level Flintshire County Council has produced an '*Assessment of Local Well-being for Flintshire (April 2017)*'⁷³. The assessment includes detailed analysis of a wide range of factors including community cohesion. The Assessment notes the findings from the National Survey for Wales, which states that community cohesion in Flintshire as a whole is generally weaker than the Welsh Average, in terms of '*people in the local area from different backgrounds get on well together*' and '*people in the local area treat each other with respect and consideration*'.

214. The appeal site lies in a sustainable location situated adjacent to the eastern boundary of Pen-y-ffordd and in close proximity to public transport, services and facilities [28]. **Whilst I acknowledge residents' concerns** on the evidence before me I am satisfied that the proposed development would be served by regular bus services in close proximity and would be within walking distance of a train station operating services on the Wrexham to Bidston train line. Moreover, the proposals include an extension of the existing footway along Chester Road, connecting the site to the village centre. The footpath would also facilitate a new bus stop on Chester Road, directly outside the appeal site, which would benefit both the existing and future residents.

⁷² ID 2ii Appendix 1, page 2, of Mrs D Barbers Statement of Case

⁷³ ID 2ii Appendix 1, page 4, of Mrs D Barbers Statement of Case

215. Provision would be made for a Travel Plan which would encourage future occupiers to use sustainable transport modes. These measures would encourage non car use and contribute towards more sustainable travel means. The site is also located in close proximity to local services and facilities in Pen-y-ffordd reducing the need to travel.
216. It is evident that Pen-y-ffordd accommodates a reasonable range of local services and facilities, including: Ysgol Pen-y-ffordd and St John the Baptist Voluntary Aided Primary School; Red Lion public house; café; pharmacy; village shop with post office; Butcher; Veterinary Practice; Cambria dentist; fast food take-away; Millstone Restaurant; several community halls and places of worship; playing fields and children's playgrounds⁷⁴. No substantive evidence has been provided to show that these facilities could not accommodate future occupiers of the proposal. With no evidence to the contrary, I am sure that some local businesses and associations would welcome increased patronage and support and will encourage their long term retention. Moreover, given that these facilities are in walking distance parking pressures, such as those at the Spar, would not be exacerbated.
217. Pen-y-ffordd is situated in the catchment for a number of secondary schools, including Castell Alun, Elfed High School and Alun School. All schools are accessible either by dedicated school transport or by public transport. The Council's Education Advisor stated that Castell Alun School is programmed for re-development and extensions can be achieved to the school if necessary. Furthermore, the Council's Education Team raised no objections to the proposed development [106] subject to the provision of commuted sum payments; such a provision is allowed for in the submitted UU, and I consider it is an acceptable approach to meeting the needs of the community that would be created by the development. I am satisfied that the contributions from the UU will mitigate this potential harm as set out in UDP Policy STR1(g) [13].
218. With regard to the capacity of the local health centres, neither these Practices' or the NHS have formally made any representations to the Council or offered any evidence of capacity issues or suggested any mitigation which might be required to cater for the proposed development [106]. Whilst I have noted the concerns raised by a large number of local residents, I have no conclusive evidence that would lead me to reach a different conclusion. Moreover, whilst I note that one medical facility in a neighbouring village may not be accessible by public transport, new occupiers who have limited transport options would be aware of this fact and choose to register at an accessible health practice.
219. In terms of employment, no permanent jobs would be provided through the scheme, but it would provide jobs during its construction phase and is likely to help assist in the viability of local jobs in the area in the longer term.
220. One of the priorities of PPW and WFGA is to ensure that all local communities have sufficient good quality housing for their needs. The Council's contention that it has a 6/8 year land supply is based on an approach which does not comply with national policy and I give it no weight. It is clear that Flintshire does not have a 5 year supply of housing [28] and increasing available housing would be a clear benefit. Furthermore, the proposed housing mix will improve the existing choice within Pen-y-ffordd and the provision of affordable housing will help address the identified shortfall in the County. The Council state that the appellant has not identified a local need for housing [38] but there is no such requirement in national policy

⁷⁴ ID 2ii Appendix 1 of Mrs D Barbers Statement of Case table 3.18 also sets out a wide range of clubs and associations located within the village.

221. Whilst there was a local concern that the village would become a dormitory for **Chester thereby reducing the Community's identity**, the results of the PPP⁷⁵ highlight that the majority of local residents already do commute to neighbouring areas to work, with no resultant harm to community identity.
222. Given the findings above, I consider that no compelling evidence has been provided to demonstrate that the proposal would not be accessible to or accommodated by the existing facilities in Pen-y-ffordd, such that would render the scheme incompatible to the WPGA or PPW in terms of community cohesion.
223. The Community Council is concerned that the introduction of such a large quantity of new residents who would take time to assimilate with the existing community. However, 64% of the occupiers of the new 'Heritage Park' development in Pen-y-ffordd, moved there from within north east Wales and one third of these moving from within Pen-y-ffordd/Penymynydd and adjoining wards [96]. Therefore, it is likely that a significant proportion of new occupiers would have some familiarity of the village and its environs.
224. Having said this, the development could introduce a significant number of new residents in a relatively short space of time. But, as discussed at the Inquiry, it has successfully absorbed the new development which has taken place and I have neither heard nor read anything to suggest that a similar outcome could not be achieved if the appeal site were to be developed. Indeed, there is no substantive evidence that the vitality of the village would be compromised, and it is difficult to envisage how new residents could do other than increase vitality, especially if encouraged to make use of and become involved with village facilities and activities.
225. The Arcadis⁷⁶ and Rural Solutions⁷⁷ Reports set out an assessment of potential impacts on community cohesion. However, much of the evidence in the Arcadis report is anecdotal and many of the impacts that are identified reflect general societal changes rather than any unique to Pen-y-ffordd, or could be identified as directly caused by housing development.
226. I acknowledge that initially there would be little social interaction until social connections are made. This view is supported by the Inspector of an appeal in Feniton, Devon⁷⁸, which parties have referred to. Nonetheless, the appellant has provided evidence which highlights that a large proportion of new residents have a local connection that would encourage social interaction. Additionally, I am far from convinced that the local community would not be able to cope, and that social harm **resulting from the 'sheer numbers'** of new residents, as referred to at the Inquiry, would materialise.
227. In conclusion, I have found no compelling evidence to suggest that existing local services and facilities in Pen-y-ffordd could not accommodate the proposal, which would also increase patronage to such services, facilities, as well as to local clubs and associations. Whilst the proposal would be a material expansion of the village, the objections relating to the social cohesion of the community have been made out. I conclude, therefore that the proposed development would not cause significant harm to

⁷⁵ ID 3ii

⁷⁶ ID 2ii, **Appendix 1, Mrs D Barber's Statement of Case**

⁷⁷ **ID 1ii Appendix 7, Mr M Gilbert's Statement of Case**

⁷⁸ ID 2ii, Appendix 11, Mrs D Barber Proof of Evidence

the community or undermine the principle of the creation of cohesive communities, which forms the basis of the Welsh Government's planning policy.

Other Matters

Public Rights of Way and Open Space

228. The application was made before the requirements for pre application consultation set out in the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 [164] came into effect. I do not accept that there is a lack of detail within the planning application or that the appellant is seeking '*planning by condition*' [164].
229. The Active Travel (Wales) Act aims to make active travel the most attractive option for shorter journeys. Thus enabling more people to undertake active travel and enjoying the associated benefits. Pen-y-ffordd is a designated locality under the Act. The appeal scheme maintains the existing Public Right of Way through the site and provides pedestrian links to the existing settlement. Whilst some walking routes are more circuitous than others, they are not so excessive that walking or cycling to local facilities would be discouraged. Given this, I have no evidence that the appeal scheme would prejudice the implementation of the Act or that the Active Travel Map for Pen-y-ffordd could not be adapted to include the appeal site.
230. The Welsh Government's 'Guidance for Local Authorities on Public Rights of Way' states that "*When an existing right of way needs to be revised to accommodate the planned development, any alternative alignment should avoid the use of estate roads, drives, gardens or other private areas wherever possible and preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic.*" The footpath would partially use estate footways, however a significant part of the route would be through an open landscaped area. Moreover the Council's Public Right of Way Officer has raised no objection and planning conditions can be used to ensure that the right of way is appropriately surfaced and protected during construction operations.
231. Further, there are no objections from the Highway Authority and no evidence that would lead me to conclude that the scheme layout would be unsafe or would fail to be of an adoptable standard.
232. I was told at the Inquiry that an important part of the character and identity of Pen-y-ffordd is that no resident is further than 250m from a field [156]. Whilst the development may increase this distance for a small number of residents, the RoW network will be maintained and thereby access to the wider countryside for recreation.
233. The Council's Public Open Space Manager is satisfied that the proposed multi-use games area together with 1.7ha of recreation space, is in accordance with the Council's Local Planning Guidance Note 13. Without evidence to the contrary I have no reason to believe that the open space falls short of that required by the Council.

Travel Plan

234. No Travel Plan can guarantee that all the residents of a development would be wholly sustainable in their transport choices. The principal purpose of the Travel Plan would be to educate residents about the sustainable transport choices that would be available to them and to encourage residents to take up those opportunities. The Travel Plan is likely, at least, to result in better transport choices by residents of the proposed development when compared to existing residents of Pen-y-ffordd.

Flooding, drainage and biodiversity issues

235. The relevant statutory advisors in relation to sewage, drainage and biodiversity have raised no objections subject to appropriate conditions. Issues relating to flooding are noted [152]; however the site lies largely within a Flood Zone A where flood risk is low. The 'Flood **Consequence Assessment and Drainage Management Strategy**'⁷⁹ provided by the appellant does not identify any significant dangers. The Drainage Strategy aims to prevent flash-flooding on the site caused by storm water run-off, by using a Sustainable Drainage System (SuDS) and a pond feature. Furthermore, I attach weight to the fact that Natural Resources Wales (NRW), subject to planning conditions relating to drainage, expressed no objection to the scheme.
236. The appellant undertook an ecological assessment of the proposals through a desktop assessment and Phase 1 habitat survey⁸⁰. No evidence of any protected species was found but two buildings and trees within the appeal site have potential for roosting bats and hedgerows and trees on site could provide nesting foraging habitat for bats and birds. No great crested newts or other amphibian species were present during the surveys, though there is a population nearby. Accordingly further consultation would be required with NRW in terms of licence and mitigation requirements.
237. Planning conditions have been put forward to implement the recommendations of **the ecological reports and no objection has been received from the Council's Ecologist**. Given this, I consider that the proposal would not have any unacceptable effects on biodiversity.

Other appeal decisions

238. Other than those appeal decisions already discussed above I have had regard to cited appeal decisions⁸¹. I note that a number of these relate to different development plans, at differing stages and in the remaining appeal decisions the cases relate to proposals with their own particular and contrasting sets of circumstances. I do not find that the considerations in relation to the particular circumstances of these cases are directly comparable to this appeal. As such these decisions do not alter the balancing of issues and conclusions that I have reached in the particular context of this appeal.

Conditions and Obligations

Conditions

239. In the event that Welsh Ministers decide to allow the appeal, I consider that the conditions set out in Annex A would be necessary and reasonable for the reasons set out above and would satisfy all the tests set out in Circular 16/14 , ***The Use of Conditions for Development Management (the Circular)***.

⁷⁹ ID 1i

⁸⁰ ID 1i

⁸¹ APP/T6905/A/12/2178621; APP/Z6815/A/11/2160990; APP/K6920/A/15/3137884; APP/K6920/A/15/3136679; APP/K6920/A/17/3173196; APP/A6835/A/14/2220730; APP/A6835/A/15/3139343; APP/A6835/A/15/3130252; APP/A6835/A/16/3156854; APP/A6835/A/16/3143624; APP/T6905/A/16/3148027; APP/A6835/A/16/3149082; APP/A6835/A/16/3148776; APP/A6835/A/17/3171383; and APP/G1630/A/14/2222147.

240. The Council suggested that the supporting documents should be included within the list of approved plans. However, the supporting documents do not relate to what is being physically built and as such including them would not meet the tests of precision. Similarly a condition regarding the phasing of roads and footpaths is not necessary as I have no evidence that the site would be developed in a piecemeal way that would be harmful to highway safety or residential amenity. A condition regarding the location and working in proximity to sewers is unnecessary given that this would be required under separate legislation.
241. I have no evidence that a condition requiring biosecurity measures is necessary and in this respect the responsibility for the safe development of the site rests with the developer. Under Section 14, Schedule 9 of the Wildlife and Countryside Act 1981 it is an offence to knowingly introduce a number of invasive species. Moreover, the Environmental Protection, (Duty of Care) Regulations 1991 and Environmental Protection Act 1990 Section 34, provides for a duty of care in respect of controlled waste⁸² and a breach of this is a criminal offence.
242. The Circular advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. I accept that the occupiers of existing properties neighbouring the appeal site are used to having open views. However, this does not appear to be an especially sensitive location, particularly given the generous size of the plots and the distance to neighbouring dwellings. As such it does not appear that the exercise of permitted development rights would cause significant harm to either the **character of this area or the 'amenity' experienced by neighbours**. Accordingly, a condition restricting permitted development rights is not reasonable or necessary.
243. ██████████ had requested a condition to consider a scheme for disabled pedestrian access to the village, which could include the removal of a gate on Chester Road. Nevertheless, conditions 13 and 14 require a scheme to protect the Right of Way during construction and the removal of stiles at the western end of the footpath which would improve accessibility. Further, I have amended condition 9 to ensure the delivery of the proposed bus shelters and footpath extension as set out on Drawing 10-01Rev A contained in **the appellant's Transport Assessment, dated August 2016**.

Obligations

244. The Unilateral Undertaking provides for seven things, namely: Affordable housing – shared equity units; Affordable housing – gifted units; Education contributions towards Pen-y-ffordd Primary School and Castell Alun High School; Ecology contributions; Highway contributions; Off-site affordable housing contribution; and Greenspace areas.
245. The secondary education contribution is not agreed by the appellant. In summary, the disagreement stems from there being sufficient capacity at surrounding local

⁸² Material containing the propagules of species listed on Schedule 9 must be safely disposed of at an appropriately licensed landfill site in accordance with the Environmental Protection Act 1990 (Duty of Care) Regulations 1991. To ensure safe disposal, contaminated soils and other materials must be treated in an appropriate fashion, e.g. in the case of Japanese knotweed buried to a depth of at least 5 metres. Section 34 of the Environmental Protection Act 1990 also places a duty of care on all waste producers to ensure that a written description of the waste and any specific harmful properties is provided to the site operator. The provisions concerning waste transfer notes are set out in the Environmental Protection (Duty of Care) Regulations 1991 as amended. Failure to comply with these provisions is an offence.

secondary schools to accommodate children arising from this proposal, despite the nearest secondary school, Castell Alun, being oversubscribed.

246. **The contribution is sought in line with the Council's** adopted guidance note⁸³. This guidance note clearly states that contributions will be required for the nearest suitable school. There is good reason for such an approach, including the key Welsh Government policy objectives in relation to sustainable development and I see no reason to set aside the adopted guidance in this case. In reaching this opinion I have had regard to the Ewloe appeal decision⁸⁴, where the Inspector reached a similar view in respect of the required education contributions.
247. Accordingly, I consider that the obligations are necessary, are related to the proposed development and related in scale and kind and therefore meet the appropriate tests set out in Section 122(2) of the CIL Regulations and Circular 13/97. Accordingly the Section 106 Unilateral Undertaking should be afforded significant weight in the determination of the appeal.

Overall Conclusions

248. A decision on the appeal is required to be made in accordance with the development plan unless material considerations indicate otherwise. The UDP is the development plan but is time expired and the weight to be given to its policies and its settlement boundaries has to be tempered by the lack of a 5 year housing land supply and the advice in TAN1 to increase housing land supply in such cases. The emerging LDP can be given little weight given its current position.
249. The Council cannot demonstrate a five year housing supply. The need to increase supply should be given considerable weight where the proposal would otherwise comply with development plan and national planning policies.
250. The proposal would be in a sustainable location, adjacent to the settlement boundary. The services and facilities of Pen-y-ffordd would be in close proximity as would public transport. The proposal would deliver clear social benefits through the provision of much needed market and affordable housing within Flintshire, which should be given considerable weight; and would provide some modest economic benefits in terms of employment and support for local shops and services. These benefits in combination carry substantial weight in favour of the scheme.
251. The proposal fails to accord with the adopted development plan as the proposal would constitute a housing development outside the defined settlement boundaries (UDP Policies STR1, GEN3 and HSG4). I have also found that the proposal would have a moderate impact on the local landscape character and visual amenity of the appeal site and would conflict with policies that seek to protect the landscape (LDP policies STR1 and L1).
252. In the particular circumstances of this case I find the contribution to the supply of housing, including affordable housing, in a sustainable location to be material considerations that outweigh the conflict with the development plan and localised landscape harm.

⁸³ ID 2ii Appendix 8, Note No. 23: Developer Contribution to Education, Mrs D Barber Proof of Evidence

⁸⁴ ID 1ii Appendix 6, Appeal ref: APP/A6835/A/14/2220730, Mr M Gilbert Proof of Evidence

253. I have taken into account all information submitted to the Inquiry. I have also taken into account the Section 106 Unilateral Undertaking and accord it significant weight. I have considered the conditions that should be applied to a grant of planning permission and have set out a list of recommended conditions at Annex A.

254. I have taken into account all other matters raised, but find none that would lead me to a different conclusion. I conclude that the appeal should be allowed and planning permission be granted subject to conditions.

Recommendation

255. For the reasons above I recommend that the appeal be allowed, and planning permission granted subject to the conditions set out in Annex A.

256. In reaching my recommendation, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this recommendation **is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.**

Joanne Burston

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Paul Tucker QC, instructed by Mr M Gilbert of the Planning Consultancy

He called

Mr M Gilbert BA(Hons), MRTPI The Planning Consultancy

Mr D Appleton MA, NDH, CMLI Director of Appletons

Mr I Grimshaw BA(Hons), MA(LM),
MSc, CMLI, MRTPI DipLD CMLI Director of the Environment Partnership

FOR THE LOCAL PLANNING AUTHORITY:

Mr John Hunter of Counsel, instructed by Mr M Georgiou, Senior Solicitor of Flintshire
County Council

He called

Mrs D Barber BA(Hons), Dip TP,
MRPTI Eden Planning

Mr N Folland BA(Hons), Dip LA,
CMLI Director of Barnes Walker Ltd

THIRD PARTIES

Dr J Bellis-Smith	Local resident	Mr R Lyons	Local resident
Cllr D Williams	Flintshire County	Mr D McGow	Local resident
Councillor		Ms V Lannin	Local resident
Cllr A Wight	Community Councillor	Ms S Hamilton	Local resident
Mr H White	Local resident, representing Ramblers Wales Association and a member of the Flintshire Access Forum	Ms K Crank	Local resident
		Mr D Jennings	Local resident
Cllr C Hinds	Community Councillor	Ms V Rothero	Local resident
Ms G Boyd	Local resident	Ms B Williams	Local resident
Ms C Huber	Local resident	Mr S Briscoe	Local resident

INQUIRY DOCUMENTS

1. Appellant's supporting documents:

- i. Grounds of appeal and a bundle of appeal submission documents (Blue Folders 1 + 2)
- ii. Planning Proof of Evidence from Mr M Gilbert
- iii. Landscape Proof of Evidence from Mr I Grimshaw
- iv. Impact on Trees Proof of Evidence from Mr D Appleton
- v. Flood Risk & Drainage Proof of Evidence from Mr R Nicholas

2. Council's supporting documents:

- i. Appeal questionnaire and bundle of supporting documents (File 1, 2 & 3)
- ii. Planning Proof of Evidence from Mrs D Barber (Blue File)
- iii. Landscape Proof of Evidence from Mr N Folland (Purple File)
- iv. Flood Risk & Drainage Proof of Evidence from Mr R Barry

3. Appeal Representations:

- i. Letter of objection from Mr C Sargeant AM (File 4)
- ii. Letter of objection from Mr Wight (File 4)
- iii. Letter of objection from Mr N Williams (File 4)

4. Documents submitted during the course of the Inquiry:

Appellant:

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| DOC 1 | Statement of Common Ground in respect of surface water drainage, dated 15 November 2016 |
| DOC 2 | List of plans |
| DOC 3 | Opening submissions on behalf of the appellant |
| DOC 5 | Tree removal assessment plan no. 2160_02 |
| DOC 7 | Appearances on behalf of the appellant |
| DOC 8 | Preferred Strategy Consultation Document Background Paper: Consideration of Candidate Sites against the Preferred Strategy / Invitation for Alternative Sites, dated November 2017 |
| DOC 13 | Housing Land Monitoring Statement April 2016 |
| DOC 22 | Letter from Redrow Homes, dated 8 December 2017 |
| DOC 25 | Revised Conditions |
| DOC 26 | Unilateral Undertaking, dated 21 December 2017 |
| DOC 27 | Closing Submissions on behalf of the appellant |

Council:

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| DOC 4 | Opening submission on behalf of the Council |
| DOC 6 | Appeal Notification letter, dated 4 October 2017 |
| DOC 9 | Statement addressing the tests on obligations arising under Regulation 122 of the Community Infrastructure Levy |
| DOC 10 | The Hedgerows Regulations 1997 |

- DOC 11 Extract from Planning Policy Wales, Page 53
- DOC 12 Extract from Flintshire County Council, Preferred Strategy November 2017, pages 49 – 67 & 99 – 108
- DOC 23 Housing Commitments and Completions in Pen-y-fordd
- DOC 24 Closing Submissions on behalf of the Council

Interested Parties:

- DOC 14 Pen-y-ffordd Community Development Plan, Village Questionnaire
- DOC 15 Pen-y-ffordd & Penymynydd & Dobshell Playspace and Outdoor Sport and Recreation Space
- DOC 16 Drawing showing Alternative Sites
- DOC 17 Housing Developments in Pen-y-ffordd since 1965 & Open Space Survey 2005
- DOC 18 Guidance for Local Authorities on Public Rights of Way, October 2016
- DOC 19 Appeal Ref APP/D0840/W/17/3171249
- DOC 20 Flintshire County Council Existing Active Travel Map & Flintshire County Council Integrated Network Map – Active Travel July 2017
- DOC 21 Alan Wight 3rd Party Statement

ANNEX A – RECOMMENDED CONDITIONS

- 1) The development shall begin not later than two years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans and documents:
 - Application form received 17th June 2016
 - Site location plan dwg no. 1164-02-02-002 received 17th June 2016.
 - Proposed amended planning layout plan dwg no. 1164-02-02-101 Rev G received 20th February 2017.
 - Proposed amended boundary treatment plan dwg no. 1164-02-02-108 RevD received 20th February 2017.
 - Proposed amended layout plan dwg no. 1164-02-02-106 RevD received 20th February 2017.
 - Proposed amended hard landscaping plan dwg no. 1164- 02-02-11 RevD received 20th February 2017.
 - Proposed amended pos plan dwg no.1164-02-02-116 RevD received 20th February 2017.
 - Proposed amended tree protection plan dwg no. 5124-03B received
 - Tree survey and root protection areas plan dwg no. 5124.01 received 17th June 2016.
 - Preliminary drainage layout plan CRP-ENG001 received 17th March 2017.
 - Proposed freestanding brickwall plan dwg no. F-SD0806 received 17th June 2016.
 - Proposed post and rail fencing plan dwg no F – SD0900 received 17th June 2016.
 - Proposed knee rail fencing, chesnut pales and wire fencing pla dwg no. F – SD0902 received 27th February 2017.
 - Proposed gate within close boarding fencing plan dwg no. F-SD0910 received 17th June 2016.
 - Proposed single garage type 1 plan received 17th June 2016.
 - Proposed double garage type II plan received 17th June 2016.
 - Proposed double garage type 12 plan received 17th June 2016.
 - The Stour –Avon 4 block elevations plan received 17th June 2016.
 - The Stour-Avon 4 block layout plan received 17th June 2016.
 - The Amberley brick elevations and layout plan received 17th June 2016.
 - The Amberley render elevations and layout plan received 17th June 2016.
 - The Cambridge brick elevations and layout plan RevB received 17th June 2017.
 - The Cambridge render elevations and layout plan Rev B received received 17th June 2016.
 - The Canterbury brick elevations Rev B received 17th June 2016
 - The Canterbury brick layout plan Rev B received 17th June 2016
 - The Canterbury render elevations plan Rev B received 17th June 2016.
 - The Ludlow brick elevations plan received 17th June 2016.
 - The Ludlow render elevations plan received 17th June 2016.
 - The Ludlow render layout plan received 17th June 2016.
 - The Malvern 4 Block render elevational plan Rev A received 4th October 2016.
 - The Malvern 4 Block render layout plan Rev A received 4th October 2016.

- The Malvern semi- detached brick elevational plan Rev A received 4th October 2016.
 - The Malvern semi- detached brick layout plan Rev A received 4th October 2016.
 - The Malvern semi- detached render elevational plan received 17th June 2016.
 - The Oxford brick elevation and layout plan RevB received 17th June 2016.
 - The Oxford render elevation and layout plan RevB received 17th June 2016.
 - The Shatesbury (CNR) brick elevation plan RevA received 17th June 2016.
 - The Shatesbury (CNR) brick layout plan RevA received 17th June 2016.
 - The Shrewsbury render elevation and layout plan RevA received 17th June 2016.
 - The Shrewsbury brick elevation and layout plan RevA received 17th June 2016.
 - The Stratford brick elevation and layout plan received 17th June 2016.
 - The Stratford render elevation and layout plan received 17th June 2016.
 - The Warwick render elevation and layout plan received 17th June 2016.
 - The Warwick brick elevation and layout plan received 17th June 2016.
 - The Worcester brick elevation and layout plan received 4th October 2016.
- 3) Prior to the commencement of the development hereby approved, samples and/or details of the proposed external finish materials of the dwellings shall be submitted to and approved in writing with the Local Planning Authority. Such submissions shall include samples of materials to be used in the formation of hard surfaces within the approved development. The development shall be carried out in accordance with the approved details.
- 4) Notwithstanding the details shown upon the approved plans, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of proposed landscaping, including any necessary phased implementation which shall include indications of all existing trees and hedgerows on land and details of any to be retained, together with measures for their continued protection in the course of development.
- 5) All planting, seeding or turfing comprised in the approved details of the proposed landscaping shall be carried out in the first planting and seeding seasons following the commencement of the development whichever is the sooner and any trees or plants which, within a period of 5 years of the time of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the local planning authority gives written consent to any variation.
- 6) Prior to the commencement of the development hereby approved, a Management Plan for the landscaping works hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full thereafter.
- 7) Prior to the commencement of the development hereby approved, details of the proposals for the reinforcement of hedgerows to be retained, together with their protection during construction and timetable for implementation

shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented in full thereafter.

- 8) Prior to the commencement of the development hereby approved, details of the existing and proposed site levels, including levels of land immediately adjacent to the site and the proposed finished floor levels of the dwellings shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be implemented in full thereafter.
- 9) No works associated with the proposed development of the site shall commence until details have been submitted and approved in writing by the Local Planning Authority for the provision and delivery of a footpath and bus shelters on Chester Road. The footpath and bus shelters shall subsequently be provided in complete accordance with the approved details prior to the occupation of the development.
- 10) The works associated with forming the means of site access shall be kerbed and completed to carriageway base course layer up to the end of the junction radii prior to the commencement of any other site building operations.
- 11) The proposed access shall have a visibility splay of 2.4 m x 160 m in both directions measured along the nearside edge of the adjoining carriageway within which there shall be no obstruction to visibility over 600mm in height.
- 12) Facilities shall be provided and retained within the site for the parking and turning of vehicles as detailed on the approved layout. The approved details shall be provided and retained in relation to each dwelling prior to their occupation.
- 13) No development shall take place until a detailed scheme for the protection of Public footpath No. 8 during the construction of the works is submitted to and agreed in writing by the local planning authority.
- 14) The stiles at the western end of Public Footpath No.8, where it enters and leaves the site, will be removed once the footpath is fully open and available across the site.
- 15) No development shall take place until a detailed scheme for the disposal of foul drainage has been submitted to and agreed in writing by the Local Planning Authority. The detailed scheme shall identify a suitable point of connection to the public sewer and any necessary improvement within the public sewerage network. No more than 19 dwellings shall be occupied until the agreed scheme has been completed.
- 16) No development shall take place until details of a scheme for the implementation; maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
 - i) a timetable for its implementation, and
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or

statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

- 17) Prior to the commencement of the development hereby approved, a scheme of double/secondary glazing for those properties fronting Chester Road shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full thereafter.
- 18) Prior to the commencement of the development hereby approved a scheme detailing the Reasonable Avoidance Measures, including measures to prevent or reduce the risk of incidental capture of Great Crested Newts both during and post construction, shall be submitted to and approved in writing by the Local Planning Authority. Any agreed approved measures shall be implemented in full thereafter.
- 19) Prior to the commencement of the development hereby approved, details of all external lighting within the development and upon the dwellings hereby approved shall be further submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be implemented in full thereafter prior to the occupation of any dwelling.
- 20) Prior to the commencement of the development hereby approved, a long term management plan (including surveillance and wardening proposals) for the wildlife corridors shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full thereafter.
- 21) No development shall take place on site (including stripping of soil, tree felling or pruning) until an Arboricultural Implication Assessment (AIA) has been submitted to and approved in writing by the Local Planning Authority. The AIA shall take into account the surface water drainage scheme and, where required by the AIA, provide updated Arboricultural Method Statements for development works (e.g. hard surfacing, excavations, trenches, changes in levels) proposed within the Root Protection Areas of retained trees. Once approved in writing by the Local Planning Authority the development shall only be carried in accordance with details.
- 22) Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority of the provision of open space throughout the site, including details of the Multi Use Games Area (which shall be provided prior to the occupation of the 94th dwelling). The open space shall subsequently be provided and retained in full accordance with the approved details.

INFORMATIVE

Prior to development taking place and throughout the course of development you must comply with your duties in section 71ZB (notification of initiation of development and display of notice: Wales) of the Town and Country Planning Act 1990

- *End* -

