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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 08/02/21

gan Richard Duggan, BSc (Hons)  
DipTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 23/2/21

## Appeal Decision

Site visit made on 08/02/21

by Richard Duggan, BSc (Hons) DipTP  
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 23<sup>rd</sup> February 2021

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**Appeal Ref: APP/A6835/A/20/3251359**

**Site address: Plas Ifan Hotel, Northop Hall, CH7 6HS**

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Sullivan, Bod Hotels Ltd. & CCA Land Ltd. against the decision of Flintshire County Council.
  - The application Ref 060292, dated 22 July 2019, was refused by notice dated 6 November 2020.
  - The development proposed is the re-development of Plas Ifan Hotel to 24 residential dwellings and associated infrastructure.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Flintshire County Council against Mr Sullivan, Bod Hotels Ltd. & CCA Land Ltd. This application is the subject of a separate Decision.

### Procedural Matter

3. The development proposes the construction of 24 dwellings with the Appellant stating that 30% of the units would be designated as affordable homes. The Council has stated that it would also expect financial contributions towards public open space. These elements would be secured by the signing of a Legal Agreement under Section 106 of the Town and Country Planning Act (as amended). However, the Appellant has not submitted a Section 106 Agreement, therefore, I have determined the appeal on the basis that there is no means of securing the provision of the affordable dwelling or the contributions towards public open space. This issue is discussed later in this decision.

### Main Issues

4. The main issues are: whether the proposed development is premature and would prejudice the strategy set out in the emerging local development plan, and the impact of the development on the character and appearance of the area.
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## Reasons

### *Prematurity*

5. The appeal site lies outside the settlement boundary of Northop Hall as defined in the Flintshire Unitary Development Plan 2001 – 2015, adopted 2011 (UDP). Outside settlement boundaries, UDP Policy GEN3, supported by strategic policy STR1, restricts new housing to, amongst other things, that necessary to support rural enterprises, infill or rural exceptions schemes. None of the exceptions in Policy GEN3 apply here and the proposed development, therefore, conflicts with the UDP.
6. On 26 March 2020 the Minister for Housing and Local Government announced<sup>1</sup> that with immediate effect, the five-year housing land supply policy in Planning Policy Wales (PPW) had been replaced by a policy statement making it explicit that the housing trajectory, as set out in adopted Local Development Plans (LDP) would be the basis for monitoring the delivery of development plan housing requirements as part of LDP Annual Monitoring Reports. The Minister also revoked Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies.
7. Nonetheless, the primary objective of national policy to ensure that the planning system contributes towards the delivery of sustainable development remains extant<sup>2</sup>. Indeed, PPW advocates a presumption in favour of sustainable development in accordance with the development plan, unless material considerations indicate otherwise. This is to ensure that social, economic, cultural and environmental issues are balanced and integrated<sup>3</sup> and is consistent with the thrust of Section 38(6) of the Planning and Compulsory Purchase Act (2004).
8. The changes to PPW and revocation of TAN1 in March 2020 have not reduced the importance of delivering new housing, but the way delivery is planned, measured and monitored. PPW states that the planning system must identify a supply of land to support the delivery of the housing requirement and focus on the delivery of the identified housing requirement<sup>4</sup>. Paragraph 4.2.10 of PPW expands on this, stating that the supply of land to meet the housing requirement proposed in a development plan must be deliverable, with the ability to deliver such requirements demonstrated through the use of a housing trajectory. Under delivery against a trajectory may require a specific early review of the development plan, and LPAs should also identify where interventions may be required to deliver the housing supply, including for specific sites<sup>5</sup>. The Welsh Government's (WG) 'Development Plans Manual' (DPM) provides additional guidance on the process of monitoring against the housing trajectory for LDPs adopted prior to its publication. Specifically, it advises that a trajectory should plot completions on a graph against a straight line of the LDP's Annual Average Requirement (AAR).
9. This is a clear indication that the WG is committed to ensuring that the planning system delivers the housing that Wales needs and that under delivery is a material consideration. I consider the matters to be considered in determining the weight to be attributed to under delivery are: the extent of the shortfall, the length of time there has been a shortfall and how soon the Council will be able to demonstrate through an adopted LDP, how the housing needs of the area are to be met.

<sup>1</sup> WG Letter to LPAs dated 26 March 2020 refers.

<sup>2</sup> PPW, Paragraph 1.2

<sup>3</sup> PPW, Paragraph 1.17 refers

<sup>4</sup> Paragraph 4.2.2

<sup>5</sup> Paragraph 4.2.12

10. Flintshire does not have a LDP, and its UDP was adopted in 2011 and its housing requirement, strategy and settlement boundaries are based on evidence of housing need which is long out of date. Notwithstanding the revocation of TAN 1 and changes to PPW, the only available objective and tested evidence relating to the delivery of housing in Flintshire is the 2014 Joint Housing Land Availability Study. That recorded a housing land supply of 3.7 years and for a number of years since the figure has been zero. It is obvious that the extent of the shortfall is significant in terms of the amount and length of time Flintshire has suffered from an inadequate housing land supply. The Council will not be able to demonstrate that it can provide a supply of land to meet Flintshire's housing requirement as required by PPW until the emerging LDP is adopted.
11. The Council has submitted an analysis of housing supply and deliverability based on its emerging LDP and argues that there is no housing shortfall in Flintshire. The emerging LDP has been placed on deposit and is scheduled to be examined between mid-March and the end of April this year. The weight to be attached to an emerging LDP does not necessarily increase as it progresses to adoption, and the emerging LDP is still at a relatively early stage and has to date not gained sufficient certainty through the examination process. The housing requirement, housing trajectory and LDP strategy are yet to be tested at examination, as a result, I cannot be certain that they are sound, and I afford the Council's arguments little weight. Even if the Council is right the ability to demonstrate an adequate supply of housing does not mean that planning permission should be withheld, it would just not be a material consideration that weighed in favour.
12. From the evidence before me it would appear that Flintshire could have an adopted LDP in place by early in 2022 which is not too far away. Therefore, I consider that the likelihood of a plan led solution to the shortfall in housing land supply in the next 8 to 12 months means that the weight to be given to under delivery is significant but does not in itself justify the grant of planning permission in this case.
13. With regard to prematurity, it is a long-established principle that withholding planning permission on grounds of prematurity will not usually be justified except where a proposal goes to the heart of a plan and is individually or cumulatively so significant that to grant planning permission would be to predetermine decisions about the scale, location or phasing of new development which ought to be properly determined through the LDP process.
14. The DPM states that; *'Whether planning permission should be refused on grounds of prematurity requires careful judgement and the LPA will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the LDP process'*. The appeal development proposes 24 units, and it appears to me that, on its own, the proposed development is too small to affect decisions about the scale or location of development in the emerging LDP.
15. The Council's objection to this development is also based on the alleged cumulative impact of the appeal proposal on top of the 94 dwellings that have already been completed, the 3 dwellings under construction and 7 dwellings having planning permission in Northop Hall. Northop Hall is defined as a tier 3 settlement in the emerging LDP which apportions 14% of housing growth to the 22 tier 3 settlements. The Council uses that apportionment and the overall housing requirement in the emerging LDP to arrive at an average figure of 44 dwellings per tier 3 settlement. The Council's evidence suggests that the 104 dwellings, either already built, under construction or with planning permission, within Northop Hall is over double the average of 44 for Tier 3 settlements.

16. However, as stated above the LDP's housing requirement and strategy have yet to be tested at examination. I cannot be certain that the overall requirement figure or strategy are sound or the apportionment for any of the tiers is based on robust evidence. Even if it is, I am not persuaded that to permit 24 units on the appeal site would go to the heart of the plan or prejudice the LDP process and would not raise issues of prematurity.
17. To conclude on the first main issue, the appeal site lies outside the settlement boundary of Northop Hall and the development conflicts with Policy GEN3 of the UDP. However, the policies for housing provision and restraint in the UDP are based on evidence long out of date and the UDP has time expired. The latest, tested evidence relating to housing delivery demonstrated an under delivery of housing in Flintshire. Therefore, I consider the extent of the shortfall both in amount and the number of years it has existed means that increasing housing provision is a significant factor which weighs in favour of the proposed development.
18. The prospect of a plan led solution to the shortfall is approximately 8 – 12 months away and, at this time, there is no certainty that the housing requirement and strategy set out in the emerging LDP is sound. I am of the opinion that, on its own, the proposed development would not prejudice the LDP process and when added to the units already constructed and permitted in Northop Hall, would not go to the heart of the emerging plan. I consider that taken together these matters outweigh the conflict with UDP Policy GEN3.

#### *Character and Appearance*

19. The site is made up of the former Plas Ifan Hotel which was closed over two years ago. The main hotel building and car parking area front onto the B5125 and the gardens associated with the hotel lie to the south, and beyond this is an open paddock. There is an area of open land to the north which accommodates the local cricket ground and associated buildings and to the north-east is Smithy Lane which delineates the western edge of Northop Hall. To the east of the site lies a large area of land beyond which is the south-eastern edge of Northop Hall and to the south-west lies mature woodland and the gardens of the neighbouring household. The settlement boundary currently follows the road along the B5125 to the south of a residential estate centred around The Ridgeway, Newton Close and Quarry Close and then travels north along Smithy Lane. The appeal site is then separated from the eastern side of Brookside by a significant area of open land.
20. Although the Appellant acknowledges that the site lies outside the settlement boundary, it is contended that the appeal site should be regarded as previously developed land, and that PPW looks to prevent speculative development in the 'open' countryside as it promotes plan led development and the reuse of previously developed land/development of greenfield land in sustainable locations. The Appellant has drawn my attention to planning permission being granted to extend the hotel to accommodate 73 bedrooms on land to the south of the main hotel<sup>6</sup>. The Appellant considers that the proposed development will involve the re-use of previously developed land, facilitated by the demolition of the Plas Ifan Hotel and associated outbuildings, including the not as yet built extension. The Appellant also contends that due to the existence of the planning permission to extend the hotel into the paddock to the south, this land should also be considered to fall within the curtilage of the hotel and the definition of previously developed land.

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<sup>6</sup> Council Reference: 042180 and renewed under ref. 055326

21. I acknowledge that the paddock area has been managed as part of the hotel's grounds maintenance regime (evidenced by the invoices of two separate gardeners used to manage the lawns of the hotel) and that it forms part of the wider curtilage of the hotel. However, having noted the case law cited by the Appellant<sup>7</sup> and the Council<sup>8</sup> I do not accept that the paddock area should automatically be allowed to be developed simply as it has been historically managed. I am also mindful of PPW<sup>9</sup> which clearly states that *"The curtilage is defined as the area of land attached to a building. All of the land within the curtilage of the site will also be defined as previously developed. However, this does not mean that the whole area of the curtilage should therefore be re-developed. For example, where the footprint of a building only occupies a proportion of a site of which the remainder is open land (such as a hospital) the whole site should not normally be developed to the boundary of the curtilage. The planning authority should make a judgement about site layout in this context, bearing in mind other planning considerations such as policies for the protection of open space, playing fields or development in the countryside"*.
22. Notwithstanding the Appellant's contentions, having regard to PPW<sup>10</sup> and from what I saw on my site visit, the formal gardens and lawned area of the hotel are clearly demarcated by fencing, and the paddock area beyond is characterised by more rough grassland and pasture. The paddock area has more affinity with the open countryside beyond than being part of the hotel complex, and its development should be avoided. I note that the principle of development extending into this land has previously been considered acceptable by the Council. However, the hotel extension would have been assessed by policies within the tourism section of the UDP, and specifically Policy T2 'Serviced Tourist Accommodation'. As such, there is a clear difference in the policy context in the assessment of tourist accommodation and new residential development within the open countryside.
23. The Appellant has submitted a Landscape and Visual Appraisal which sets out the findings of a site appraisal undertaken to determine key landscape and visual issues in relation to development on the site<sup>11</sup>, and provides a comparison with the previously permitted hotel extension. The appraisal acknowledges in conclusion that *"the development proposals would give rise to localised effects upon landscape features within the site and upon the local landscape character... Due to the enclosure by surrounding vegetation, buildings and landform, views towards the development proposals would be limited in nature, with adverse visual effects only occurring at a local scale...the scale of the proposed housing development would be more appropriate in size, scale and massing when compared to the existing or approved hotel buildings"*.
24. Although the frontage of the site is approximately 12 metres away from the settlement boundary close to a handful of other dwellings and the Village Cricket Ground, I consider the site to be detached from the core of the settlement. The proposed development would transform the undeveloped open land to the rear of the hotel from a rural to an urban landscape which would be visible in views from the B5125 and across the open land from Brookside. Such development on the southern slope of the appeal site would have a significant negative effect on the setting of Northop Hall in the rural landscape, especially when viewed from the south eastern

<sup>7</sup> Denis Lowe v. FSS and Tendring DC [2003] EWHC 537

<sup>8</sup> McAlpine v SSE [1994]; Methuen-Campbell v Walters [1979]; Dyer v Dorset CC [1988]; Sutcliffe, Rouse and Hughes v Calderdale BC [1983]; Collins v SSE [1989]

<sup>9</sup> PPW, Footnote 1 page 38

<sup>10</sup> PPW, page 38

<sup>11</sup> Landscape and Visual Appraisal prepared by Pegasus Group, dated April 2020

edge of the settlement. The urbanisation of the site would result in these rural views failing to be maintained and would have the effect of increasing the prominence of development on the site in localised views of the skyline over the open land and in views from the east.

25. Notwithstanding the findings of the Appellant's Landscape and Visual Appraisal, the proposed southerly projection of the development would appear jarringly at odds with the form and pattern of the existing settlement, especially given the significant gap between the site and Brookside to the east. Whilst the appeal site is partly covered in existing buildings, the remainder including the paddock area is much more closely aligned with its surrounding rural characteristics than the more built-up part of Northop Hall. Rather than representing a logical extension it would create a detached and elongated form of development that would significantly change the appearance of this part of Northop Hall, having an urbanising effect upon it.
26. I have taken account of the planning permission for the extension to the hotel, and this is an important material consideration in balancing the harm caused by the proposed development. Nevertheless, the appeal scheme would extend further southward into open countryside in comparison to the consented hotel extension and would amount to significant new development in the open countryside that would fail to respect the settlement pattern of Northop Hall. The existing boundary vegetation provides a level of natural screening that provides a degree of mitigation that will have some minor effect in reducing the visual impact of the development from local views, and the additional landscaping proposed would provide further mitigation. However, this would not overcome the harm that I have identified.
27. As a consequence of the above, I consider that the proposed development would not acceptably visually integrate into its surroundings. It would appear as a significant standalone extension to Northop Hall that, owing to its extent and suburban form, would significantly and adversely harm the character and appearance of the area contrary to Policies STR1, STR7, GEN1, GEN3 and HSG4 of the UDP insofar as they seek to protect the visual amenity and character of an area.

#### *Other Matters*

28. Although the UDP does not require the development to include affordable housing, the Appellant has voluntarily put forward a proposal that 30% of the houses on the site would be affordable dwellings, which would equate to the provision of 7 affordable units. This would clearly be a benefit to the community which would be attributed weight in favour of the scheme. However, the plans submitted with this appeal do not identify which houses would be the affordable units and no other detailed information has been provided with the appeal documentation in terms of plot numbers or the type and mix of affordable housing to be provided. In addition, the Appellant has not submitted a Planning Obligation under Section 106 of the Act as part of the appeal, and although I have considered whether the imposition of a condition could cover affordable housing, I do not have the required amount of information to enable me to draft a suitably worded condition. Therefore, I have determined the appeal on the basis that there is no means of securing the provision of the affordable dwellings.
29. The Council also states that it seeks a contribution of £1,100 per dwelling towards public open space which would be used to improve Junior play provision at Llys Ben play area, Northop Hall. The Appellant has not submitted a Planning Obligation, therefore, there is no means of securing the provision of a financial contributions towards open space. As such I have not afforded this any weight.

## Conclusion

30. The provision of much needed housing, and in particular affordable housing to meet the shortfall in Flintshire, would provide significant social benefits. This is even more pertinent set against the background that there is a significant shortfall in the housing supply within the County and the severe lack of housing delivery over the Development Plan period. As such this site would make a contribution of 24 dwellings to the housing supply to which I have attributed significant weight. In addition, a development of this scale will in the short term bring economic benefits through construction, with further social and economic benefits later on, to which I afford moderate weight in considering my decision.
31. I also acknowledge the close proximity of the site to the settlement and its associated services and facilities. Whilst I have taken these benefits into account in my decision and carefully considered the various arguments made by the Appellant in support of the appeal, I conclude that together, they do not clearly outweigh the considerable harm the scheme would cause to the character and appearance of the area and which is a compelling reason to dismiss the appeal.
32. Having regard to the above and considered all other matters raised, I conclude that the appeal should be dismissed.
33. In reaching my decision, 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 decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive, resilient, healthier and equal communities.

*Richard Duggan*

INSPECTOR