



Penderfyniad ar yr Apêl

Gwrandawriad/Ymchwiliad a gynhaliwyd ar 22/03/2022

Ymweliad â safle a wnaed ar 23/03/22

gan J Burston BSc MA MRTPI AIPROW

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 12.04.22

Appeal Decision

Hearing held on 22/03/2022

Site visit made on 23/03/2022

by J Burston BSc MA MRTPI AIPROW

an Inspector appointed by the Welsh Ministers

Date: 12:04.22

Appeal Ref: APP/A6835/A/19/3240671

Site address: Land East of Vounog Hill, Penyffordd, Chester CH4 0EX

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 outline planning permission.
- The appeal is made by the Tevir Group Limited against the decision of Flintshire County Council.
- The development proposed is an outline application for residential development.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters, save for access, reserved for subsequent approval. Consequently, other than the location of the proposed access, I have taken all other plans to be for illustrative purposes only. Furthermore, the application was accompanied by a raft of supporting technical documentation in relation to highways, ecology, and flood risk and drainage. This material is broadly accepted by technical consultees and demonstrates that a number of matters are capable of being satisfactorily dealt with, either by condition or planning obligation.
3. A unilateral undertaking has been submitted by the appellant, dated 18 March 2022. This secures the delivery of affordable housing and contributions towards Millstone Playground. I have taken the provisions of the undertaking into account in this decision.
4. Following the refusal of planning permission Local Planning Authorities and PEDW have received advice from Natural Resources Wales (NRW) in respect of the River Dee and Bala Lake Special Area of Conservation (SAC). This relates to an increased level of phosphates within the protected site which is adversely affecting the integrity of the habitat of the river.

5. In line with established case law and the 'precautionary principle', NRW are advising that applications for certain types of development within the River Dee catchment should be the subject of screening under the Habitat Regulations and, consequently, the undertaking of an Appropriate Assessment prior to any decision to grant planning permission. The Council has advised that this advice may be relevant to this appeal on the basis of the location and type of proposed development. As such I have considered this matter in the determination of this appeal.

Main Issues

6. The main issues in this appeal are:

- The effect of the proposal on the character and appearance of the area and its landscape;
- The impact on the integrity of the riverine Special Area of Conservation;
- Possible implications of the proposal relative to progress of the emerging Local Development Plan (eLDP) and, in particular, whether a grant of permission would undermine the plan-making process; and
- Whether there are any other material considerations, including the housing land supply situation and benefits of the proposal, which would indicate that the proposal should be determined otherwise than in accordance with the terms of the development plan.

Reasons

Character and appearance

7. The proposed development is for outline planning permission for the erection of up to 37 dwellings, with access from Vounog Hill. Thirty percent of these dwellings are being proposed as affordable units. The site is located on the north east edge of the village of Penyffordd on a broadly rectangle shaped plot of land, forming part of a wider agricultural field. The appeal site is bounded to the north by agricultural land, to the southeast by the Meadowslea Estate, to the south by 'Min y Ddol' and to the northwest by 'Vounog Hill'. The majority of the boundaries are formed by mature hedgerows, with views of the open countryside beyond.
8. Penyffordd itself is very much a linear settlement established along Hawarden Road, Vounog Hill and Wrexham Road. These roads and the more recent A550 enclose the village and, in particular, there is limited development to the east of Wrexham Road and Vounog Hill.
9. The appeal site is located outside of the settlement boundary for the village of Penyffordd as defined in the Flintshire Unitary Development Plan 2001 – 2015, adopted 2011 (UDP). Outside settlement boundaries, UDP Policy GEN3 restricts new housing to, amongst other things, that necessary to support rural enterprises, infill or rural exceptions schemes. It is common ground that none of the exceptions in Policy GEN3 apply here and the proposed development, therefore, conflicts with the UDP in that regard.
10. The site and the surrounding countryside has no formal landscape designation. Nevertheless, landscape does not have to be designated to be of value and may be of value locally for a variety of reasons. In this respect there is a good network of public rights of way in the locality and on my site visit the paths were well used by people enjoying informal recreation in the countryside surroundings. In particular Footpath no'7 runs across the northern end of the site. Given this, to my mind, this is an area of

landscape transition, which is sensitive to change. Therefore, the appeal site forms an important part of the rural setting for the village. Planning Policy Wales, edition 11 (PPW) establishes at paragraph 6.3.3 that *“All the landscapes of Wales are valued for their intrinsic contribution to a sense of place, and local authorities should protect and enhance their special characteristics, whilst paying due regard to the social, economic, environmental and cultural benefits they provide, and to their role in creating valued places.”*

Landscape Character

11. The appellant has submitted a ‘*Landscape and Visual Impact Assessment*’ (LVIA), dated November 2017 and an ‘*Appellant’s response to representations on landscape, views and related matters*’, submitted with the appellant’s final comments. I note that the Council did not undertake its own LVIA nor did it dispute the methodology adopted by the appellant.
12. The LVIA has comprehensively set out the landscape character and visual baseline for the appeal site and its environs. Whilst the baseline assessment of the LVIA has not been challenged by the Council or local residents, it was clear at the hearing that there were concerns about the values placed on the sensitivity of the landscape and receptors to change.
13. The main settlement of Penyffordd occurs to the west of Vounog Hill and the limited development along the east of this road has little influence on the site. Similarly, in my opinion, the new houses in the distance along Chester Road or the development at Meadowslea, features that were particularly highlighted by the appellant, do not have a strong presence or influence on the local character.
14. To the east of Vounog Hill there is an abrupt change at the settlement edge to farmland. This change of character is readily apparent in views from the north-eastern end of Chester Road. Moreover, from this view the Meadowslea development is screened by mature trees, whereas the local topography makes this field a prominent site. From Min Y Ddol there are 180 degree open views available across this pastureland and the road here does not bring an urban quality to the site but provides road users with rural views. As such the site and its immediate context include features and characteristics which are typical of the local landscape character and is generally representative of the wider landscape character area.
15. The Illustrative Masterplan plan demonstrates the scale of the proposal and that up to 37 dwellings could be accommodated within a landscaped site. The plans give an idea of the balance between the amount of land that would be occupied by built development against the soft landscaping. However, it is not possible to draw firm conclusions about the layout, design and landscaping of the proposed development given the illustrative nature of this plan. Therefore, my assessment proceeds on this basis.
16. The proposed development would bring a substantial change to the use of the land and to the type and level of activities there. It would result in buildings, highways and new engineered access arrangements, lighting and other infrastructure, and an informal area of open space. In essence, the land would change from an agricultural field that forms part of the wider countryside to a housing development of up to 37 homes. Whilst I note many local resident’s opposition to this change, the issue here is whether or not this change would be undesirable.
17. I accept the appellant’s comment that the development alone would result in little harm to the balance of the key landscape characteristics across the area. However, to my mind it is more helpful to consider the changes on the site and its local context in order to understand the likely effects on the landscape and the settlement character. In this

regard it has been argued that the appeal site does not display any unusual attributes other than those associated with an arable field, and that it is typical of agricultural land surrounding the village. However, the topography of the appeal site coupled with its local visibility contributes significantly to the rural character of this part of the village and to its wider setting.

18. The site context has shown how the countryside area west of Vounog Hill is important to the identity and setting of the village. The proposed residential development, by reason of its size, would encroach in to this area in a harmful way. Along Vounog Hill, the field boundary to the site is formed of a mature maintained hedgerow of largely native species. Adjacent to the highway is a green verge, on which the local community have planted trees. The hedgerow boundary is a feature typical of the surrounding countryside and contributes positively to the rural character of the road.
19. The proposal would result in a new access point from Vounog Hill into the proposed residential area. The access road would be 4.8m wide with a 6m kerb entry radii and would require the removal of approximately 10m of hedgerow. A 1.8m wide pedestrian refuge would also constructed some 15m south of the Min y Ddol junction. All these elements, not only alter the physical form, but the associated activity would contribute to a detrimental loss of rural character.
20. The Illustrative Masterplan indicates that the new dwellings would be set back behind an enhanced landscape frontage. However, even if the detailed scheme adopted this layout, the character of the frontage would be more akin to a residential street. Overall the proposal would have a strong urbanising influence. In this respect I disagree with the LVIA (page 46) which states that *"with mitigation including native tree planting and hedgerow formation to the north of the site the positive visual and sensory characteristics of the area can be improved and managed to deliver long-term, albeit small in scale landscape improvements to mitigate the urbanisation of part of the site, therefore effect reduced to negligible."*
21. The appellant also refers to the potential for the proposal to be considered as 'infill' which would set the Meadowslea development more positively into the landscape scene. Nevertheless, I favour the Council's submission that Meadowslea is a very much self-contained development, built on the site of a former hospital. Whilst it is separated from the built form of the village, the 'infilling' of the field between it and Vounog Hill would accentuate its presence, which as I observed is slowly becoming softened by the maturing landscaping.
22. The development would provide opportunities for the enhancement of green infrastructure and surface water drainage arrangements. The beneficial effect of this would increase over time as planting matures. There are also opportunities for pedestrian connections / improvements from the site out onto Vounog Hill and would link to the existing public right of way.
23. Overall, the effect on landscape character would be localised. The loss of the agricultural field to housing development and the associated infrastructure would have a harmful effect on the settlement pattern, appearing false and at odds with the landscape character of the immediate locality. Thus, the scheme would create a more prominent artificial edge to the settlement in this location. The preservation of mature trees and any enhancement of perimeter planting and new amenity planting would do little to limit this harm.

Appearance / visual impact

24. The LVIA defines a 3km zone of theoretical visibility (ZTV) in order to identify the land from which potential views towards any part of the proposed development would be

possible. Nonetheless, the combination of intervening vegetation, built form and topographical changes mean that the area from which the proposed development would be visible is effectively restricted to an arc on a broadly northeast / northwest alignment.

25. I walked along all relevant stretches of the public rights of way network and observed the site from viewpoints as well as from other locations. I note that views throughout the year have to be considered, allowing for the differences in visibility in the months when trees and vegetation are not in full leaf. I also acknowledge that the magnitude and type of visual impact would be expected to lessen over time as new planting has a more beneficial effect as set out in the LVIA.
26. Nonetheless, development within the field would be visible from Vounog Hill and Public Footpath no'7 at all times, which would project built form and suburban type activity beyond what is currently perceived to be the confines of the settlement. Although siting is a reserved matter it would be likely that the proposed dwellings would extend across this field to meet the Meadowslea estate, as is indicated in the Illustrative Plan. To describe it as 'infill' fails to convey the fundamental visual change that would result. An expansion of the settlement of this scale and prominence, in this location, would significantly detract from the sense of separation between Vounog Hill and the countryside beyond.
27. The visual impact would be experienced mainly by those with a high visual susceptibility to change, namely residents living in homes adjacent to the site, people using public rights of way where attention is focused on the countryside and also the village community where views make an important contribution to the landscape setting enjoyed by residents. The views are not of high scenic value but the network of footpaths are important for wellbeing and exercise. Indeed, the routes close to the site, within easy distance of where people live, are likely to be the most frequented.
28. Moreover, from the brow of Vounog Hill / junction with Min y Ddol there is a clear and direct view across to the site, which blends very easily into the farmed landscape beyond. Farm buildings, dwellings and glimpses of cars were more peripheral and incidental. The proposed new housing would act as a visual stop to the view across this landscape. Whilst maturing vegetation in time would help to soften the view of the housing. In my judgement the effect would be greater than that identified in the LVIA.
29. Whilst the proposed new housing would not be visible from all points on local footpaths/pavements, the viewpoints where the impact would be most adverse are close to car parking spots or where people are likely to stop and pause to enjoy the view. The effect would be more adverse than existing views of the Meadowslea estate also close to the settlement edge.
30. The site is an integral part of the rural outlook. However, people driving their own vehicles on the adjacent highway would be expected to focus on the transport route and hence would be in the category of low visual susceptibility to change. Whereas those using public transport would be more aware and the loss of the site to housing and would be in the medium category. Accordingly, whilst the ZTV is limited to the more immediate surroundings, the visual impact would affect receptors in the high and medium sensitivity categories to a large degree.
31. To sum up my findings on visual impact, the rural appearance of the site, which the Council emphasise is a particularly prominent landscape, would unquestionably be altered by the introduction of extensive built form. The resulting effect would irrevocably alter the setting of this part of Penyffordd. Moreover, the experience of users of the footpath, which crosses the appeal site would be dramatically altered as would the appreciation of the character and appearance of this part of the settlement. Therefore the proposal would

erode the distinctive rural characteristics of the site which would cause a significant and harmful visual change.

32. I have considered the various sites drawn to my attention within or adjacent to the village settlement boundaries which have been granted planning permission. However, I am satisfied that the circumstances of this appeal are sufficiently different from those other sites. Furthermore, the decision to approve planning permission for residential development elsewhere does not justify allowing the appeal before me given the harm that I have identified.
33. The appellant has referred to two decisions (APP/H1033/W/17/3177730; APP/P4415/W/16/3149298) allowed on appeal in England. Given the different policy considerations between England and Wales and a lack of detailed information surrounding these cases I cannot give them significant weight as part of the determination of this appeal. I have, in any event, considered the appeal on its own individual planning merits.

Conclusions

34. The proposed residential development for up to 37 dwellings, for a site located in the countryside outside the settlement envelope which would not respect local context or conserve the countryside character and local distinctiveness, conflicts with the Flintshire Unitary Development Plan Policies STR1, STR7, GEN1, GEN3 and HSG4. These Policies require, amongst other matters, that development proposals: are generally located within existing settlement boundaries; protect and enhance the character and appearance of the open countryside; and should harmonise with the site and its surroundings.

Special Area of Conservation

35. The River Dee and Bala Lake is designated as a Special Area of Conservation (SAC) and is protected under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). The qualifying features for which the river has been designated as being of international importance are: Water courses of plain to montane levels with the *Ranunculus fluitans* and *Callitriche Batrachion* vegetation; Atlantic salmon *Salmo salar*; Floating water-plantain *Luronium natans*; Sea lamprey *Petromyzon marinus*; Brook lamprey *Lampetra planeri*; River lamprey *Lampetra fluviatilis*; Bullhead *Cottus gobio*; and Otter *Lutra lutra*.
36. Natural Resources Wales (NRW) has set new phosphorus targets for the River Dee and Bala Lake SAC following the revised Common Standards Monitoring guidance updated in 2016 by the Joint Nature Conservation Committee (JNCC). The river needs to meet these standards to be considered to be in a favourable condition, and to make a full contribution to achieving 'favourable conservation status.' However, a compliance assessment, conducted by NRW, against these standards found a 38% failure rate for the River Dee.
37. Accordingly, new development within any part of the catchment which will increase the amount or concentration of wastewater effluent or organic materials discharged directly or indirectly into the catchment's waterbodies has the potential to increase phosphate levels within those waterbodies.
38. NRW therefore recommend that any proposed new development that might otherwise result in increasing the amount of phosphate within the SAC either by direct or indirect discharges must be able to demonstrate phosphate neutrality or betterment.

39. Nutrient Neutrality is where mitigation measures or avoidance included within the planning application can counterbalance any phosphate increase attributed to the proposed development or would lead to betterment. Neutrality will need to be demonstrated with certainty. The development will need to show that it avoids harm to the protected site or provide the level of mitigation required to ensure that there are no adverse effects.
40. From the appeal site, foul drainage would pass through the lateral sewer to the Hope Waste Water Treatment Works (WWTW), which after treatment discharges into the River Dee catchment. All parties agree that the proposed development would increase sewage discharge to a WWTW. I acknowledge that Welsh Water have confirmed that there is sufficient capacity at Hope WWTW to deal with the additional waste water and that a phosphate consent is in place. Nonetheless, the proposal would increase phosphate levels in the River Dee SAC, which is failing to meet its targets. I do not have sufficient evidence before me, such as: the appropriate assessment carried out for the extant WWTW environmental permit; information about phosphate levels in the River Dee in the vicinity of the WWTW discharge point; or what the phosphate levels would be as a result of this plan, to be certain there will be no adverse effect on the SAC integrity.
41. Furthermore, I was advised by the Council at the hearing that NRW are reviewing phosphate consents with a view to applying revised (more stringent) phosphorus targets. Accordingly, decision makers are therefore unable to assume that the remaining permitted capacity at the treatment works can be utilised without a risk of adverse effects to the integrity of the River Dee and Bala Lake SAC.
42. Given the lack of evidence before me and the uncertainty relating to phosphate consents, I am therefore unable to conclude that phosphate levels attributable to the appeal scheme would not have a likely significant effect on the River Dee and Bala Lake SAC. This is a matter to which I return in my eventual conclusions.

Emerging Local Development Plan

43. At the hearing the Council confirmed the position of the Flintshire emerging Local Development Plan (eLDP). In summary, the Examining Inspectors have stated that they are content that the Council can proceed to consult on the Matter Arising Changes (MACs). However, the consultation would be delayed due to the forthcoming Local Government Elections. The Council stated that they hope to adopt the eLDP later this year.
44. The issue of prematurity was raised by the Council in its Reasons for Refusal. Its concerns lie in the advanced state of the eLDP; the strategy set out in the eLDP; and the amount of cumulative housing growth already committed to this settlement. Local residents also support the Council's concerns and additionally raise the issue of the community wellbeing.
45. An accepted principle of planning policy is 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 Local Development Plan (LDP) process.
46. In this respect the Development Plans Manual, edition 3 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*".

47. The Council accepts that, on its own, the proposed development, of up to 37 dwellings is too small to affect decisions about the scale or location of development in the eLDP. However, given the amount of housing growth in Penyffordd, of approximately 165 dwellings constructed within the eLDP period thus far plus planning permissions for a further 261 dwellings, the cumulative impact of adding to that with this application would be significant and undermine the housing strategy of the eLDP. In this respect I acknowledge that the largest of these sites at Chester Road (186 units) is an allocation in the eLDP.
48. The eLDP Housing Strategy is centred on a hierarchy of sustainable settlements based on a comprehensive set of settlement audits. The top of the hierarchy – Tier 1 - include the Main Service Centres, followed by Local Service Centres, Sustainable Settlements, Defined Villages and Undefined villages which are Tier 5.
49. Penyffordd and Penymynydd together are defined as a tier 3 Sustainable Settlement in the eLDP. The eLDP apportions 15% of housing growth to tier 3 settlements. As I heard at the hearing the housing requirement for each tier 3 settlement would equate to approximately 47 dwellings. As such Penyffordd and Penymynydd have already accommodated approximately 8 times the eLDP recommended allocation. Although I note that the eLDP does not seek to apportion development spatially by the use of numerical or mechanistic methods relating to growth bands, rates, targets or quotas. Rather, the Plan seeks to distribute development in a sustainable manner having regard to the settlement hierarchy and by identifying the most sustainable settlements and sites.
50. The eLDP's housing requirement and strategy have been tested at examination. Therefore, there is some certainty that the overall housing requirement figures and strategy are sound and are based on robust evidence. The MACs do not seek to make changes to the housing strategy and whilst concern has been raised by the examining Inspectors relating to a number of strategic allocations and phosphates, there is sufficient flexibility in the housing figures to accommodate the withdrawal of these sites. The Council has also provided evidence to demonstrate that there has been satisfactory levels of housing completions, including windfalls, and commitments in accordance with the eLDP housing trajectory since 2015.
51. The appellant asserts that the proposal would not undermine the eLDP strategy, given that it is not an excessive increase in housing numbers and could be seen as a windfall site. Furthermore, Penyffordd is identified as a 'sustainable settlement' for growth and therefore the proposal would be in accordance with this. Nonetheless, I am not persuaded by these arguments.
52. The eLDP has been prepared to take into account sustainable development and the Well Being of Future Generations (Wales) Act 2015 (WFGA). Thus, its policies seek to ensure that development takes place in locations that are appropriate for its scale and nature, and that development is built to ensure positive economic, social, environmental and cultural outcomes. Indeed, the WFGA is also at the core of PPW, which states at paragraph 2.3 that *"The planning system should create sustainable places which are attractive, sociable, accessible, active, secure, welcoming, healthy and friendly. Development proposals should create the conditions to bring people together, making them want to live, work and play in areas with a sense of place and well-being, creating prosperity for all."*
53. To my mind the 15% growth allocated to Penyffordd and Penymynydd would allow for a reasonable level of growth which could be sustainably accommodated by the settlement's infrastructure and population. Nonetheless, this level of growth has already been exceeded and strain is beginning to show within the community, its facilities and services.

54. At the hearing I heard from a number of local residents who expressed concerns relating to the lack of capacity of local schools; ability to access medical services such as the pharmacy and GP appointments; and lack of community facilities to serve the community needs in terms of open space, allotments, community hall access and space within local youth groups.
55. Whilst the impact of the proposed development on community services is not cited as a reason for refusal, the Council's Committee Report, dated 2 October 2019, comments that *"It is the view of the LPA that the level of cumulative growth imposed on this settlement is a material factor, in terms of the questionable sustainability of adding to it..."*
56. In particular, I heard evidence relating to the oversubscribed nearest secondary school 'Castell Alun High School'. I noted the points made by local residents that children in the same family are having to attend different high schools and that friendship groups are being divided and I accept the anxiety and well-being issues this must cause.
57. The Council had indicated that a contribution would be required for this school amounting to £110,814. I acknowledge that the appellant would pay such a contribution, however, the Council confirmed that it cannot ask for further pooled contributions as the pooling limit has been reached. As such it would be unlawful to afford weight to a 'sixth' pooled contribution.
58. Given the concerns outlined by the local community and supported by the Education Authority I find this obligation would be necessary and the lack of ability to require it adds weight to the argument that the current rate of village expansion is unsustainable both in terms of the eLDP housing strategy and the WFGA objectives. Moreover, the allocated eLDP site in Penyffordd has already made a contribution to the school via a S106 agreement so that this allocated growth would be sustainable in this respect.
59. Turning to outdoor space. The community has regularly used the appeal site for outdoor recreation and affectionately calls it 'the sledging field'. I had a number of letters and drawing from local children of them using the field and their concerns relating to the loss of it. Nonetheless, the appeal site is privately owned and the access to it has been with the landowners consent. The only public access across the field is the PRow which will be protected and potentially enhanced during the construction operations. In any event, the S106 agreement facilitates a contribution towards Millstone Play Area which will increase play provision in the area.

Conclusions

60. The prospect of the eLDP adoption is approximately 6 – 9 months away and, at this time, there is every certainty that the housing requirement and strategy set out in the eLDP is sound. I am of the opinion that, on its own, the proposed development would not go to the heart of the eLDP or prejudice the LDP process. However, the cumulative volume of this proposal in combination with other developments locally and its lack of contributions towards education facilities would undermine the sustainable housing strategy contained in the emerging plan and the well-being objectives contained in PPW and the WFGA.

Scheme benefits

61. On 26 March 2020 the Minister for Housing and Local Government announced that with immediate effect, the five-year housing land supply policy in PPW had been replaced by a policy statement making it explicit that the housing trajectory, as set out in adopted LDPs 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.

62. 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.
63. This is a clear indication that the Welsh Government is committed to ensuring that the planning system delivers the housing that Wales' needs and that under delivery is a material consideration. To my mind, 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.
64. Flintshire does not have a LDP, and its UDP was adopted in 2011. Therefore 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 (JHLAS). The JHLAS recorded a housing land supply of 3.7 years and until the withdrawal of TAN1 the figure has been zero. Moreover, 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 eLDP is adopted.
65. The Council has provided evidence of its housing supply and deliverability based on its eLDP and argues that there is no housing shortfall in Flintshire. The eLDP has been examined and, as set out above, is due to be adopted later this year. The housing requirement, housing trajectory and LDP strategy have also been tested at examination. In any event even if the Council can demonstrate an adequate supply of housing that does not mean that planning permission should be withheld, it would just not be a material consideration that weighed in favour.
66. From the evidence before me it would appear that Flintshire could have an adopted LDP in place by late 2022 which is not too far away. However, the housing shortfall has been evident for a number of years. Therefore, I consider that the weight to be given to housing provision is a significant factor which weighs in favour of the proposed development.
67. The proposed development would secure the delivery of affordable housing to comply with UDP Policy HSG10 via a unilateral undertaking. However, the provision of such housing would be far more reaching in its effect because of the high level of need and as it would enable provision for those who would not be able to obtain general market housing. It would also contribute to a housing mix on the site. This also attracts significant weight as a consideration in favour of the proposal.
68. The appellant's submission sets out that the proposal is highly deliverable and would be completed within the LDP period. I also find that the construction of the proposal could potentially lead to temporary jobs and the occupancy of the dwellings could potentially lead to spending in shops and other local services. The proposed development would also be within reasonable walking distance to the services and facilities within the village and there would be highway improvements for pedestrians. Within the settlement sustainable modes of transport are available to access services further afield if necessary. Therefore, the development would contribute towards a stronger greener economy. I give these benefits moderate weight.

69. I have given careful regard to the appeal decisions brought to my attention by the appellant which relate to similar developments allowed in the Penyffordd area, namely: APP/A6835/A/16/3149082; APP/A6835/A/17/3182034; and APP/A6835/A/17/3174699.
70. I do not have full details of the circumstances that lead to these proposals being accepted. However, I note that these were allowed prior to the withdrawal of TAN1 and the eLDP was at a very early stage in its preparation, thus their circumstances are not directly comparable to this appeal before me. I have, in any event, reached my own conclusions on the appeal proposal on the basis of the evidence before me.

Planning Balance and Conclusion

71. I am required to determine this proposal in accordance with the development plan, unless material considerations indicate otherwise. The starting point is therefore the development plan. I have found the development would fail to comply with the development plan policies relating to the character and appearance of the area.
72. Where there is a likely significant effect on a failing riverine SAC, an Inspector determining a planning appeal is required to carry out an Appropriate Assessment. In this instance, I have not sought the further views of NRW to inform a screening under the Conservation and Habitats and Species Regulations 2017 (as amended) as it is evident that there is insufficient information before me with which to do so in respect of the levels of phosphate produced from the appeal scheme and its effects on the River Dee and Bala Lake SAC.
73. This leads me to conclude that the proposal would conflict with the objectives of UDP Policy STR7 to protect and enhance the water environment and Policy WB2 to avoid significant adverse effect on any SACs. However, even were the proposal to be acceptable with regard to its effect on the SAC, this would not outweigh my conclusions on other grounds.
74. I have found that the cumulative volume of this proposal in combination with other developments locally and its lack of contributions towards education facilities would undermine the sustainable housing strategy contained in the emerging plan and the well-being objectives contained in PPW and the WFGA. I give this matter considerable weight.
75. The development would make a contribution to housing supply and meeting the need for affordable housing. This attracts significant weight. Furthermore, the sustainable aspect of the proposal to strengthen the local economy and the enhancement of sustainable transport modes weighs moderately in favour of the appeal.
76. 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 one or more of the Welsh Ministers' well-being objectives of: Continue our long-term programme of education reform, and ensure educational inequalities narrow and standards rise; Protect, re-build and develop our services for vulnerable people; Make our cities, towns and villages even better places in which to live and work; and Embed our response to the climate and nature emergency in everything we do.
77. Material considerations, including PPW, do not indicate that a decision should be taken other than in accordance with the development plan. Accordingly, from the evidence before me and taking into account all other matters raised, the proposal is contrary to the development plan taken as a whole, and as such I dismiss the appeal.

J Burston INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Simon Handy, Agent, Strutt and Parker

Mr Frank Brereton, Strutt and Parker

Mr Michael Rudd, Legal Advisor

Mr Ian Grimshaw, Landscape Advisor, TEP

Mr Steven Malone, Tevir Group

Mr Ciaran Doherty, Tevir Group

Mr Keith Jones, Tevir Group

FOR THE COUNCIL:

Mr James Beattie, Senior Planning Officer, Flintshire County Council

Mr Terry Stevens, Planning Policy Officer, Flintshire County Council

INTERESTED PERSONS:

Ms Carol Lewis Roylance, Local Resident

Cllr Cindy Hinds, Flintshire County Council and Penyffordd Community Council

Cllr Pat Ransome, Penyffordd Community Council

Cllr Alasdair Ibbotson, Flintshire County Council and Penyffordd Community Council

Cllr David Williams, Penyffordd Community Council