



**PLANNING, PUBLIC
PROTECTION & COUNTRYSIDE SERVICES**

Town and Country Planning Act 1990

**Statement of Denbighshire County Council
as Local Planning Authority**

APPEAL BY: Mr Will Ward

SITE: Former Rhyl Rugby Club Waen Road

Rhuddlan Rhyl

LOCAL AUTHORITY REF: 47/2020/0593

PEDW REF: CAS-01507-C2N7W0

**Town and Country Planning Act 1990
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Location: Former Rhyl Rugby Club Waen Road Rhuddlan Rhyl

Appellant: Mr Will Ward

Agent:

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1. INTRODUCTION

- 1.1 On 24 September 2021, the Minister for Climate Change called in planning application ref no. 47/2020/0593/PF for determination by the Welsh Ministers.
- 1.2 At the time of the call-in decision being made, the Council had not made a formal determination on the application, however the application had been presented to Planning Committee as set out below.
- 1.3 In accordance with the Council's adopted Scheme of Delegation, the planning application required a Committee level decision, and the planning application was originally referred to the April 2021 Planning Committee, held on the 14 April 2021. The Officer recommendation was to grant planning permission, subject to the imposition of conditions and a legal agreement being entered into to secure contributions towards sustainable modes of transport. A copy of the published April 2021 Committee Report is attached at **DCC APPENDIX 1**.
- 1.4 It should be noted that when the respective officer reports were merged into the April 2021 Committee agenda, the conclusions section of the report

(section 5) had not been copied over. For completeness, a copy of the original Word processed version of the Committee Report is attached as **DCC APPENDIX 2**, which includes 'Section 5: Summary and Conclusions', which explains the rationale for the Officer recommendation to grant planning permission.

- 1.5 On the 13 April 2021 (the day before the Planning Committee meeting) Welsh Ministers issued an Article 18 Direction following a request to call in the application. The Article 18 Direction was included on the April 2021 Planning Committee 'Late Supplementary Information' Report which is published and circulated in advance of the Committee meeting to bring it to the attention of Committee Members.
- 1.6 In light of the Article 18 Direction, at the April 2021 Planning Committee, Members resolved to defer the application to a future meeting once Welsh Ministers had made a decision on the call-in request. A copy of the minutes of the April 2021 Committee meeting are attached as **DCC APPENDIX 3** (Agenda item 9).
- 1.7 Following the decision of Ministers to call-in the application, the application was formally referred to Welsh Ministers in October 2021.
- 1.8 As the application has not previously been debated at Committee, a report was taken to the December 2021 Planning Committee to seek a resolution from the Planning Committee on the content of the Council's Statement of Case. A copy of the December 2021 Committee Report is attached as **DCC APPENDIX 4**.
- 1.9 The resolution of the December 2021 Planning Committee was to:
"Support REFUSAL of planning permission and that the Council's Statement of Case will reflect the decision on refusal to assist Welsh Government."
- 1.10 A copy of the December 2021 Committee Minutes are attached as **DCC APPENDIX 5** (Agenda item 8). The Reasons for supporting refusal of planning permission were on the following grounds:
"the application was too large in open countryside not adhering to planning policy and proposed to go against officer recommendation for the following reasons. The application went against planning policy PSE12, developing on land of agricultural Grade 3A, poor access by non-car modes it does not offer good active travel connections and poor highway access"
- 1.11 In accordance with the resolution of the 2021 December Planning Committee, this Statement of Case expands upon the reasons for supporting the refusal of planning permission.

2. SITE AND SURROUNDINGS

- 2.1 The site is a former rugby and football ground situated along Waen Road, approximately 2km to the south east of Rhuddlan development boundary. The site lies outside of any development boundary established by the adopted Local Development Plan (LDP) and is in open countryside.
- 2.2 There is an existing clubhouse at the site and the former playing fields are enclosed by trees and hedgerows.
- 2.3 The site is served by an existing vehicular access off Waen Road and a driveway leads from the access to the clubhouse and grounds.
- 2.4 A public right of way (footpath) crosses through the south-east section of the site.

- 2.5 The Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB) lies approximately 1.7km to the east of the site. The Offas Dyke Path National Trail runs through the AONB in a north-south alignment, and lies approximately 2km to the east of the site at its closest point.

3. RELEVANT PLANNING HISTORY

- 3.1 There is no planning history of relevance to the proposal subject of the called-in application.

4. PLANNING POLICIES AND GUIDANCE

- 4.1 In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that planning applications '*must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise*'. It advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned.
- 4.2 The DMM further states that material considerations can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Section 9.4).
- 4.3 The DMM has to be considered in conjunction with Planning Policy Wales, Edition 11 (February 2021) (PPW), Future Wales: The National Plan 2040 (Future Wales), Technical Advice Notes (TAN) and other relevant legislation.
- 4.4 The statutory development plan comprises Future Wales and the adopted Denbighshire Local Development Plan (LDP) which was formally adopted on 4th June 2013. The LDP provides the basis for decisions in accordance with the primary objective of PPW which is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales (para 1.2).
- 4.5 The policies relevant to this called-in application within Future Wales are considered to be as follows:
- Policy 12** – Regional Connectivity
 - Policy 21** – Regional Growth Area – North Wales Coastal Settlements
- 4.6 The policies relevant to this called in-application within the LDP (and attached to this Statement of Case) are:
- Policy BSC12** – Community facilities
 - Policy PSE4** – Re-use and adaptation of rural buildings in open countryside
 - Policy PSE5** – Rural economy
 - Policy PSE11** – Major new tourism developments
 - Policy PSE12** – Chalet, static and touring caravan and camping sites
 - Policy PSE14** – Outdoor activity tourism
 - Policy VOE1** – Key areas of importance
 - Policy VOE2** – Area of Outstanding Natural Beauty and Area of Outstanding Beauty
 - Policy VOE5** – Conservation of natural resources
 - Policy ASA3** – Parking standards

- 4.7 Welsh Government Technical Advice Notes and Circulars relevant to this called-in application are as follows:

TAN 5 Nature Conservation and Planning (2009)
TAN 6 Planning for Sustainable Rural Communities (2010)
TAN 12 Design (2016)
TAN 13 Tourism (1997)
TAN 16 Sport, Recreation and Open Space (2009)
TAN 20 Planning and the Welsh Language (2017)
Circular 008/2018

5. CASE FOR THE LOCAL PLANNING AUTHORITY

- 5.1 In accordance with the resolution of the December 2021 Planning Committee, the case for the Council is set out below:

Principle / scale of development

- 5.2 The site is located within the open countryside as identified in the adopted Denbighshire LDP where new development is strictly controlled in the interests of sustainable development and the need to protect and enhance the natural and built heritage of the County.
- 5.3 Planning Policy Wales (PPW 11) Section 3.60 states that development in the countryside should be located within and adjoining those settlements where it can be best be accommodated in terms of infrastructure, access and habitat and landscape conservation. It also advises that new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should be of a scale and design that respects the character of the surrounding area.
- 5.4 Paragraph 3.38 of PPW 11 states that “The countryside is a dynamic and multi-purpose resource. In line with sustainable development and the national planning principles and in contributing towards placemaking outcomes, it must be conserved and, where possible, enhanced for the sake for its ecological, geological, physiographic, historical, archaeological, cultural and agricultural value and for its landscape and natural resources”.
- 5.5 National policy therefore restricts new building outside development boundaries unless it is justified as an exception to the policy of restraint.
- 5.6 The former rugby club site is positioned in open countryside close to the Clwydian Range and Dee Valley AONB and Offas Dyke Path National Trail, halfway between Rhuddlan and Rhualt on the B5429.
- 5.7 This application is for a very large luxury holiday accommodation comprising of holiday pods and lodges, collectively comprising of 102 bedrooms, with the bunk house; at capacity the park could sleep 228 persons.
- 5.8 Policy PSE12 states proposals for new static caravan sites will not be permitted. Whilst the lodges proposed are built development, the proposal includes holiday pods, which could fall within the legal definition of a caravan, and this element would be contrary to Policy PSE12.
- 5.9 Policy PSE 5 states that in order to help to sustain the rural economy, tourism and commercial development, including agricultural diversification, will be supported throughout the County subject to detailed criteria, which include a requirement for proposals to be appropriate in scale and nature to their location (i); and proposals for new buildings to be supported by an

appropriate business case which demonstrates that it will support the local economy to help sustain local rural communities (iii).

- 5.10 The business case contained in the Tourism Report submitted with the application set out the wider economic benefit to the County and the North Wales region, and confirms it would generate jobs and increase visitor spend in the County, however it does not specifically demonstrate a direct link to the local economy to help sustain local rural communities, and therefore the proposal is in conflict with PSE5 iii).
- 5.11 The development would have a huge impact on the visual amenity and the landscape character of the area, introducing an urban feel to open countryside. The existing clubhouse is single storey with a flat roof. The proposed new clubhouse public building is two storey with a pitched roof, and will have a greater impact on the skyline. The building would include a first floor 80 cover dining area, and first floor balcony with 28 covers. The 23 two bedroom holiday lodges, 7 three bedroom lodges, 7 four bedroom lodges and 24 bed bunkhouse are also two storey, again an impact on the skyline. In total 38 two storey buildings will be erected. The 24 bed bunkhouse is close to and will be visible from the B5429 highway.
- 5.12 The AONB Advisory Committee comments that the lighting needs to be controlled to protect the setting of the protected landscape and dark sky ambition. This will be very difficult to achieve with the design of the lodges and club house with floor to gable glazing, and harm arising from light spillage could not therefore be adequately controlled through the imposition of conditions.
- 5.13 The proposal would also be visible in views from Moel Hiraddug which is open access land set within the Clwydian Range and Dee Valley AONB and from higher ground along the Offa's Dyke Path National Trail, both to the east of the site, thus affecting the setting of these assets.
- 5.14 The proposal cannot therefore be considered to be appropriate in scale and nature to its location, or to respect the character of the rural setting, contrary to Policy PSE5 (i) and the PPW 11.

Loss of best and most versatile agricultural land

- 5.15 Planning Policy Wales (PPW 11) Section 3.58 and 3.59 obliges weight to be given to protecting land of grades 1, 2, and 3a quality in the Agricultural Land Classification (ALC). PPW 11 notes this land is considered to be the best and most versatile and justifies conservation as a finite resource for the future. It indicates that land of this quality should only be developed if there is an overriding need for the development, and either previously developed land or land of a lower grade is available, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations.
- 5.16 The applicant's business case sets out the economic benefit of the proposal to Denbighshire and the North Wales region, however the Council do not consider a compelling case has been made to demonstrate an overriding need for the development in this specific location, and there is no evidence of a sequential assessment being carried out to consider alternative brownfield sites or lower grade land elsewhere in the County or the wider North Wales region, and therefore the loss of BMV land is unjustified.

Highways, access and accessibility

- 5.17 The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The highway impacts of development should therefore be regarded as a potential material consideration.
- 5.18 PPW 11 Section 3.12 states “Good design is about avoiding the creation of car-based developments. It contributes to minimising the need to travel and reliance on the car, whilst maximising opportunities for people to make sustainable and healthy travel choices for their daily journeys. Achieving these objectives requires the selection of sites which can be made easily accessible by sustainable modes as well as incorporating appropriate, safe and sustainable links (including active travel networks) within and between developments using legal agreements where appropriate...”
- 5.19 PPW 11 Section 3.39 states “In rural areas most new development should be located in settlements which have relatively good accessibility by non-car modes when compared to the rural area as a whole. Development in these areas should embrace the national sustainable placemaking outcomes and, where possible, offer good active travel connections to the centres of settlements to reduce the need to travel by car for local journeys”
- 5.20 PPW 11 4.1.34 states “In determining planning applications, planning authorities must ensure development proposals, through their design and supporting infrastructure, prioritise provision for access and movement by walking and cycling and, in doing so, maximise their contribution to the objectives of the Active Travel Act..”
- 5.21 PPW 11 states at 4.1.10 “The planning system has a key role to play in reducing the need to travel, particularly by private car, and supporting sustainable transport, by facilitating developments which are sited in the right locations, where they can be easily accessed by sustainable modes of travel and without the need for a car”
- 5.22 Future Wales Policy 12 states: “Active travel must be an essential and integral component of all new developments, large and small. Planning authorities must integrate site allocations, new development and infrastructure with active travel networks and, where appropriate, ensure new development contributes towards their expansion and improvement.”
- 5.23 The site is located on B5429 that runs from junction 28 of the A55 past the site to Rhuddlan, which is narrow, twisting, with blind bends and in places two vehicles have difficulty passing each other. It is also frequently used by slow moving tankers and agricultural vehicles.
- 5.24 The road does not have public footpaths along it and is poorly lit. For pedestrians and cyclists this stretch of road is dangerous to navigate and it is unrealistic to expect holiday makers to walk nearly 2 miles to the centre of Rhuddlan or 2.5 miles to the centre of St Asaph along a road with no footpath or street lighting with a speed limit of 60mph before they can access public transport. The site cannot therefore be considered to be accessible, or well served by public transport, and it is likely that visitors to the site would be predominately car based.

- 5.25 Historic visitor vehicle movements, up to 2018, for Rhyl Rugby Club have been provided in an effort to demonstrate the highway network can accommodate a development of the scale proposed, however the Council contest this is sufficient evidence to demonstrate the highway can cope with the anticipated level of traffic generated by the new development, as the traffic levels and frequencies are not comparable.
- 5.26 High levels of traffic associated with the rugby club use was sporadic. The rugby games and activities were seasonally based, with a mixture of home and away games, and training sessions were split up into age group session.
- 5.27 In contrast, the majority of visitors to the holiday park proposed will not be from the local area, and therefore not familiar with the character of the highway, they will be navigating to and looking for the holiday park. The visitor profile is that they will have travelled between two and three hours. The holiday park will operate 12 months of the year, and at a target occupancy rate of 70%. On top of the residential guests who are staying in the onsite accommodation, there would also be traffic generated by the visitors using the restaurant, leisure facilities and swimming pool. The traffic generated by the proposed holiday park along a narrow country lane is therefore not comparable to the traffic generated by the former rugby club use of the land, and the previous land use does not in any event establish a precedent for a holiday park development which would be heavily reliant on the use of private cars.
- 5.28 The development would therefore constitute a car-based development which is not easily accessible by sustainable modes of travel, and the site is considered to be located in an unsustainable location, contrary to national planning policy.

6. CONCLUSION

- 6.1 Having regard to the resolution of December 2021 Planning Committee, it is the opinion of the Council that:
- i. The proposal involves development in an open countryside location away from any settlement or development boundary established by the Denbighshire Local Development Plan. Due to the scale, form and design of the proposal, it is not considered to be appropriate in scale and nature to its location and would not enhance the natural and distinctive qualities of the local landscape, and insufficient information has been provided to demonstrate how the proposal would support the local economy to help sustain local rural communities. The proposal also include pods which are considered to meet the legal definition of static caravans. The principle of the proposal is therefore considered to be contrary to Denbighshire Local Development Plan Policy PSE5 and Policy PSE12 and the guidance contained in Policy Wales (Edition 11 February 2021) Sections 3.38 and 3.60.
 - ii. The majority of the site comprises Grade 3a agricultural land, which is considered to be the best and most versatile. Insufficient information has been provided to demonstrate an overriding need for the development in this location or to demonstrate that there is no alternative previously developed or lower grade agricultural land available for development, and therefore the loss of the best and most versatile land has not been justified, contrary to Planning Policy Wales (Edition 11, February 2021) Section 3.58 and 3.59
 - iii. The site is located along a minor county road with no footpath, limited street lighting and which is not served by public transport. The site is therefore in a

location which has poor accessibility by non-car modes, and does not offer good active travel connections to Rhuddlan or other settlement centres in the locality, including movement by walking and cycling. It is considered that the development would therefore be heavily reliant on the motor car and is in an unsustainable location, contrary to Future Wales Policy 12 and the guidance contained in Planning Policy Wales Edition 11 (February 2021) Sections 3.12, 3.39, 4.1.10 and 4.1.34.

- 6.2 The Council would therefore respectfully request that planning permission is refused.

7. LIST OF SUGGESTED CONDITIONS

- 7.1 Local Planning Authorities are requested to suggest conditions which they think would be appropriate in the event that the called-on application is granted planning permission.
- 7.2 Therefore, in accordance with such advice and without prejudice to the Council's case, the conditions which are considered to be reasonable and necessary are contained in **DCC APPENDIX 6**.

APPENDICES:

DCC APPENDIX 01 – April 2021 Planning Committee Report (Published version)

DCC APPENDIX 02 – April 2021 Planning Committee Report (Original Word Processed version)

DCC APPENDIX 03 – April 2021 Planning Committee Meeting Minutes

DCC APPENDIX 04 – December 2021 Planning Committee Report

DCC APPENDIX 05 – December 2021 Planning Committee Meeting Minutes

DCC APPENDIX 06 – List of Suggested Planning Conditions