



## PLANNING COMMITTEE – 8<sup>TH</sup> MARCH 2017

**SUBJECT: PLANNING APPEAL DECISION REGARDING ERECTION OF RESIDENTIAL DEVELOPMENT AT LAND NORTH OF PANDY ROAD, BEDWAS.**

**REPORT BY: CORPOTATE DIRECTOR COMMUNITIES**

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### 1. PURPOSE OF REPORT

- 1.1 To review a recent appeal decision in respect of housing development at Pandy Road, Bedwas

### 2. SUMMARY

- 2.1 The local planning authority (LPA) refused planning permission for housing development on land north of Pandy Road at Bedwas, because the site is beyond the defined settlement and the development would be detrimental to the character of the special landscape area . Whilst the proposals was on the face of it contrary to the adopted local development plan (LDP), other material planning considerations, in particular the five year housing land supply, weighed in favour of the proposal. This report will briefly review the issues considered by the inspector and the Welsh Minister, and their conclusions.

### 3. LINKS TO STRATEGY

- 3.1 No links to strategy: this report is for information and review, rather than for decision making purposes.

### 4. THE REPORT

- 4.1 Planning permission was refused in November 2015 (Council ref. 15/0038/OUT) for residential development on land north of Pandy Road, Bedwas because the site was outside the settlement boundary defined in the LDP, and it would be detrimental to a special landscape area (SLA). The site has an area of over 8 hectares, and supporting information indicated that it could be developed for up to 300 houses. An appeal was made against the decision, and the inquiry was held in mid-April 2016. Due to the size of the development, the appeal was called in by the Welsh Minster, who issued her decision, based on the inspector's report, on 31 January 2017.

- 4.2 The issues considered by the Welsh Minister were:

1. Whether the proposal would provide an appropriate site for housing having regard to planning policies that seek to control the location of new development;
2. The effect of the development on the character and appearance of the area with particular regard to its designation as a Special Landscape Area; and

3. Whether there are other material considerations that would justify granting permission in particular with regard to housing supply and the sustainable credentials of the development.

These matters are reviewed below.

#### 4.3 Appropriate site

It was noted that at the time of the inquiry that the LDP was failing to deliver a five year housing supply which stood at 1.9 years. A review of the LDP was being prepared but due to the stage it was at, the Replacement LDP could only be given slight to modest weight. The subsequent withdrawal of the LDP was also noted. The Inspector concluded that the LDP, adopted in 2010 which plans for the period up to 2021, remained the adopted development plan for the purposes of determining the appeal and was neither out of date in its approach to the management of new development, nor superseded by changes to national policy. The Minister concurred with this view.

- 4.4 Policy SP5 of the LDP defines settlement boundaries and policy CW15 relates to general locational constraints and state, amongst other things, that development outside settlement boundaries will not be permitted unless for certain specified activities. For ease of reference, these are reproduced below.

**SP5** The Plan defines settlement boundaries in order to:

- A Define the area within which development would normally be allowed, taking into account material planning considerations
- B Promote the full and effective use of urban land and thus concentrate development within settlements
- C Prevent the coalescence of settlements, ribbon development and fragmented development
- D Prevent inappropriate development in the countryside

**CW15** Development proposals will be considered against the following criteria, where they apply:

- A Development proposals will not be permitted if they prejudice the implementation of wider comprehensive redevelopment or constrain the development of any adjacent site for its allocated land-use
- B Within settlement boundaries proposals for all types of development accord with the role and function of the settlement within which they are located, and
- C Outside settlement boundaries proposals will not be permitted unless the proposed development is either:
  - i Associated with either agriculture, forestry or the winning and working of minerals or
  - ii For the conversion, rehabilitation or replacement of rural buildings and dwellings, or
  - iii For recreation, leisure and tourism proposals that are suitable in a countryside location or
  - iv Associated with the provision of public utilities, infrastructure and waste management facilities that cannot reasonably be located elsewhere or
  - v Associated with the reclamation/treatment of derelict or contaminated land

It was concluded that the proposal failed to accord with policies in the LDP, specifically criteria A and B of policy SP5 and policy CW15. The development would not result in coalescence of settlements or comprise ribbon and fragmented development, but in terms of criterion D of policy SP5, it would be inappropriate development in the countryside. In conclusion on this particular matter, having regard to planning policies which seek to control the location of new development, the proposed development would not provide an appropriate site for housing and would therefore fail to accord with the adopted LDP, in particular policy SP5.

#### 4.5 Special Landscape Area

The site lies within an area designated as the North Caerphilly Special Landscape Area (SLA) in the LDP. Policy SP10 states the Council will protect, conserve, enhance and manage the natural heritage of the Borough in the consideration of all development proposals within both the rural and built environment. Policy NH1 of the LDP states SLAs will be protected; the supporting text explains SLAs are local non-statutory designations which seek to protect areas exhibiting distinctive features and characteristics and will be protected from development which harms these features and characteristics. It was emphasised that the policy is not designed to preclude development, but applicants will need to demonstrate that proposals will not have an unacceptable impact on the specific distinctive features or characteristics associated with the SLA. That approach was deemed to be in conformity with guidance in Planning Policy Wales (PPW).

4.6 The debate at the inquiry revolved around the visual and sensory elements of the SLA, with the inspector concluding that whilst the appeal site comprises part of the pastoral farmland in field enclosures which feature in the SLA, and it makes a contribution to the overall form of the open rolling valley, it is a small element in the wider valley landscape. Noting the appeal site is located to the immediate west of Bedwas, with industrial development to the south which extends further west and beyond the proposed western boundary of the site, her view was the proposal would not visually project out into the open countryside when viewed from the wider surrounds and would be visually related to existing development in the valley. The Minister concurred with this view including that those using public rights of way and common land for recreation and residential occupiers, particularly some distance from the site, would not perceive the proposal as a completely alien feature in a landscape which is already heavily developed.

4.7 There would be a clear impact from close to the site, but in conclusion the proposal would not be in conflict with LDP policies SP10, NH1 or CW4.

#### 4.8 Other material planning considerations.

At the time of the inquiry, the five year housing land supply was only 1.9 years, and the Minister agreed with the inspector that whilst the proposal did not comply with the development plan, the considerable shortfall in housing supply should be given substantial weight and weighed heavily in favour of the proposal. The issue of whether granting planning permission would be premature was considered, but national policy clearly states refusal on grounds of prematurity, where an LDP is in preparation, will not usually be justified except in cases where a development proposal goes to the heart, of a plan and is individually or cumulatively so significant that to grant permission would predetermine decisions regarding the scale, location or phasing of new development which ought properly to be taken in the LDP context. It was concluded that would not be the case.

4.9 The provision of affordable housing, and the sustainable location served by a bus route weighed in favour of the scheme. The land is in agricultural use, but is not classified as the best and most versatile land. It does contain sandstone and mineral resources which are safeguarded in the LDP, but due to the proximity to the settlement area, any excavation of these resources would likely to be unacceptable taking into account the defined buffer zones for such extraction.

4.10 Transport impacts, the setting of nearby listed buildings, and the impact on health and education facilities were also considered. In conclusion the inspector stated:

“...I find that the relevant policies to this appeal within the adopted LDP remain in accordance with national policy in respect of defining settlement boundaries and providing local non-statutory designations such as SLAs. As such I consider that the policies are neither outdated nor superseded. The Replacement LDP provides the

proper process for considering changes to settlement boundaries or local natural heritage designations and can be given little weight given its current position.

“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.

“The proposal fails to accord with the adopted development plan as the proposal would constitute a housing development outside the defined settlement boundaries (LDP policy SP5). Nonetheless I have found that the proposal would not have an unacceptable impact on the specific distinctive features and qualities of the SLA or on its overall integrity and would not conflict with development plan policies that seek to protect, conserve, enhance and manage the valuable features of the natural and built environment (LDP policies SP10, NH1 and CW4).

“...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.”

#### 4.11 Conclusion

There are a number of broad conclusions to be drawn from this decision:

1. The adopted LDP remains the appropriate development plan for the determination of planning applications.
2. In considering whether development is contrary to the policies in the plan, careful consideration needs to be given to the objectives of those policies, and whether the proposal is contrary to those objectives, not least because,
3. Significant weight should be given to the lack of a five year housing supply in determining planning applications.

#### **5. EQUALITIES IMPLICATIONS**

5.1 None. This report is for information and review, rather than for decision making purposes.

#### **6. FINANCIAL IMPLICATIONS**

6.1 None

#### **7. PERSONNEL IMPLICATIONS**

7.1 None

#### **8. CONSULTATIONS**

8.1 None

#### **9. RECOMMENDATIONS**

9.1 That the comments in the report are noted.

#### **10. REASONS FOR THE RECOMMENDATIONS**

10.1 This report is for information and review, rather than for decision making purposes.

## **11. STATUTORY POWER**

11.1 Not applicable in this case because this report is for information and review, rather than for decision making purposes.

Author: Tim Stephens, Interim Head of Planning

Background Papers: Inspectors' decision.



Ein cyf/Our ref: Housing

To: Heads of Planning  
(CC: PINS / HBF)

23 February 2017

Dear Colleague,

The delivery of housing remains one of the highest priorities of this Government. It is essential for the planning system to facilitate the provision of additional housing through robust evidence based Local Development Plans (LDPs). We have an ambitious target of delivering 20,000 affordable homes over this term of Government. If we are to realise our ambition, it will be necessary to use all available policy levers to their full potential, including the planning system.

The monitoring of housing land supply has identified a large proportion of Local Planning Authorities which have not been able to demonstrate a five-year housing land supply. The recently completed study of viability through the planning process, undertaken by Arcadis Consulting, examined the reasons behind this situation and I will be reflecting on this issue and the associated recommendations as a matter of urgency.

I expect each Local Planning Authority to give priority to the preparation or replacement of LDPs, including giving full consideration to the production of joint plans with neighbouring authorities. To be clear, each Local Planning Authority must provide a genuinely available supply of land for housing, based on meeting the housing requirements they have identified in their Development Plan. This is a core principle of the planning system established by *Planning Policy Wales* since 2002 and an integral part of preparing an LDP.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Technical Advice Note 1 (TAN 1) sets out the methodology for Local Planning Authorities to demonstrate whether they have a five-year supply of deliverable land for housing by preparing an annual Joint Housing Land Availability Study (JHLAS). I am aware a number of Local Planning Authorities with adopted LDPs, cannot demonstrate a five-year housing land supply, as well as those who are unable to undertake a JHLAS because they do not have an adopted LDP. I also accept some Local Planning Authorities may, as a consequence of not being able to demonstrate a five-year housing land supply, be subject to speculative planning applications.

I reiterate all such applications should be assessed against relevant policy considerations, including the need to increase housing land supply and the principle of sustainable development. The Welsh Government remains committed to increasing housing land supply by requiring Local Planning Authorities to give it considerable weight as a material consideration when dealing with planning applications for housing. However, this is subject to the development otherwise complying with development plan and national planning policies, as clearly set out in paragraph 6.2 of TAN 1. This includes ensuring development proposals are well related to the existing settlement form and do not lead to unacceptable impacts on local economic, social and environmental infrastructure. The principles of sustainable development and the creation of cohesive communities, which forms the basis of the Welsh Government's planning policy, remains and should not be undermined by the need to increase housing land supply.

Regards  
Lesley Griffiths

**Lesley Griffiths AC/AM**

Ysgrifennydd y Cabinet dros yr Amgylchedd a Materion Gwledig  
Cabinet Secretary for Environment and Rural Affairs