

**APPLICATION NO:**  
P/2014 /0592

**LOCATION:**  
LAND ADJOINING AND EAST OF  
FAIRLEIGH STATION ROAD  
OVERTON WREXHAM  
LL13 0LJ

**DATE RECEIVED:**  
07/08/2014

**COMMUNITY:**  
Overton

**CASE OFFICER:**  
KH

**WARD:**  
Overton

**DESCRIPTION:**  
OUTLINE APPLICATION FOR  
RESIDENTIAL DEVELOPMENT WITH  
MATTERS RESERVED EXCEPT  
ACCESS.

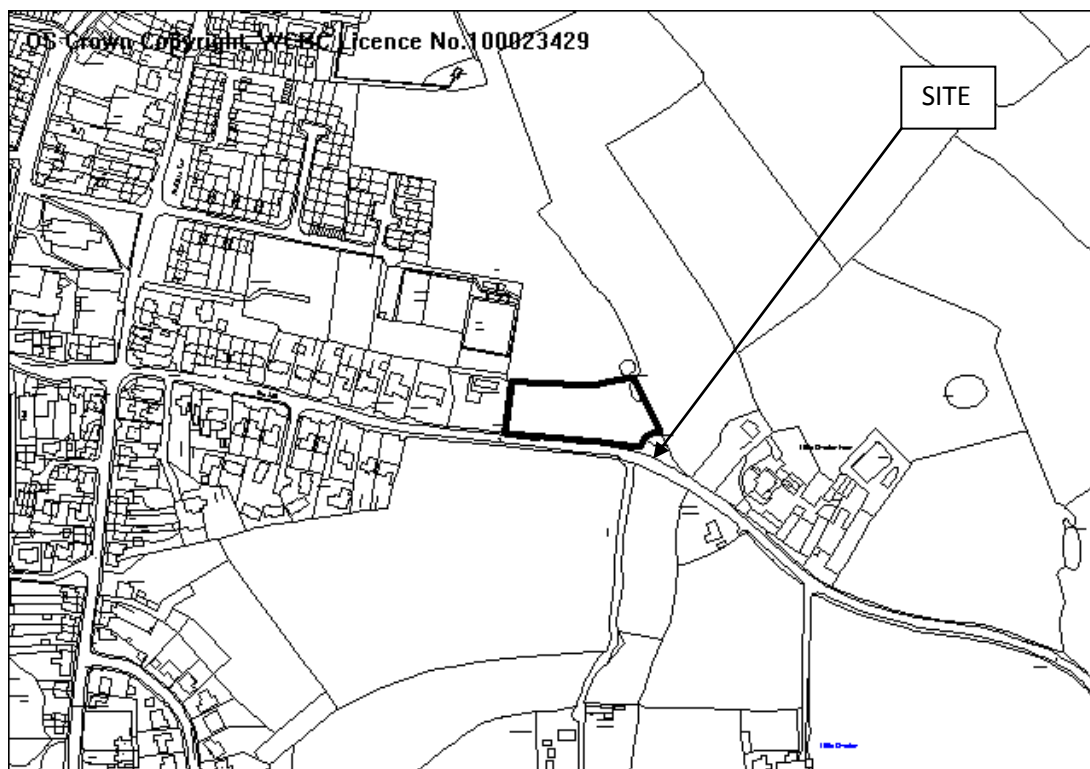
**AGENT NAME:**  
DAVID PARKER  
PLANNING  
ASSOCIATES  
MR D PARKER

**APPLICANT(S) NAME:**  
MR MARK JONES

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## THE SITE

Located on the eastern edge of Overton and off the northern side of Station Road. Land comprises a small enclosed paddock measuring (0.95 acres) in area. Fairleigh an existing residential property lies to the immediate west.



## PROPOSAL

Outline application (initially for six dwellings) for four dwellings with access arrangements submitted for approval. Scale, layout, appearance and

## HISTORY

## DEVELOPMENT PLAN

## CONSULTATIONS

Local Member:

### Public Protection:

Highways:	No objections subject to acceptable access. The development site would be served by a 5m and carriageway serving the estate should be minimum of 4.8m. Submitted plans indicate adequate lateral and forward visibility splays. Site would enable maximum parking.
Welsh Water:	Conditions required.
NRW:	No objections. To ensure the development does not have a detrimental impact on Great Crested Newts a Reasonable Avoidance Measures Strategy will be required prior to commencement of any works. Bat survey satisfactory.
Neighbours:	Two letters of objection from same household on the following grounds: <ul style="list-style-type: none"> <li>- Outside settlement and special landscape area</li> <li>- Sewerage system cannot cope with additional development</li> <li>- Septic tank outlet from their property runs the length of the site</li> <li>- Does not constitute infill</li> <li>- Design of development and additional residential development will harm the rural character of the area</li> <li>- Concerned regarding visibility at access and highway safety</li> </ul>
Press Notice:	Expired 26.09.2014
Site Notice:	Expired 24.09.2014

## **SPECIAL CONSIDERATIONS**

**Policy:** The proposal does not accord with any of the circumstances set out in Policy H5 of the UDP that permit small scale residential development on sites outside of settlement limits.

In addition to being outside of the settlement boundary, the land is within a Special Landscape Area and an area where resources of sand and gravel should be safeguarded.

Whilst there would be a departure from the UDP, the Council is only required to determine planning applications in accordance with an adopted development plan unless material considerations indicate otherwise. In this particular case the site provides a natural and logical extension to the settlement limit with the site adjoining Overton Settlement on the Western boundary. The site is enclosed by established boundary trees and hedgerow and the development will be well integrated into the rural landscape which will help minimise the impact in the Special Landscape Area and help minimise nearby and more distant viewpoints. The site is sustainable with close proximity to the centre of Overton with its plethora of facilities. With regard to policy MW9 and protection of Mineral Resources, it would not be economically

viable to extract sand and gravel and due to the proximity of residential properties it would not be appropriate. Much of the mineral resource has already been sterilised by the existing settlement.

I am satisfied that from a policy perspective development of the site is acceptable.

**Highways:** The proposed development site is located on the A539 Station Road which is a classified road subject to a 30mph and any proposed access in this location would normally be required to provide a visibility splay of 2.4 x 70m in both directions, and forward visibility providing a stopping sight distance of 70m for vehicles approaching the proposed access from the east. The submitted layout plan indicates the provision of adequate lateral and forward visibility splays which exceed the above requirements.

Access width and kerb radii at the junction with Station Road are acceptable. A footpath is recommended linking the proposed development site to the existing 1.4m wide footpath fronting two nearby properties. A suitable turning head will be required on site to facilitate refuse wagons/deliveries. The site is large enough to accommodate maximum parking standard requirements.

No highway objections subject to conditions with reference to the above.

**Ecology:** An extended phase I habitat survey – Great Crested Newt has been undertaken to a satisfactory standard with no GCN found in any ponds within 100m of the site. However, to ensure no detrimental impact from the development a Reasonable Avoidance Measures Strategy (RAMS) will be required. Provision of a pond on site will also be required.

A suitable bat survey also accompanies the application, with no evidence that trees on site were used for bat roosts but bats are using the site to forage. A condition should be attached to control external lighting in the interests of bats using the site for foraging.

NRW and the Council's Ecologist have no objections.

**Visual Impact:** As referred to previously, the site is a natural extension to the settlement and well enclosed with existing mature trees and hedging on the boundaries. Design will also be important and a sensitive high quality design will be required at the Reserved Matters Stage. Whilst I am aware of the Local Members comments regarding restricting the development to three properties, subject to design and scale the site could potentially accommodate four properties.

I am satisfied that the proposed development will not compromise the character of the Special Landscape Area.

## **CONCLUSION**

Whilst representing a departure from the Wrexham UDP, I am satisfied that the site provides a natural extension to the settlement and can be successfully integrated into the rural environment. The applicant has demonstrated that development can be accommodated within the site without compromising existing mature trees and the site will respect the Special Landscape Area Character. Sensitive design at the Reserved Matters application will also be important.

Subject to appropriate conditions, ecology and highway issues will be fully addressed. My recommendation is however in three parts to reflect the requirement for education payments.

## **RECOMMENDATION A**

That the Council enters into an obligation under Section 106 of the Town and Country Planning Act to secure payment of financial contributions to a school provision.

That the Head of Community Wellbeing and Development be given delegated powers to approve the final form and content of the obligation.

## **RECOMMENDATION B**

Upon completion of the Planning obligation that permission be GRANTED subject to the following conditions:

## **CONDITION(S)**

1. Approval of the following details shall be obtained from the Local Planning Authority before any part of the development is commenced:
  - a. the layout of the building(s)
  - b. the scale of the building(s)
  - c. the appearance of the building(s)
  - d. the landscaping of the site
2. Plans and particulars of the reserved matters referred to in condition 1 (above) shall be submitted in writing to the Local Planning Authority before the expiry of three years from the date of this permission. The development shall only be carried out in strict conformity with such details as are approved.
3. The development hereby approved shall be commenced before the expiry of five years from the date of this permission or before the expiry of two years from the date of approval of the last of the reserved matters required to be approved, whichever is the later.
4. No part of the development shall commence until samples of all external facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in strict accordance with such details as are approved.

5. No land drainage run-off or surface water shall be permitted to discharge or connect to the public sewerage system, either directly or indirectly, and foul and surface water shall be drained separately from the site.
6. No part of the development shall commence until a scheme for the comprehensive and integrated drainage of the site indicating how foul water, surface water and land drainage will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented in accordance with a timescale to be agreed as part of the submitted details and maintained thereafter.
7. All works in relation to the implementation of this permission, including deliveries to and / or leaving the site, shall be undertaken only between the hours of 7.30 and 18.00 Monday to Friday, and 08.00 to 14.00 on a Saturday, and at no time on a Sunday or a Bank Holiday.
8. The Reserved Matters application shall provide full details of a turning head constructed to adoptable standards to serve the proposed development site. The scheme as approved shall be provided prior to the first occupation of any of the dwellings hereby approved and retained thereafter in a useable condition thereafter.
9. The Reserved Matters application shall provide full details of a proposed new pond on the site.
10. No part of the development shall commence until details of the proposed Reasonable Avoidance Measures (RAMs) have been submitted to and approved in writing by the Local Planning Authority. The details shall include the following:
  - a) Details of a tool box talk on the identification and ecology of great crested newts to be made available to all construction staff employed on the project;
  - b) Details of an artificial amphibian hibernacula to be constructed adjacent to the site (Details of the design can be found in great crested newt mitigation guidelines - August 2001);
  - c) Details of a walk over survey of the site prior to commencement of development, and a destructive search (under the supervision of a licensed great crested newt handler) made of any potential great crested newt habitat (such as rubble piles or sheet materials that are on the site) on the site. Any amphibians found should be relocated to the artificial hibernacula;
  - d) Details of storage of material on pallets off the ground, and bulk materials which are to be delivered on site and used within the day of delivery.
  - e) Confirmation that excavated trenches will be covered over at the end of each working day with plywood and the edges sealed with sand or soil. Trenches are to be checked each morning for any amphibians. Any amphibians located are to be moved to the artificial hibernacula.The development shall be carried out in strict accordance with the RAMs as are approved.
11. No equipment, machinery, plant or materials of any kind in connection with the development shall be brought onto the site until tree protection fencing and ground protection measures have been implemented in strict accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The details should include specification and location for the fencing. Nothing shall be stored or placed in any area fenced

in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made.

12. The tree protection fencing and ground protection measures approved in connection with condition no. 11 shall be kept in place until all external site works have been completed and the removal of the fencing has been approved in writing by the Local Planning Authority.

13. No part of the development shall commence until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in strict accordance with the Method Statement as is approved. The Method Statement shall include the following:

- 1) A specification for tree protection fencing and ground protection measures that comply with British Standard 5837:2012;
- 2) A Tree Protection Plan showing the location of the trees to be removed and retained with their crown spreads, Root Protection Areas, Construction Exclusion Zones, and location of protective fencing and ground protection measures accurately plotted;
- 3) A full specification for any access, driveway, path, underground services or wall foundations within retained tree Root Protection Areas or Construction Exclusion Zone, including any related sections and method for avoiding damage to retained trees;
- 4) Details of general arboricultural matters including proposed practices with regards to cement mixing, material storage and fires;
- 5) Details of the frequency of supervisory visits and procedures for notifying the findings of such visits to the Local Planning Authority;
- 6) Method for protecting retained trees during demolition works;
- 7) Details of all proposed tree works, including felling and pruning.

14. The following activities should not be carried out under any circumstances:

- 1) No fires should be lit within 10 metres of the nearest point of the canopy of any retained tree.
- 2) No works, including earth works and the bringing onto site of machinery or materials shall proceed until the approved tree protection measures are put in place, with the exception of the approved tree works.
- 3) No equipment, signage, fencing, tree protection barriers, materials, components, vehicles or structures shall be attached to or supported by a retained tree.
- 4) No mixing of cement or use of other materials or substances shall take place within tree root protection areas or tree construction exclusion zones, or close enough to these that seepage or displacement of those materials or substances could cause them to enter tree root protection areas or tree construction exclusion zones.
- 5) No alterations or variations to the approved works or tree protection schemes shall be carried out without the prior written approval of the Local Planning Authority.

15. Within three months of commencement of development, full details of a hard and soft landscaping scheme together with a plan indicating the positions, design, materials and type of boundary treatment and timescale for

implementation of works shall be submitted to and approved in writing by the Local Planning Authority.

16. The landscaping scheme including the paving and footpath areas submitted and approved in connection with condition no. 15 shall be fully implemented in all respects within three months of the first use of the building with the exception of soft landscaping which shall be carried out in the first planting season (November to March) or seeding season (April to September) following the first use.

17. The planting scheme implemented in connection with condition no. 16 shall be permanently retained. Any planting which becomes severely damaged or seriously diseased, or is in poor physiological condition and/or are removed without the written permission of the Local Planning Authority shall be replaced within the next available planting season by trees or shrubs of similar size and species to those originally required to be planted.

18. The total number of dwellings hereby permitted shall be restricted to a maximum of four (4) units.

19. There shall be no gates or other means of enclosure across the vehicular access point within 5 metres of the highway boundary.

20. No private surface water run off shall be permitted to flow from the development site onto the adjoining highway. An Aco drain or similar shall be provided across the approved access to intercept any such run off prior to first use of the development.

21. Prior to the first use of the development hereby approved the proposed access shall provide the lateral and forward visibility splays indicated on the approved site layout plan. Within these splays there shall be no obstruction in excess of 1m in height above the level of the nearside edge of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.

## **REASON(S)**

1. To comply with the provisions of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012
2. To comply with Section 92 of the Town and Country Planning Act, 1990.
3. To comply with Section 92 of the Town and Country Planning Act, 1990.
4. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
5. To protect the integrity of the public sewerage system and prevent hydraulic overloading of the public sewerage system. To protect the health and safety of existing residents and to ensure no detriment to the environment.
6. To ensure that effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system.
7. To protect the amenities of the occupiers of nearby properties.
8. To facilitate the turning of refuse vehicles/delivery vehicles within the curtilage of the site.
9. To provide adequate compensation for the loss of existing habitat.



10. To protect named species/habitats/biodiversity which would otherwise be damaged/lost by the development hereby permitted.
11. To ensure that the retained trees are adequately protected during development in the interests of amenity.
12. To ensure that the retained trees are adequately protected during development in the interests of amenity.
13. To ensure the work is carried out to accepted arboricultural practices for the long term wellbeing of the tree(s).
14. To ensure that hard surfacing does not cause harm to retained trees in the interests of visual amenity.
15. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
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19. In the interest of the free and safe movement of traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access.
20. In the interests of highway safety.
21. To ensure that adequate visibility is provided at the proposed point of access to the highway.

#### **NOTE(S) TO APPLICANT**

The applicant is advised that compliance with condition no. 7 does not provide an exemption from the statutory noise nuisance provisions of the Environmental Protection Act 1990. Any complaints received relating to noise from the development during the permitted hours may still be investigated using the Council's Standardised Procedure for Dealing with Noise Nuisance Complaints and legal action may be taken where appropriate.

The applicant is advised that the Council has the option to control construction noise by serving a Control of Pollution Act 1974, Section 60, Notice where deemed necessary, and failure to comply with such a Notice can result in prosecution. For further information and advice regarding construction noise please contact the Council's Housing and Public Protection Department on 01978 315300.

Burning of waste generated from construction activities is not considered to be an appropriate method of disposal and action may be taken as follows:

- Under the Environmental Protection Act 1990 anyone found disposing of construction site waste by burning is likely to be in breach of their duty of care with regard to waste disposal;
- Under the same Act an abatement notice may be served where smoke is judged to be causing a nuisance to neighbouring properties. Failure to comply with the requirements of the notice can result in prosecution;
- Under the Clean Air Act 1993 it is an offence for a commercial activity to

burn anything that gives rise to dark smoke.

To prevent offences under the above named Acts there should be no bonfires on the site, to include the prohibition of the burning of cleared vegetation. The applicant should contact the Council's Housing and Public Protection Department on 01978 315300 for further advice and information.

The Applicant is advised that under the Environmental Protection Act 1990, dust from construction and/or demolition activities can be judged to be causing a statutory nuisance to neighbouring properties. A legal notice can be served requiring that any dust nuisance is abated and failure to comply with the requirements of the notice can result in prosecution. The applicant should contact the Council's Housing and Public Protection Department on 01978 315300 for further advice and information.

The proposed access/footway should be constructed to a standard suitable for adoption by the Council for future maintenance at the public expense and the developer will need to enter into an agreement with the Council under s38/278 of the Highways Act 1980.

You are advised that the Highway Authority will require such works to be completed to their satisfaction before they will formally adopt the relevant Highway works for public use and to be maintained at public expense. This will include the provision of a bond to cover the estimated value of such works.

The Council assumes that the proposed estate road will not be adopted and will remain private. The Council would recommend that a private Management Company is established to maintain the estate road, footways and parking areas in perpetuity.

An existing public footpath runs along the eastern boundary of the development site and must not be interfered with. I would recommend that the applicant liaises with the Council's Public Rights of Way Section (contact Sean Hanratty on tel: 01978 729761 to discuss the proposed development).

## **RECOMMENDATION C**

That if an obligation pursuant to Section 106 of the Town and Country Planning Act 1990 is not completed within six months of the date of the committee resolution, the Head of Community Wellbeing and Development be given delegated authority to REFUSE the application for the following reason:

01 The development would not make provision for the required education contributions to offset the impact of the development. The proposal as such would be contrary to the Wrexham Unitary Development Plan policies GDP2 and Local Planning Guidance Note 27.