



## Appeal Decision

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by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 25.05.2023

Appeal reference: CAS-02031-S9D4L8

Site address: Land at Northop Country Park, Northop, Flintshire CH7 6WA

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- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr Gizzi against Flintshire County Council.
  - The application Ref 063500 is dated 7 September 2021.
  - The development proposed is development of land to provide Lodge/Chalet park to include single storey & two storey lodges and a site office.
  - A site visit was made by the Inspector on 31 January 2023.
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### Decision

1. The appeal is allowed and planning permission is granted for development of land to provide Lodge/Chalet park to include single storey & two storey lodges and a site office at Land at Northop Country Park, Northop, Flintshire CH7 6WA in accordance with the terms of the application, Ref 063500, dated 7 September 2021, and the plans submitted with it, subject to the conditions set out in the schedule of conditions to the decision.

### Application for costs

2. An application for costs has been made by Mr Gizzi against Flintshire County Council. This application is the subject of a separate decision.

### Procedural Matters

3. On the 24 January 2023 the Welsh Ministers issued a screening direction that the development the subject of this appeal is not an Environmental Impact Assessment (EIA) development within the meaning of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017.
4. The site address in the above banner heading is taken from the Council's registration letter of the application and the appeal form. This more accurately describes the site address than that on the application and is used for the purposes of determination of this appeal.
5. The planning application is submitted in outline with access and scale considered at this stage. All other matters such as appearance, landscaping and layout are reserved matters for later determination and do not form part of this outline planning

application/appeal. Consequently, other than the locations of the accesses and the scale of development, I have treated the submitted plans in so far as these relate to layout, appearance, and landscaping for illustrative purposes only.

6. Site plan drawing no. 20-198 SP01 Revision A has been submitted to illustrate the indicative layout of the development and associated landscaping and shows the access detail which forms part of this application. The site plan shows 1 reception building and 24 new build lodges (11 units are two-storey and 13 units single storey).
7. The development parameters in relation to scale are read in conjunction with the site plan drawing mentioned above and the section drawing submitted with the application. As final floor levels are provided in conjunction with a scaled sectional drawing the parameters of the development can be deduced from these and there is sufficient information provided to decide this case.
8. The Council did not make a decision on the application. However, it has provided a position statement dated November 2022 following a Planning Committee meeting which considered the Council's stance on the application. The Council resolved to oppose the development and has cited two reasons. In brief, the first indicates that the development is harmful to the character and appearance of the area contrary to Flintshire Unitary Development Plan (UDP) Policies STR7, GEN1 and T4. The second reason is that the development would have an adverse impact on the zone of essential setting of the Grade II\* Listed Soughton Hall Historic Park and Garden contrary to paragraph 6.1.18 of Planning Policy Wales Edition 11 (PPW) and UDP Policy HE5.
9. The Flintshire Local Development Plan 2015-2030 (LDP) was adopted on 24 January 2023, replacing the UDP. The appeal is determined in accordance with the adopted LDP having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004. Future Wales, The National Plan 2040 (FW) forms part of the development plan for the purposes of Section 38(6).
10. The parties were requested to provide an updated planning policy statement to identify the relevant policies of the LDP and to those policies of the UDP which were replaced by their equivalent LDP policy and to assess the difference and the implications of these policies with relation to the proposed development. The parties were given an opportunity to comment on each other's submissions. These submissions have been considered in this appeal.
11. As the LDP is adopted I have a duty to have regard to the development plan and the relevant policies that consider the location of the development in the countryside. This becomes the first issue in the determination of this appeal.

### **Main Issues**

12. The main issues in this case are:
  - Whether the proposed development is justified in this location having regard to the policy of rural restraint and the relevant development plan policy, and
  - The effect of the proposed development on the character and appearance of the area, and
  - The impact of the proposal on the setting of heritage assets, and
  - Whether any conflict with the development plan or harm identified in relation to the foregoing issues is outweighed by other considerations which would justify granting planning permission with reference to a fallback position and other benefits.

## Reasons

*Whether the proposal is justified in this location having regard to the policy of rural restraint*

13. The appeal site is 2.4ha of land situated in the grounds of Northop Country Park. The appeal site is located outside settlement boundaries as defined in the LDP.
14. The relevant policies to be considered for the proposed development in relation to location are STR10 Tourism, Culture, and Leisure, PE12 Tourist Accommodation, Facilities and Attractions, PC2 General Requirements for Development and STR13 Natural and Built Environment, Green Networks, and Infrastructure. These replace the former UDP Policies T4 New Static Caravans and Chalet Holiday Sites, GEN1 General Requirements for Development, and STR7 Natural Environment which were referred to on the deemed reasons for refusal.
15. The Council has referred to and listed LDP Policies PE13 and PE12. However, I concur with the appellant that PE13 is directed at Caravan Development in the Open Countryside. This development is not only a use of land but comprises permanent buildings and there is no evidence to suggest that they are not buildings as defined by Section 336 of the Act as amended. Therefore, LDP Policy PE13 is not applicable to the development.
16. LDP Policy PE12 permits new or extensions to existing self-catering and serviced tourist accommodation and tourist attractions and facilities within defined settlements where proportionate in scale to the site and its surroundings. Outside defined settlement boundaries, which applies in this case, development will be permitted in the form of a) the extension to existing tourist accommodation and facilities; b) the conversion of existing buildings; c) non-permanent accommodation such as chalets, pods, glamping, and tent camping sites; and d) new build tourist attractions and facilities outside settlement boundaries. Criterion d) permits development if; an open countryside location is essential; the proposal cannot be accommodated within an existing building or within a defined settlement boundary; the development is based upon a geographically restricted resource or activity.
17. The appellant regards the development in accordance with Policy PE12 and refers to criterion c). However, in my view, this refers to non-permanent accommodation and the Council regards this as permanent development. I would agree that this development does not fall within c) even that it specifically mentions for example chalets. The words 'such as' in my view refers to an example of types of development that are non-permanent. Having regard to the particulars of this appeal development the proposal does not fall within this category.
18. In relation to criterion d) it would be difficult to conceive that this form and scale of development can be accommodated within an existing development boundary or accommodated within existing buildings. The Council and the appellant have viewed the development in the context of a fall-back position, but I must assess whether the development accords with the development plan in the first instance.
19. I consider that the proposed development conflicts with LDP Policy PE12. It is not essential for it be located there, and the development is not based upon a geographically restricted resource or activity. No case has been made that this development falls within exception a) of Policy PE12 an extension to existing tourist accommodation and facilities. It appears an entirely separate development from established leisure and retail developments that lie adjacent to the appeal site.
20. One of the National Sustainable Placemaking Outcomes in PPW is facilitating accessible and healthy environments. The proposal's location is not accessible by means of active

travel and public transport and is predominantly car dependent. The walking route to the local bus stop is mainly without a pavement and is unlit and comprises the verge of the A55 slip road. The bus stop is some 1km distance from the appeal site and would take on average over 15 minutes to walk. The site is some 8km from the National Cycle Route. In all, I do not consider that the proposal's location accords with PPW Placemaking Outcome in this regard.

21. I conclude that the proposed development is not justified in this location having regard to the policy of rural restraint and the relevant development plan policy.

#### *Character and appearance*

22. The drive into the Country Park leads through its landscaped grounds and serves an existing office building, Northop Golf Club, public house/restaurant, residential houses, and an industrial unit.
23. The site is predominantly tree lined along a central belt of the site where a small stream runs through it. The land which is predominantly grassland, scrub and gorse is more open alongside a road that runs to the west of the site. A track and a boarded-up property lie to the east of the site. The site has no landscape designation but historic parks and gardens, listed buildings and other heritage assets are situated to the west of the site.
24. Following a previous refusal, the appeal/application proposal has been revised to reduce the number of chalets/lodges on the site and an indicative layout has been provided to show how these units would be assimilated into the site allowing for the access and internal routes to be designed around existing trees and hedgerows, and other topographical and natural features. An indicative scheme of landscaping has also been provided centred around the new internal driveways within the site, which is an issue for consideration under any reserved matters application.
25. The proposed development is amongst other commercial, leisure and residential development that have been granted planning permission and have been carried out. There is a large residential development to the south-west of the site on the intervening slope between the historic park designation and the appeal site and is shrouded by trees. The golf course adjoins part of the internal road complex to the Country Park which borders the appeal site. The golf course sweeps around behind the site to the south. A vacant industrial building with associated parking borders the site to the south. To the north the boundary of the appeal site adjoins a commercial office building and car park. In view of all this the site is not regarded as open countryside.
26. The site is a large irregular shaped area which is substantially landscaped on the boundaries of the site with trees and hedgerows. The site dips into a landscaped area where a stream runs through and beyond this the land climbs into a secluded northern portion of the site which again is substantially screened from the office car park and on other boundaries of this site. Substantial trees are situated on the south-eastern side of the site. The indicative layout shows new buildings on areas that are visible from the Country Park internal road where the land is relatively open with limited screening from the road and the golf course. This is the side of the appeal site the development would be seen; all other sides are heavily screened from view. The landscape impact would be limited to the immediate area and seen in the context of the existing golf course.
27. There would be no harm to the intrinsic quality of the countryside and any impact would be localised to the immediate area which itself is already developed. The development would harmonise with the established character, local distinctiveness and appearance of the site and surrounding landscape.

28. The scale of the development and access details are not inappropriate, and the indicative layout shows locations of buildings set within landscaped areas or against the backdrop of established screening. Most of the two-storey scale buildings are situated on the northern part of the site which is enclosed.
29. There would be a change from undeveloped land, but the land is not seen in isolation from the rest of the developed area of the Country Park. The Council has not demonstrated the harm that would result to the character and appearance of the area over that which is already developed on adjoining sites. The concern that this is a formal layout which is at odds with the rural character is not one that relates closely to the development site, given my conclusion that it would be seen and read in conjunction with established development in the vicinity of the site. Layout is not a matter which forms part of this application, and the Council has control over density and layout and landscaping in any subsequent reserved matters application. The site is discreetly positioned in the overall context of its locality due to the considerable structural landscaping within and on the boundaries of this site.
30. I conclude that the proposed development would not harm the character and appearance of the area and would not conflict with LDP Policies PC2 and STR13.

#### *Heritage assets*

31. The heritage asset identified as being affected by the appeal development is Soughton Hall Registered Historic Park and Garden (RHP&G) (Grade II\*). This is set out in the Council's position statement and deemed reason for opposing the development. Contained within the boundaries of Soughton Hall RHP&G is Lower Soughton Hall RHP&G (Grade II).
32. The appellant's Heritage Impact Assessment (HIA) December 2020 also identifies a cluster of five listed buildings centred at Soughton Hall and an outlying lodge. These are: Soughton Hall (Grade II\*), Garden Walls, Corner Turrets, Gates and Gate Piers at Soughton Hall (Grade II\*), Stable Block at Soughton Hall (Grade II\*), Coach-house Range at Soughton Hall (Grade II\*), Game Larder to west of Soughton Hall (Grade II), Lower Lodge to Soughton Hall (Grade II) and Well Head at Soughton Hall (Grade II).
33. Within Lower Soughton Hall RHP&G the HIA identified two listed buildings, Lower Soughton Hall (Grade II), and Bath-house at Lower Soughton Hall (Grade II).
34. It has not been suggested that the proposed development affects the listed buildings or their settings as the focus of concern has been on Soughton Hall RHP&G. However, the HIA covers these listed buildings in the assessment. I have had regard to these in my consideration of this appeal under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
35. PPW provides guidance on Historic Parks and Gardens under paragraphs 6.1.18 - 6.1.19. Planning Policy Wales Technical Advice Note 24 (TAN 24): The Historic Environment, paragraph 7.2 indicates that local planning authorities should protect and conserve parks and gardens, and their settings, included in the register of historic parks and gardens.
36. Paragraph 1.25 of TAN 24 sets out that the setting of an historic asset includes the surroundings in which it is understood, experienced, and appreciated embracing present and past relationships to the surrounding landscape. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral. Setting is not a historic asset in its own right but has value derived from how different elements may contribute to the significance of a historic asset. Similarly, the published guidance on The Setting of Historic Assets in

Wales May 2017 indicates that the importance of setting lies in what it contributes to the significance of a historic asset.

37. Following the adoption of the LDP Policy EN8 Built Historic Environment and Listed Buildings is the relevant policy in relation to the issue of heritage assets. This replaced UDP Policy HE5. The significant difference being that HE5 considered adjacent areas and zones of essential setting and significant views affecting RHP&G and landscapes whilst LDP Policy EN8 does not refer to adjacent areas or zones of essential setting. LDP Policy EN8 seeks to protect and conserve historic landscapes, parks, and gardens. However, PPW and TAN 24 requires an assessment of RHP&G on their special interest and their setting.
38. In its letter in response to the application CADW indicates that all the scheduled monuments located within 3km of the proposed development are not seen because of the intervening topography, buildings, and vegetation. CADW considers that the proposed development would not have any impact on setting of any scheduled monument. In relation to Soughton Hall, Lower Soughton Hall and Gwysaney RHP&Gs, CADW indicate that intervening topography, buildings, and vegetation would block all views between them apart from Soughton Hall. The proposed development would not have any impact on the setting of RHP&Gs of Lower Soughton Hall and Gwysaney. CADW indicate that the application/appeal site is located some 250m east of the boundary of Soughton Hall RHP&G and is inside the essential setting (although this is not mentioned in LDP Policy EN8). CADW concurs with the appellant's HIA that the impact of the proposed development on the setting of Soughton Hall RHP&G would not be significant.
39. The HIA has followed the 4-stage approach to assessing impacts to settings of heritage assets as set out in CADW's guidance, The Setting of Historic Assets in Wales May 2017. It examines the attributes of setting which may explain its contribution to the significance of the asset. The HIA undertook a bare earth study (excluding vegetation and buildings) of the extent of the potential intervisibility of the proposed development from around Soughton Hall RHP&G depicted in a Zone of Theoretical Visibility (ZTV) map. The ZTV reference mapping points were taken at the end of the roof ridgelines of the proposed lodges as located on the indicative plan. This provided the theoretical analysis of where the proposed lodges would be visible without screening. The second ZTV map studied the impact on the presence of screening and buildings on theoretical intervisibility between the proposal site and the Soughton Hall RHP&G.
40. The second ZTV map shows that one proposed roof point would be visible in a small area within the Soughton Hall RHP&G adjoining the boundary of the Lower Soughton Hall RHP&G. This is in the context that sixty proposed roof points would be possibly seen closer to the appeal site from the adjoining golf course and to the east of the A55.
41. The significance of Soughton Hall RHP&G is derived for its well-preserved early eighteenth-century parkland planting, the contemporary lime avenues that flank the drive approaching the house, the importance of the associated group value listings of the early eighteenth-century Grade II\* house, coach house range and stable block, garden walls with turrets, the game larder and garden well head. The Register describes the landscape park as medium size situated on gently undulating ground bounded by the B5126, the A5119, Northop golf course, and a minor road to the south. There are two avenues of lime trees that flank the main western and southern approaches to Soughton Hall.
42. The Register marks the significant views to the north and to the south of the main hall. These views would also be significant when viewed back towards the main hall. I note that the Register does not identify any significant view from Soughton Hall RHP&G towards the appeal site. Between Soughton Hall RHP&G and the appeal site there is intervening development. This comprises the residential estate of modern houses and the

development of the golf course. The public house and the golf club house are situated just to the north-west of the appeal site and is closer in terms of physical distance to the boundary of the RHP&G than the appeal site.

43. Having viewed the appeal site and its environs from several vantage points including those highlighted in the HIA the visual impact of the development would be negligible upon the setting of Soughton Hall RHP&G. The immediate setting to the east of the boundary of the RHP&G towards the appeal site has been changed significantly by the established residential houses and the golf course. The residential development is an intervening built form between the RHP&G and the appeal site. These houses are strung along a linear route which are on a higher level than the appeal site and are shrouded by trees. The undulations of the adjoining golf course which sits in-between the appeal site and the residential development when viewed in one aspect of the view also diminishes the possibility of intervisibility between the RHP&G and the appeal site.
44. I therefore concur with the HIA and CADW that the impact of the proposed development on the setting of Soughton Hall RHP&G would not be significant. The HIA sets out in some detail the attributes of the setting that contributes to the significance of the heritage assets. Since these have been set out in the evidence, I have fully considered them in the determination of this appeal. The HIA also evaluates the impact of the proposed development on the significance of the assets. I concur with the assessment.
45. The proposed development would not have an adverse effect on the special characteristics of Soughton Hall RHP&G as this is relatively self-contained within the boundaries of the immediate parkland which is substantially screened. The landscape setting has changed and developed over-time and I concur with the HIA that the RHP&G is a separate entity to the Country Park which has been developed as a golf course and other mixed-use developments. Although the development site was once part of the Soughton Hall estate it was not the parkland itself but formed part of tenanted farmland. This farmland has since been developed as set out forming the Country Park with little legibility connection with the RHP&G. I concur with the HIA that the proposed development would not dominate the historic asset visually and would not detract from our ability to understand and appreciate the asset.
46. There is no criticism from CADW that the development would be harmful and add to the mix of developments already in place and cumulatively adversely affect Soughton Hall RHP&G. The HIA acknowledges there would be a slight urbanising effect, but the impact would be negligible in the overall context of the site and surrounding area. I consider that the proposed development whilst adding further to the Country Park developments does not change the balance tipping the impact into a harmful effect on the setting of the heritage assets.
47. The Welsh Historic Gardens Trust (WHGT) oppose the proposed development noting that this is not a redevelopment of the footprint of Springfields, the reduction in the amount of development does not outweigh previous objections, the original outline planning permission has long lapsed, there is no public interest in the scheme it is not enabling development, there are concerns about the materials, uniformity of the layout, hard landscaping and that the development would adversely affect views from within the Park and the listed landscape itself. The Trust also refers to the issue of tree loss and that the buildings would be located within the tree root protection areas. There is also concern about ecology and concern about cumulative incremental changes taking place in the Country Park. It is considered that the development does not accord with the Placemaking outcomes of PPW in promoting active travel and providing a choice of transport modes to the site and is heavily reliant on the use of the private car. The

increase in vehicular movements because of the development would have a detrimental impact on the peaceful quality of the site.

48. I note that the application site does not include Springfields and is therefore outside the scope of this appeal. The proposal is considered on its individual merits and the preceding scheme does not fall to be considered in this appeal. I consider that the development would not significantly impact the setting and the significance of the heritage assets and there is no need to determine whether it constitutes enabling development. Materials, layout, and landscaping are matters to be covered by any subsequent reserved matters application and do not form part of this appeal for outline planning permission. Issues relating to trees and ecology are considered under other matters, but these did not form part of the deemed reasons for opposing the proposal. Placemaking is a matter to be weighed in the conclusion and planning balance of this decision.
49. The development would not conflict with LDP Policy EN8. I conclude that the proposed development would not harm the setting and significance of the heritage assets identified.

#### *Other considerations and fallback*

##### *Fallback*

50. The appellant and the local planning authority recognise that there is a pleaded fall-back position to consider whereby a development in this instance has been granted planning permission and is extant and which could be built on the appeal site. This alternative development is to be assessed on whether there is a realistic prospect of taking place which is considered more certain than a theoretical possibility of occurring. In assessing whether the likelihood of the alternative development taking place there must be no impediment for it be instigated and no further approval required such as a planning condition to be agreed that might prevent the alternative development from taking place. If these matters are met, then the alternative development would need to be assessed against the appeal proposal to establish whether the alternative would cause more harm than the appeal development.
51. Outline planning permission was granted under reference 1345/89 by Delyn Borough Council in July 1991 for a mixed-use development at Northop Country Park. The permission included an 18-hole golf course with club house, office accommodation, 42 detached dwellings, a 200-bed luxury hotel with leisure facilities, and a 9-hole golf course with an equestrian centre.
52. The Reserved Matters reference 98/30/1334 relating to the above outline planning permission reference 1345/89 was dealt with in two stages. Reserved matters approval for the provision of a three storey 198-bed hotel with ancillary conference and leisure facilities together with 250 parking spaces, offices and 16 residential units was granted by Flintshire County Council on 25 May 1999. The approved site plan shows the proposed hotel building and car parking located on the appeal site. Elements of the reserved matters approval have been implemented such as the housing and office accommodation. Consequently, the hotel development on the appeal site according to the appellant and the local planning authority is extant.
53. The local planning authority has not indicated that there is an impediment to the hotel development. Having examined the reserved matters approval reference 98/30/1334 supplied by the interested parties there are several planning conditions which require approval before the hotel development can take place. I have no information from the appellant that these conditions have been discharged. However, in looking at these conditions that relate to the hotel development they do not require that the schemes to be agreed are implemented merely that such schemes are submitted in writing and approved

by the local planning authority. Such omissions mean that the developer would not be required to implement what was agreed by that condition, and therefore there is no enforcement of the conditions imposed on the reserved matters approval in so far as these relate to the hotel development. There is one condition (number 8) that requires that traffic calming measures are implemented in accordance with details agreed in writing in advance with the local planning authority. However, in my view this is not a requirement of such significance to the reserved matters approval that it goes to the heart of the reserved matters decision.

54. Even if this interpretation is wrong, I consider that the 'pre-commencement' conditions that pertain to the hotel development (numbers 3, 5, 8, 9, 10) are not of such significance that they go to the heart of the reserved matters decision. There is one condition (number 14) that requires levels to be agreed but again it cannot be enforced against since whatever was/is agreed it does not have to be implemented. Condition 1 indicates that 'development shall not be carried out otherwise than in complete accordance with the attached plans and specifications, unless otherwise specified in the imposed conditions or otherwise agreed in writing by the local planning authority'. This in my view does not prevent the developer from derogating from the conditions highlighted due to a failure to secure an implementation clause in relation to that condition unless it contradicts the approved plans. There is nothing submitted in evidence to indicate that this would be the case.
55. In all, I consider that the reserved matters approval in 1999 for the hotel development which was implemented by the carrying out of the residential and office elements of the approval is on the balance of probability extant.
56. The appellant's final comments on the appeal suggests that the extant permission for the hotel is currently being explored with a number of potential operators being interested in the building and operation of the hotel. It is asserted that all operators consider the hotel would be a viable prospect and that the extant permission has a real prospect of being implemented.
57. I consider that the prospect of the hotel development taking place as being greater than a theoretical possibility. This real prospect of the hotel development taking place is a fall-back position in which to assess the appeal development against.
58. The hotel development shown on the layout plan encompasses the whole appeal site and land to the south of the office development car park shown on drawing SK001, which is outside the appeal site boundary. The size of the hotel building would be considerable. There are two wings to the building with a central connecting arm linking both wings. It would be a development in depth and across most of the appeal site. The proposed elevations of the building are broadly three-storey in height with a large expansive roof that extends above by another floor and a half in height. In my view, it is a building of substantial scale and massing.
59. The impact of the hotel development on heritage assets and the visual impact on the character and appearance of the area would be significant and harmful. As indicated the development would extend into the adjacent field connecting to one of the arms of the existing roundabout. The car parking would provide 190 spaces with an overspill of 60 spaces to the south-east of the building. The central spine of established trees and individual clusters of trees within the site would be removed to make space for the hotel building. I would consider that the development of this scale and extent would fail to meet the relevant policies of the LDP if it were presented now.

60. I conclude that the fall-back situation has a real prospect of taking place and that the alternative hotel development would be significantly harmful and have a much greater adverse impact than the appeal development.
61. I have been referred to *Hillside Parks Ltd v Snowdonia National Park Authority* [2022] UKSC 30. The letter from Aaron and Partners Solicitors dated 18 October 2022 indicates that the Court of Appeal cast doubt on the view that a planning permission authorises a number of independent acts of development which each act being lawful if carried out in accordance with the permission, and instead favoured the approach that permissions need to be carried out in their entirety. The failure to carry out the permission in its entirety may then be construed as unlawful. As a result, the view is taken that the alternative development is unlikely to be implemented.
62. The case went to the Supreme Court (SC). If the issue concerned with raises the question whether the hotel development could not be implemented because it is incompatible with the planning permission for the other elements of the same reserved matters approval then this is not the case, because the hotel approval is not inconsistent with the remainder of the reserved matters approval that has been carried out to make it physically impossible to implement. If the concern is that approving this appeal would be incompatible with the hotel development scheme, then in my view, and in line with the SC judgement the implementation of the appeal proposal would render any earlier permission physically impossible, and the earlier permission would then become unlawful. I therefore do not consider that the Hillside case adds to the issue under consideration.
63. Having regard to all these matters I accord the fall-back significant weight.

*Economic, social, and environmental benefits*

64. The appellant contends that the proposed development will bring significant economic benefits to the local area through visitor spending and support local businesses such as the golf course and the public house and restaurant. The proposal now does not include a shop and cycle hire and visitors seeking leisure facilities and a place to eat out would need to locate this off-site, which would assist the local economy.
65. It is envisaged that the proposed development would create up to 15 new full-time jobs comprising of site manager, site office staff, grounds and maintenance staff and housekeepers.
66. In relation to social benefits, the proposal would provide high quality holiday accommodation, providing opportunities for visitors to explore the outdoors and what Flintshire has to offer.
67. The appellant asserts that the development is in accord with PPW's definition of sustainable development in relation to the three dimensions; economic, social, and environmental. The proposal would deliver significant economic benefits, through its contribution to the economy in terms of visitor spending, supporting local business and employment generation. In environmental terms, the scheme would not give rise to any adverse impacts on the natural, built, and historic environment. As such, the proposed development constitutes sustainable development under PPW.
68. In relation to this factor, I accord it considerable weight.

**Other Matters**

69. Representations have been made by residents, Northop Country Park Occupants Association (NCPOA) and Northop Ward and Local Councillors. Included with these letters are six appendices, a Barrister's opinion and a letter from Aaron and Partners Solicitors.

70. These representations and appendices have been considered in this appeal. The concerns and objections relate to the following matters.

*Foul drainage*

71. The appellant confirms that the foul drainage from the development would connect to a public sewer that would discharge to a pumping station which is outside the catchment of the River Dee and Bala Lake Special Area of Conservation (SAC). The development does not have any implications for the riverine SAC in terms of increased phosphate levels because the pumping station is situated outside the SAC catchment area. Both Natural Resources Wales (NRW) and Dŵr Cymru/Welsh Water (DC/WW) have not objected to the development on this basis and recommend that planning conditions be imposed. This proposal differs materially therefore to appeal decision reference APP/A6835/A/19/3240671 which concerned phosphates. There are concerns about the adequacy of the sewers to cater for the development and the damage that may be caused to the infrastructure. DC/WW has not opposed the development and indicate that a planning condition be imposed to control this element of the development.

*Ecology, biodiversity, and trees*

72. Concerns have been expressed in relation to the ecology studies and their age and the effect on the biodiversity of the Country Park. The Great Crested Newt (GCN) Mitigation Strategy is a more recent study than others submitted. The Council's Ecologist and NRW are satisfied that provided conditions are imposed on GCN Mitigation Strategy, bat roosts and scheme to remove Giant Hogweed the development would be acceptable.

73. The appellant has provided a Tree Condition Survey which included an arboriculture assessment, method statement and tree protection plan. This plan included Construction Exclusion Zones to protect trees during construction. The local planning authority was satisfied on this issue, and it did not form part of the deemed reasons for refusal. As layout is a reserved matter the Council has further control on this aspect of the development, and I am therefore satisfied that the development is acceptable in relation to impact on trees.

*Previous scheme and consistency*

74. Concern has been expressed that this appeal development should be dismissed because a 30-unit scheme was refused by the Council. However, I am dealing with this appeal under a different development plan context following the adoption of the LDP. I am not bound by the previous refusal and further evidence has been presented with this appeal.

*Amenity, safety, and highway concerns*

75. Residents are concerned that there would be genuine safety concerns for future occupants of the development in relation to the proximity of the golf course and miss hit golf balls that could cause serious injuries. There are also living conditions concern with the increased activity on the site resulting in disturbance, loss of privacy and security. There are issues relating to pedestrian safety, mobility for all users of the development and the adequacy of the internal roads to deal with the volume and weight of vehicles on a substandard road. I note these concerns, but the development would be some 100m from the housing and there are no concerns raised by the Council in relation to noise and disturbance. No objections have been raised to the development from the Highway Authority.

*Adequacy of the information*

76. As noted in the procedural paragraph the development is not regarded as an EIA development under the Regulations and a Screening Direction has been issued. There

are also concerns about the information submitted in relation to scale and design parameters. As noted in the procedural paragraph I am satisfied that there is sufficient information presented to decide on these matters. Other matters relate to the impact on Green Barrier and that no Landscape and Visual Impact Assessment (LVIA) have been provided. The site is not located within a Green Barrier and the Council did not indicate that an LVIA was required in this case or that the application was deficient in relation to the assessment on visual impact and landscape character.

## **Conditions**

77. The Council's suggested conditions 3, 6 and 7 are not included because they are covered by any subsequent reserved matters application for appearance and landscaping. Levels are detailed on the submitted plans and form part of the considerations that determine the scale of the development at outline stage. There is no need to require further details on levels. Suggested condition 8 is included to deliver and secure implementation of any landscaping details in the reserved matters application. Condition 9 is revised to exclude surface water as this is a requirement of the Sustainable Drainage Systems (SuDS) approval by the local authority acting in its SuDS Approval Body role before construction begins. Condition 9 is necessary to ensure a scheme for the disposal of foul water is submitted to and agreed by the local planning authority as is required by the statutory undertaker DC/WW.
78. Conditions 13 and 15 are needed to secure biodiversity enhancement and gigabit capable broadband infrastructure to support the roll-out of digital communications infrastructure across Wales in accordance with Policies 9 and 13 of Future Wales. I regard the biodiversity measures included with the application to provide appropriate mitigation, but they are not enhancements as required by Policy 9. Condition 16 is necessary to ensure that the amount of development is controlled through the outline permission and is no more or less than that described by the appellant in its submissions.
79. Condition 14 is needed to ensure that water disposal from any hot tubs that may be provided on site is connected to the existing public sewerage system or disposed of appropriately off-site by an approved contractor. The Council has suggested that water disposal from hot tubs should be through the public sewerage system as disposal via surface water could be detrimental to protected species. I would concur since preserving protected species is a material consideration, and a condition ensuring this protection seems necessary, reasonable, and proportionate to the proposed development. It remains unclear whether this matter is controlled through other legislation and a condition is necessary to be satisfied that it is capable of effective regulation.
80. I also have made minor re-drafting changes to other conditions, but their substance have not been altered.

## **Planning Balance and Conclusions**

81. 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 (FW and LDP). I have found the development would comply with the development plan policies relating to heritage assets and the character and appearance of the area. These matters are neutral in the final balance as this is expected of all developments.
82. I consider that the proposed development is not justified in this location having regard to the policy of rural restraint and the relevant development plan policy, LDP Policy PE12. This policy is considered important because it is the most relevant and principal policy relating to the location of the appeal development in the countryside. In addition, the proposal does not accord with the Placemaking outcome in terms of accessible location in

PPW. I attach significant weight in relation to this matter against the proposed development.

83. Therefore, the appeal scheme should be regarded as being in conflict with the development plan when taken as a whole, despite the matters where I have identified policy compliance.
84. It is therefore necessary to consider whether there are other material considerations that indicate a decision other than in accordance with the development plan.
85. I attach significant weight in favour of the development in relation to the fall-back position. I also attach considerable weight in favour of the development in relation to the other considerations on economic, social, and environmental benefits. In this regard the development meets PPW sustainable placemaking outcomes, maximising environmental protection and limiting impact and growing the economy in a sustainable manner.
86. In the final balance, I conclude that the conflict with the development plan and the identified harm in relation to the first issue is outweighed by other considerations which would justify granting planning permission with reference to the fall-back position and other identified benefits of the scheme.
87. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective to make our cities, towns, and villages even better places in which to live and work.
88. I therefore conclude that the planning balance is to allow this appeal.

*Iwan Lloyd*

INSPECTOR

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### **SCHEDULE OF CONDITIONS in relation to Appeal Ref: CAS-02031-S9D4L8**

- 1) Details of the appearance, landscaping, layout, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.  
Reason: The application is submitted in outline with access and scale submitted for consideration these reserved matters listed in the condition require approval from the local planning authority before any development begins.
- 2) Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.  
Reason: In accordance with the provisions of Sections 91 to 93 of the Town and Country Planning Act 1990 (as amended).
- 3) The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.  
Reason: In accordance with the provisions of Sections 91 to 93 of the Town and Country Planning Act 1990 (as amended).

- 4) The development, in so far as, the forementioned plans relate to scale, access, ground and finished floor levels forming part of this application shall be carried out in accordance with these plans: [Site plan drawing no. 20-198 SP01 Revision A and Site sections drawing scale 1:300, No. 20-198 SE01].

Reason: To ensure the development is carried out in accordance with the approved plans submitted with the application.

- 5) The development shall be occupied as holiday accommodation only and shall not be occupied as a person's sole or main place of residence. The site operator shall maintain an up-to-date register and the information shall be made available for inspection by the local planning authority upon request. The register shall contain details of the names of all of the occupiers of the accommodation, their main home addresses and their date of arrival and departure from the accommodation.

Reason: In the interests of ensuring that permanent residential occupation of the site and units is prevented in accordance with Policies PC2 and HN4 of the Flintshire Local Development Plan.

- 6) All planting, seeding or turfing comprised in the approved details of landscaping in any subsequent reserved matters application for landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of securing that a landscaping scheme is carried out in accordance with any reserved matters application to be submitted to the local planning authority in accordance with Policies PC2 and PC3 of the Flintshire Local Development Plan.

- 7) Notwithstanding the submitted details, no security lighting shall be installed until a scheme for the proposed positions, heights, level of illumination and angle of illumination has been submitted to and approved in writing by the local planning authority. The security lighting shall be carried out in accordance with the approved scheme.

Reason: In the interests of safeguarding visual amenity in accordance with Policies PC2 and EN4 of the Flintshire Local Development Plan.

- 8) Facilities shall be provided within the site for the loading, unloading, parking, and turning of vehicles, in accordance with a scheme to be submitted to and approved by the local planning authority prior to the commencement of any site works. Such facilities being completed prior to the occupation of the holiday unit it relates to and thereafter be kept available for such purposes for the lifetime of the development.

Reason: To ensure that provision is made for servicing the site and that adequate parking and manoeuvring space is provided to serve the development, to avoid the necessity for reversing movements into or from the highway in the interests of highway safety, maintaining the free flow of traffic on the adjoining highway and in compliance with Policy PC2 of the Flintshire Local Development Plan.

- 9) No development shall commence until details of a scheme for the disposal of foul water has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the use of the development and retained in perpetuity.

Reason: In the interests of protecting health and safety of residents and to ensure no pollution of or detriment to the environment in accordance with Policy PC2 of the Flintshire Local Development Plan.

10) No development shall commence until a Great Crested Newt (GCN) Conservation Plan has been submitted to and approved in writing by the local planning authority. The Conservation Plan shall incorporate the principles outlined in the Great Crested Newt Mitigation Strategy (Grey, R. 2021. *Etive Ecology*), and shall include the following:

- a pre-commencement amphibian survey using traditional GCN survey techniques in accordance with an agreed written methodology; and
- the submission of updated details and a plan concerning GCN avoidance and mitigation measures including fence construction and maintenance; and
- details of timing, phasing and duration of construction activities and conservation measures; and
- a timetable for implementation demonstrating that works are aligned with the proposed phasing of the development; and
- an Ecological Compliance Audit to evidence compliant implementation of all ecological avoidance, mitigation and compensation works. The Audit shall identify Key Performance Indicators that are to be used for the purposes of assessing and evidencing compliant implementation of proposals; and
- persons responsible for implementing the works; and
- post-construction monitoring and record dissemination for a period of no less than 3 years.

The Conservation Plan shall be carried out in accordance with the approved GCN Conservation Plan and details.

Reason: To ensure conservation of protected species in accordance with Policies STR13 and PC3 of the Flintshire Local Development Plan.

11) No development including site clearance shall commence until a scheme for the management of Giant Hogweed on the site has been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details.

Reason: In the interests of health and safety and in accordance with Policies STR13 and PC3 of the Flintshire Local Development Plan.

12) No development shall take place, nor shall there be any site clearance until measures designed to safeguard bat roost sites including lighting proposals have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure conservation of protected species in accordance with STR13 and PC3 of the Flintshire Local Development Plan.

13) No development shall take place until a scheme for biodiversity enhancement has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of maintaining and enhancing biodiversity, in accordance with Future Wales Policy 9.

14) The disposal of wastewater from any hot tubs that may be provided on site in connection with the chalets/lodges hereby permitted, shall be connected to the existing public sewerage system, or disposed of off-site, to an approved contractor.

Reason: To ensure there is no detriment to protected species and their habitats in accordance with Policies STR13 and PC3 of the Flintshire Local Development Plan.

15) No development shall take place until a scheme to enable the provision of gigabit capable broadband infrastructure from the site boundary to the buildings hereby permitted has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To support the roll-out of digital communications infrastructure across Wales in accordance with Policy 13 of Future Wales.

16) The development shall not exceed 24 holiday units and 1 reception building.

Reason: In the interests of ensuring that the amount of development is restricted in the outline planning permission in the interests of visual amenity and impact on heritage assets in accordance with Policies STR10, STR13, PE12, PC2, PC3 and EN8 of the Flintshire Local Development Plan.