

Marl Lane Planning Inquiry

Speech by Janet Finch-Saunders AM:

Introduction

I am speaking in my capacity as the elected Assembly Member for Aberconwy, on behalf of the constituents who have contacted me in relation to this planning application.

There has been an overwhelming level of objection locally to this planning application – with over 1,300 individual objections submitted to the Council in relation to this.

Notwithstanding this, the contraventions of national and local planning policy that this application proposes should not permit its approval today.

I intend to outline the issues relating to housing land supply, planning policy relating to this, contraventions of other areas of planning policy, and further concerns, to conclude that this application should not be approved.

Housing Land Supply

Over the past few years, the number of empty homes in Conwy County has remained steadily between 1,560 and 1,580, yet the overriding reason being put forward for the approval of this planning application is the need to increase housing supply within Conwy County.

As regards the calculation of the housing land supply – issues surrounding TAN1 methodology area widespread – with 79% of local planning authorities in opposition to the Welsh Government's change in 2015 – a debate to be had outside of this inquiry, but important to note in this context nonetheless.

We know that applications brought to local planning authorities must be determined in accordance with policies in the LDP, unless material considerations indicate otherwise.

With regards to this application, housing land supply, in this instance, is NO LONGER deemed a 'material consideration'. This follows the letter issued by Lesly Griffiths AM, Cabinet Secretary for Energy, Planning, and Rural Affairs dated 18 July 2018, in which she advised the following:

“As a result of the current housing land supply position across Wales some Local Planning Authorities (LPAs) are receiving ‘speculative’ applications for housing on sites not allocated for development in LDPs. This is generating uncertainty for communities and is to the detriment of the plan-led system. Therefore, in support of the review and to alleviate some of the immediate pressure on LPAs, I have decided to dis-apply paragraph 6.2 of Technical Advice Note (TAN) 1, *Joint Housing Land Availability Studies*, following the consultation on this matter. This removes the paragraph which refers to attaching “considerable” weight to the lack of a 5-year housing land supply as a material consideration in determining planning applications for housing”. The Cabinet Secretary then goes on to explain that “this dis-application of paragraph 6.2 of TAN 1 takes effect from 18 July 2018” and that “The planning applications effected will include all those which have been made but not determined by the relevant authority”.

To put it simply, what the letter from the Cabinet Secretary tells us is that the housing land supply figure will not be treated as a material consideration whilst paragraph 6.2 is dis-applied, nor will the need to increase supply be given considerable weight when dealing with applications.

Even if TAN 1, 6.2 did apply, the application should not be approved, because as the paragraph states: “Where the current study shows a land supply below the 5-year requirement...the need to increase supply should be given considerable weight when dealing with planning applications ***provided that the development would otherwise comply with development plan and national planning policies.***” [Emphasis added.]

So, not only is housing land supply no longer a material consideration, it would only have been considered as a potential deciding factor where local development plan, and particularly national planning policies, are complied with.

In this instance, this is not the case...

Policy considerations

It has been highlighted in submissions to this consultation, during the Planning Committee meetings, and in correspondence to the Inquiry since, that a number of planning policies are contravened by this application:

Nationally

- TAN 24 – The Historic Environment

- TAN 5 – Nature Conservation and Planning
- Planning Policy Wales 6.5

Locally

- CTH/1 – Cultural Heritage
- CTH/2 – Development Affecting Heritage Assets
- DP/6 – Compliance with national planning policy and guidance

Technical Advice Note (TAN) 24: The Historic Environment (2017) provides guidance on how the planning system considers the historic environment during development plan preparation and decision making on planning and listed building applications.

As noted in the Planning Committee report on this application, site constraints include:

- Conwy Castle and Town Walls World Heritage Site, Scheduled Ancient Monument and Listed Building (Grade 1).
- Deganwy Castle Scheduled Ancient Monument and Remains of Deganwy Castle Listed Building (Grade 2*).
- Bryniau Tower Scheduled Ancient Monument and Listed Building (Grade 2).
- Bodysgallen Historic Park and Garden (Grade 1), including Bodysgallen Hall (Grade 1), walls and gateway (grade 2), walls to rose garden (grade 2), garden walls and railings (grade 2), walls to water garden (grade 2), walls to Dutch garden (grade 2), old cottage and dovecote (both grade 2), outbuilding (grade 2), terrace wall (grade 2), former stable block (grade 2), garden barn and granary (grade 2).
- Other listed buildings, including Harriet Robertson Research Institute (400m north), Bryniau Hill Watch Tower (Grade 2).
- Gloddaeth (St David's College) Historic Park and Garden (Grade 1).
- Creuddyn and Conwy Registered Landscape of Outstanding Historic Interest.

Further, **Technical Advice Note 5, Nature Conservation and Planning (2009)**, provides guidance on how the land use planning system should contribute to protecting and enhancing biodiversity and geological conservation.

As noted in the Planning Committee report on this application, site constraints include:

- Special Landscape Area (Great Orme and Creuddyn Peninsular).
- Agricultural land (grade 3a).

- TPO A14 (1982) - group of trees (G4) on east boundary.

With regards to these historical assets, the application may be in contradiction to Conwy County Borough Council's LDP Policies **CTH/1** and **CTH/2**.

CTH/1 Cultural Heritage states that the council is committed to protecting and, where appropriate, enhancing its cultural and heritage assets, to be achieved by:

*"a) Ensuring that **the location of new development on both allocated and windfall sites within the Plan Area will not have a significant adverse impact upon heritage assets** in line with Policies CTH/2 – 'Development Affecting Heritage Assets', DP/3 – 'Promoting Design Quality and Reducing Crime' and DP/6 – 'National Planning Policy and Guidance';*

b) Recognising and respecting the value and character of heritage assets in the Plan Area and publishing Supplementary Planning Guidance to guide development proposals;

*c) Seeking to **preserve and, where appropriate, enhance** conservation areas, Conwy World Heritage Site, historic landscapes, parks and gardens, listed buildings, scheduled ancient monuments and other areas of archaeological importance in line with Policy DP/6."*

CTH/2 Development Affecting Heritage Assets aims to ensure that development proposals which affect a heritage asset, and/or its setting, shall preserve or, where appropriate, enhance that asset.

Such assets include:

- **Conservation Areas**
- **Conwy World Heritage Site**
- **Historic Landscapes, Parks and Gardens**
- **Listed Buildings**
- **Scheduled Ancient Monuments**
- **Sites of archaeological importance**

CTH/2 also notes that "Development proposals will be considered in line with Policy DP/6".

DP/6 states that: "Development proposals must comply with national [Welsh Government] planning policy and guidance."

This is relevant in the context of **Planning Policy Wales 6.5.1** which further states that: *“Conservation Principles [must] set out the basis for making informed decisions about any proposed change that has an impact on the historic environment. This [must be]... based on a full consideration of the significance of an historic asset and the impact of the proposal on that significance. The greater the significance and/or impact then the greater the benefit needed to justify any harm.”*

The site is also within the designated Creuddyn and Conwy Registered Landscape of Outstanding Historic Interest. Again, this application may be in contradiction to **DP/6** with regards to **PPW 6.5.27**, which states that: *“Information on the register of historic landscapes in Wales should be taken into account by local planning authorities in considering the implications of developments which meet the criteria for Environmental Impact Assessment, or, if on call in, in the opinion of the Welsh Ministers, they would have more than local impact on an area in the Register. Cadw must be consulted on development within a registered historic landscape area that requires an Environmental Impact Assessment.”*

Both Cadw and Gwynedd Archaeological Planning Service (GAPS) were consulted, with **GAPS recommending refusal based on the four nationally important sites:** Bodysgallen Hall Listed Building, Bodysgallen Registered Historic Park and Garden, Deganway Castle scheduled monument, and Bryniau Tower scheduled monument. Additionally, Cadw advised that there was **inadequate information and analysis** of the impact on these four sites and the landscape of historic interest.

Again, this may further be in contradiction to **DP/6** with regards to **Planning Policy Wales:**

- **PPW 6.5.5** - The conservation of archaeological remains is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where **nationally important archaeological remains**, whether scheduled or not, and their settings are likely to be affected by proposed development, **there should be a presumption in favour of their physical protection in situ**. It will *only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument* (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. In cases involving less significant archaeological remains, local planning authorities will need to weigh the relative importance of the archaeological remains and their settings against other factors, including the need for the proposed development.

- **PPW 6.5.11** - There should be a **general presumption in favour of the preservation of a listed building and its setting, which might extend beyond its curtilage**. For any development proposal affecting a listed building or its setting, the primary material consideration is the **statutory requirement to have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest which it possesses**. The aim should be to find the best way to protect and enhance the special qualities of listed buildings, retaining them in sustainable use. The continuation or reinstatement of the original use should generally be the first option, but not all original uses will now be viable or appropriate. The application of development and listed building controls should recognise the need for flexibility where new uses have to be considered in order to secure a building's survival or provide it with a sound economic future.
- **PPW 6.5.26** - Local planning authorities should protect and conserve parks and gardens and their settings included in the register of historic parks and gardens in Wales. Cadw must be consulted on all planning applications where development is likely to affect the site of a registered historic park or garden or its setting. **The effect of a proposed development on a registered park or garden or its setting should be a material consideration in the determination of a planning application.**

Therefore, I believe that this application contravenes a number of both national and local planning policies. If material consideration of housing land supply had not been disapplied by the Cabinet Secretary, the contraventions outlined already would have rendered it void anyhow, given that contrary to requirements under TAN1, this development **does not** “otherwise comply with development plan and national planning policies”. However, in this instance, according to the letter from the Cabinet Secretary, the housing land supply figure will not be treated as a material consideration whilst paragraph 6.2 is dis-applied, nor will the need to increase supply be given considerable weight when dealing with applications.

GP capacity

Finally, local capacity in terms of public services is of a real concern.

I understand from the local authority that they believe school placements would not be an issue, but it is telling that the Local Health Board repeatedly raised in their responses to the original consultation that “GP practices covering Deganwy and Llandudno Junction do have GP capacity and recruitment challenges” and such a number of additional homes “will impact on the ability to provide adequate services.”

Further, “Deganwy itself is only serviced by a small branch surgery. Any significant rise in population will have an impact on the accessibility of health facilities in the area in the absence of any support to enhance those services.”

I believe that such concerns go against the principle of sustainable development. Whilst we do need to build more houses as our population increases, given the considerable issues surrounding the recruitment and retention of GPs, it makes sense to build such accommodation in higher-density population areas where such services are more established, with a fuller complement of staff.

Conclusion

In conclusion, given the considerable number of contraventions of national and local planning policy, disapplication of paragraph 6.2 of TAN 1 since 18 July 2018, GP provision concerns, and the exceptional level of local objection to this planning application, I believe it should be refused.

There is no reason why such a development with this number of houses could not be built on a brownfield site in the constituency, and I cannot see any good reason for setting a precedent of going against planning guidance designed to protect our unique and valuable historic environment and cultural heritage. To do so would set us off down a dangerous path, and I urge the Inspector to rule against this application today.

On a side note...TAN1 calculations

We know that, when changes to the methodology for calculating the housing land supply under TAN1 were proposed a few years back, 79% of planning authorities, including Conwy County Borough Council, disagreed with the proposal to use the residual methodology only – with those opposed favouring the ‘past build rates’ methodology instead¹ - particularly where an LDP had not been developed, or was out of date.

As a result of the changes to the methodology in 2015, the housing land supply calculated for Conwy has changed dramatically, despite no corresponding population or demographic change within the County. In 2017, the land supply was calculated at 3.1 years. If the ‘past build rates’ method had been used, this would have stood at 8.5 years. The difference is astounding, and highlights just why so many local authorities and residents have concerns as to this method. However, importantly, as I mentioned at the beginning, following the letter issued by Cabinet Secretary, housing land supply figure is not be treated as a material consideration whilst paragraph 6.2 is dis-applied, nor will the need to increase supply be given considerable weight when dealing with applications.

¹ <https://consultations.gov.wales/sites/default/files/consultation-documents/150209tan1-consultation-summary-report-en.pdf>