



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

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FAO [redacted]
Rossett Focus Group
{by e-mail}

<https://gov.wales/planning-appeals>
<https://llyw.cymru/apeliadau-cynllunio>

Eich Cyf/Your Ref:
Ein Cyf/Our Ref: 3231048

Date 11th June 2020

Dear [redacted]

Thank you for your e-mail and attachment of 14th May, as Mr. [redacted] explained, the matter has been passed to another member of the Planning Inspectorate team to ensure independent scrutiny. The Focus Group has asked that we review the situation in relation to the matters you raise, and extend to the Inspectorate the opportunity to comment further on all points. I note you are considering making a formal complaint to the Public Services Ombudsman for Wales, which of course is open to you to do so. Mr. [redacted] earlier response sets out contact details for the Ombudsman.

The Focus Group considers that Mr. [redacted] letter of 11th May did not sufficiently deal with all the issues you complained about. In considering my response, I have had regard to the reply and the further points you now raise.

I acknowledge your acceptance of our apologies, but I must refute that Mr [redacted] response in anyway acknowledged that we impinged on the group's status. His response apologised for the poor customer service you received by not explaining that the Focus Group's status could not be elevated, as there is no provision in the Regulations governing the appeal process, to allow this to happen.

1. Choice of Procedure

You consider the decision to determine the appeal by the written representations procedure to be flawed and contend that clear evidence of substantial public interest was enough to warrant a hearing. You also raise other matters about the circumstances leading to the change of procedure from hearing to written representations. Mr [redacted] reply explains how a decision on procedure is reached and also how weight is attributed to a matter; it is not dependent on 'who submitted them, how many people make the same point nor whether they are made in writing or orally' There is nothing I can usefully add to this. His reply is also clear there is no direct communication between any party and a Planning Inspector. I have no reason to conclude there was anything to the contrary in this case. Publishing documents to the Appeals Casework Portal (ACP) is a service provided to make appeal documentation more accessible to all; Planning Inspectors do not rely on ACP in their considerations of a case and all representations submitted would have been available to the appointed Inspector.

2. Complaint about the Inspectors report

There is nothing I can add to Mr [REDACTED] response on this point. I note you received the view of Counsel who is of course entitled to come to their own conclusions using their professional judgement.

3. The Inspector's consideration of RFG representations

I note your view this conflicts with comments made on 'page 2 final paragraph on Procedure-The weight of Evidence'. I am however, unclear which document you are referring to, to be able to comment on this point.

4. Acceptance of Statement of Common Ground (SoGC)

I note your thoughts about the relevance of a SoGC. [REDACTED] states that the Inspector was entitled to rely on the evidence presented to him and I agree with this view. Not rehearsing every individual party's submissions in a report is reasonable, it is not evidence of a failure on the Inspectors part to take into account those submission when reaching his conclusions.

5. Emerging Local Development Plan

I acknowledge your view that the emerging Local Development Plan (LDP) and the extant Wrexham County Borough Council Unitary Development Plan (WCBC UDP) have been 'cherry picked' by the Inspector to justify his decision. Mr [REDACTED] advises that if you consider the Inspectors handling of the weight to attribute to the LDP and UDP is legally flawed you should address the matter in the High Court. I have no reason to disagree with this advice.

6. 5-year Housing land supply

I do not agree that it was incumbent on the Inspector to seek any clarification in regard to Council Document BP08B. Paragraph 17 of the Inspector's report is clear: "where an LPA does not have an *adopted* LDP, or where an *adopted* UDP is outside of the plan period as in this case, it will **not** be able to produce a JHLAS and therefore will **not** be able to demonstrate a five year supply of land for housing."

7. Previous Application

In respect of the '*Planning History*' section of the Inspector's Report, it was made clear to the Inspector that residential development and the construction of new vehicular and pedestrian access was refused planning permission under LPA Ref: ROS 17649. The LPA did not disclose the full evidence base relating to that decision. The reasons for refusal in that case, as you identified in your submissions, were consistent with the arguments you advanced and were summarised from paragraph 62 of the Inspectors Report. The issues that formed the refusal of planning permission in application Ref: ROS 17649 were also brought forward as main issues in the '*Appraisal*' section of the Inspector's Report (Paragraph 66 onwards) and concluded as part of a wider planning balancing exercise at paragraph 96 of the Report. I cannot agree the Inspector paid little attention to the substance of your evidence.

8. The Inspectorate's handling of various planning issues

I note your disagreement with the Inspectors findings. You may not agree with the Inspector, but this does not mean the Inspector arrived at his findings in anything other than a fair and impartial way. They were conclusions he was entitled to reach using his professional judgment.

9. Validation of the appeal

The right of appeal is set out at Section 78 of the Town and Country Planning Act 1990 and Article 26 (1) of The Town and Country Planning (Development Management Procedure)(Wales) Order 2012 (DMPO). The requirements needed to make a valid appeal are listed at Article 26 (3) of the DMPO. The substance of an appellant's grounds of appeal are not a validation requirement.

I am sure that you will be disappointed with my response and conclusions. However, I am satisfied, as was Mr [REDACTED], with our processing of the appeal and that the Inspector's report to Welsh Ministers was free from error. I see little value in entering into further communication on these matters; the complaints procedure is not a mechanism for rearguing the merits of the case.

Yours sincerely [REDACTED]

[REDACTED]

Arweinydd Gweithrediadau Cymru

Wales Operations Lead