The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Penderfyniad ar yr Apêl

Gwrandawiad a gynhaliwyd ar 27/04/21
Ymweliad safle a wnaed ar 20/04/21

gan Hywel Wyn Jones, BA (Hons) BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 21/6/21

Appeal Decision

Hearing Held on 27/04/21
Site visit made on 20/04/21

by Hywel Wyn Jones, BA (Hons) BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 21/6/21

Appeal Ref: APP/H6955/A/19/3238470
Site address: Land North of Holt Road, Wrexham, LL13 9EH

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Glyndwr University against the decision of Wrexham County Borough Council.
- The application Ref: WRA P /2018/0673 dated 4 August 2018, was refused by notice dated 1 July 2019.
- The development proposed is the erection of up to 74 dwellings together with vehicular/pedestrian access from Holt Road, open space which can be used with adjoining land to the west to create a formal sports pitch, site landscaping, sustainable drainage and other related infrastructure.

Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 74 dwellings together with vehicular/pedestrian access from Holt Road, open space which can be used with adjoining land to the west to create a formal sports pitch, site landscaping, sustainable drainage and other related infrastructure at Land North of Holt Road, Wrexham in accordance with the terms of the application, Ref: WRA P/2018/0673 dated 4 August 2018, subject to the conditions set out in the attached Schedule.

Procedural and Preliminary Matters

2. The application seeks outline permission with all matters reserved for future approval. I have treated the submitted layout plans to be for illustrative purposes only.

3. The application was submitted on a form dated 4 August 2018. At the Council's request another form, dated 14 June 2019, was subsequently submitted to confirm that the statutory notifications in relation to site ownership had been undertaken.

4. In accordance with my note circulated in advance of the hearing, at the event I sought clarification on several matters from the main parties and discussed the first main issue identified below as well the submitted Unilateral Undertaking and suggested

conditions. All other matters have been considered on the basis of the submitted written representations.

5. As agreed at the hearing, the appellant subsequently submitted a duly executed Unilateral Undertaking in the form discussed. At the hearing the appellant confirmed that, despite the indication on the appeal form, it did not wish to pursue an application for costs.

Main Issues

6. The main issues are effect of the proposed development on:

   (i) the provision of open space for the benefit of the local community, having regard to protective planning policies; and

   (ii) highway safety and traffic flow on the highway network.

Reasons

7. The appeal site is a broadly rectangular parcel of fairly flat, greenfield land which is some 3.27 hectares in area. To the north and east it is bounded by the rear gardens of dwellings and to the west lies an area of public open space and a former day centre building used as a food bank. Part of the southern boundary fronts Holt Road, an arterial road to the town centre, the remainder bounds a small residential estate. The surrounding area is primarily suburban residential in character.

8. The site lies within the town's settlement boundary as defined in the adopted Wrexham Unitary Development (UDP) and the emerging Local Development Plan (LDP). The site is not the subject of any designation or allocation and, thus, the principle of housing on the site is acceptable as a windfall contribution to supply under both the adopted and emerging development plans. This position is not altered by the fact that the site was as a candidate housing allocation that was rejected as part of the LDP process.

   Open space

9. The majority of the site is somewhat overgrown and enclosed by high fencing; the remaining, western, portion is open and has well-maintained grass cover. The western portion is used in association with adjoining Council-owned land to the west as a playing field including for junior football matches and for more informal recreation, including dog walking. It is served by a car park and has a gated access onto Dean Road. There are access gates in the rear boundary enclosures of many of the properties that back onto the land where there is also evidence of the remnants of old chain-link fencing.

10. The whole site was used as a playing field and for informal exercise and dog walking until a few years ago. In 2019, the appellant erected additional fencing and locked a gate on the Holt Road boundary to prevent public access to the eastern portion, this followed the display of signage in 2011 declaring the private status of the land.

11. Local residents consider that there are rights of public access over the land on the basis of past use. During the hearing it was confirmed that applications to register the appeal site as a village green and to designate a route across the site as a bridleway would be unlikely to be determined by the Council for several months.

12. Whilst the appellant disputes that any such rights can be established through these extant applications, it has provided an illustrative site layout which demonstrates the

incorporation of a bridleway route into the scheme should such rights be established. Pending the outcome of these applications I have dealt with the appeal on the basis of the present circumstances which is that there are no established public rights of access over any part of the site.

13. Local residents explain that the land was gifted to a previous landowner for the specific purpose that it be used for community benefit. Be that as it may, there is no evidence of any legally binding restrictions on the present owner's use of the land. In any event such a matter is a private one which does not affect the planning merits on which my decision must be based. At the hearing the University explained that it was bound to secure the best value for its assets in the disposal of the land and that its actions are driven by its charitable objectives which is the furtherance of education for the benefit of its students and the wider community. Mr Elcock for the University confirmed that, if it were unable to gain a financially beneficial use to assist in its Campus 2025 project, to which I return below, it would not dispose of the land. Rather, it would retain it in its vacant state until such time as a permission could be secured for a financially beneficial alternative use.

14. Whilst there is some dispute over the level of local open space provision, there is no doubt that the site served as a valued community asset over decades. At various times it has been used for organised football, rugby and hockey matches as well as for informal sporting and other recreational purposes, including community fetes. The Council's 2016 updated Open Space Survey categorises the site as 'amenity greenspace' rather than as a 'facility for outdoor sports'.

15. In objection to the planning application Sports Wales and others point out that Planning Policy Wales (PPW), Edition 11, is protective of all playing fields whether owned by public, private or voluntary organisations unless: facilities can best be retained and enhanced through the redevelopment of a small part of the site; alternative provision of equivalent community benefit is made available; or there is an excess of such provision in the area.

16. Technical Advice Note (TAN) 16: Sport, Recreation and Open Space at 3.12 recognises that open space, particularly that with a significant amenity, nature conservation or recreational value should be protected and should be identified in the development plan. It goes on to emphasise the importance of not unnecessarily protecting urban vacant and underused land from development where the land is not of significant amenity, nature conservation or recreational value, as it may potentially relieve development pressures in more sustainable locations.

17. There is compelling evidence that the eastern part of the site does not presently function as public open space and there is no realistic prospect of that historical use resuming. Thus, based on a literal interpretation of the protective provisions of national and local planning policies, the land is not an existing provision and thus falls outside their scope. Taking a purposive approach to interpreting the policies, as there is no reasonable prospect of the land performing the beneficial use which the policies seek to protect, their clear aim would not be met by dismissal of the appeal.

18. The scheme provides an opportunity to secure the continuation of the playing field on the western portion including, in association with the adjoining Council owned land, junior football pitches. In this respect it would align with the identified deficiency of public open space identified in the 2016 survey which identified the greatest need as being for children and young adults. The land could also be used recreationally, which might include dog exercise which I observed was being undertaken at the time of my visit.

19. The long-term use of the playing field would be secured through the Unilateral Undertaking which makes provision to offer the land to the County Council and thereafter the Community Council. Neither council has provided an assurance that they would take up the offer of the land but given the value of this open space to the community and the County Council's ownership of the other part of the playing field, it seems there is a reasonable prospect of a positive response. Cllr Davies explained that the junior section of the Borras Park Albion Football Club currently take responsibility for the maintenance of this land as part of its use of the football pitches.

20. In the light of the importance attached to such provision in the UDP and in TAN 16 and the emphasis on placemaking in PPW, the opportunity to secure the future use of the western portion as playing fields represents a significant benefit to the local community, albeit a marked reduction compared to historical levels.

21. The Council accepted at the hearing that, although the site in its vacant state provides a gap in an otherwise fairly dense residential area, it does not provide a valuable visual amenity. Whilst I accept that adjoining neighbours may value its open character it provides little positive contribution to the character of the public realm given the screening effect of nearby houses. Specialist consultation responses to the application has established that the land has no significant conservation value.

22. On this main issue I find that the scheme would not harm the local community's provision of open space. As the part of the site proposed for housing does not offer a recreational or visual contribution to the community its redevelopment does not conflict with UDP policy CLF4 or national policy. The potential to secure the remainder of the site as part of the existing playing field provision aligns well with the aim of these policies.

Highway safety and flow

23. Vehicular and pedestrian access to the development would be onto Holt Road in the south eastern corner of the site, close to an existing pedestrian crossing and bus stops. The Council's highways officer does not take issue with the safety of the access arrangements, including the adequacy of the visibility splays that can be achieved to allow vehicles to emerge safely onto this section of the highway. I am satisfied that an acceptable access could be secured at reserved matters stage.

24. The highways officer objects to the effects of additional traffic on the nearby Greyhound roundabout which it opines is already operating above its design capacity. It is concerned that traffic generated by the development would unacceptably exacerbate the existing congestion/queuing experienced in this location, resulting in significant delay and inconvenience to local road users. It does not quantify the additional queuing times that would be experienced or explain its significance in terms of the effective operation of the highway network.

25. The application was supported by a Transport Assessment and a Highways Addendum, and the appellant has subsequently provided a Transport Rebuttal in response to the Council's concerns. It points out that the Council's assertion that the Greyhound roundabout is already operating above capacity is inconsistent with its stated position to the LDP examination that the roundabout has sufficient capacity to accommodate the additional traffic that would be associated with a Key Strategic Site allocation for some 1,680 dwellings over the Plan period. It points out that the sustainable location of the site means that walking, cycling and the bus would prove practical alternatives to the car for many future residents which justifies a lower predicted volume of traffic than in more rural areas. A pedestrian and cycle route across the site can be provided

to avoid the Greyhound roundabout and to encourage a modal shift away from the car for existing as well as prospective residents. The pattern of peak time queuing in Wrexham is of relatively short duration. The proposal is estimated to result in a 1% increase in traffic flows on the roundabout. In the absence of substantive evidence to the contrary, I find its conclusions persuasive.

26. Any additional delays caused by queuing on this junction may encourage some motorists to consider alternative, more sustainable modes of movement or otherwise to adjust travel times or routes. There is also reason to believe that the necessary increase in home working that was caused by the pandemic lockdowns will leave a lasting legacy in terms of reducing peak time commuting traffic.

27. I have noted that there is growth planned in the emerging LDP that would rely on the local road network but this does not alter my finding that the additional loading of the scheme represents a very modest increase of traffic on a major distributor route within the town. Any associated effects on traffic flows is a reasonable cost of facilitating sustainable growth within a regionally important town and would not prejudice the development of the LDP strategic site.

28. On this issue I note the parallels with the Gatwen Road appeal[1]. As the Inspector points out the Highway Authority has not considered alternatives modes of transport in the context of national policy on restricting car usage. I also agree that it is not the function of the planning system to ensure that the convenience of the private car user is safeguarded from congestion. On this basis, and noting the concerns raised by objectors over the impact of additional traffic on other junctions and access points, I am satisfied that none would be significant.

29. I find that the proposed development would not jeopardise highway safety or harm the efficient operation of the road network. Thus, it would not conflict with criterion d) of UDP policy GDP1 which seeks safe and convenient pedestrian and vehicular access.

Other Matters

30. The application form confirms that it is proposed to drain foul water to the public sewer. Dŵr Cymru raises no objection in relation to the capacity of the public sewer or Wastewater Treatment Works to accommodate the additional loadings. The Council has subsequently confirmed that there is sufficient capacity to ensure that the scheme would not lead to the exceedance of the permitted levels of phosphate discharge into the catchment of the Dee Special Area of Conservation. On that basis, I am satisfied that the scheme would not cause any likely significant effect on the site's qualifying features and that no further assessment under the provisions of The Conservation of Habitats and Species Regulations 2017, as amended, is required.

31. Local residents have expressed concerns over the potential to exacerbate local flooding and I have noted their evidence of such problems during periods of heavy rainfall. The Council's drainage officer questions the land's suitability for soakaway drainage. The appellant has provided a Flood Consequence Assessment & Drainage Strategy report which has been informed by ground investigations which indicates that it is suitable for a Sustainable Drainage Scheme (SuDS). The developer would require a SuDS Advisory Board consent before undertaking the work which provides an adequate safeguard to ensure that any localised flooding is not exacerbated. The site layout submitted for reserved matters approval should be designed to accommodate an acceptable SuDS scheme.

[1] APP/H6955/A/19/3238474

32. Concerns are raised at the capacity of local services to cope with additional demand. In line with the advice of the Education Authority on the capacity of local schools the Unilateral Undertaking makes provision to meet the identified need. There is reference to capacity issues facing local GP surgeries but there is no substantive evidence to indicate the extent of any impact.

33. There has been significant objection to the scheme from local residents and their elected representatives. In addition to matters already addressed and those to be covered by planning conditions, many other concerns have been raised, including: the impact on climate change and the natural environment; effect on the living conditions of neighbouring residents through overshadowing, loss of privacy, noise, dust, loss of daylight, vibration and late night disturbance; loss of view and decrease in property values; longer walking routes for school pupils; and air pollution. I have taken into account all of the matters raised that are material planning considerations but, given the scope to address many matters through the approval of reserved matters, conditions and legal obligations, when taken individually or cumulatively they do not justify withholding permission.

34. The scheme would make provision for up to 74 dwellings, of which a quarter would be affordable housing, in a sustainable location well related to existing services and facilities. Whilst the previous requirement on local planning authorities to ensure a 5-year supply of housing land no longer applies, the role of the planning system in meeting society's need for new housing is clearly recognised in the latest iteration of PPW. At the hearing the Council accepted that it cannot demonstrate that it has a supply of housing to meet the identified need pending the adoption of the LDP, which is at an advanced stage of the examination process. Given the suitability of the site, and the emphasis placed by Welsh Government on housing delivery, particularly affordable homes, I afford considerable weight to the scheme's potential timely contribution to this supply. The scheme would also boost the local economy during the period of its construction.

35. The appellant has provided an updated Position Statement to explain the background to the scheme. The university is a charity which seeks to provide and advance higher education in the region. Following a review of its surplus land assets the scheme forms part of a package of developments aimed at providing sufficient, and urgently required, income for investment in improvements for the university to enable the re-modelling of the main campus and the provision of additional student accommodation. This would secure the university's future and, in turn, would provide major economic benefits to Wrexham and the wider region.

Conditions and Unilateral Undertaking

36. I have considered the suggested conditions in light of the advice in Welsh Government Circular 16/2014: The Use of Planning Conditions for Development Management and have adjusted the wording of some conditions in the interest of clarity and precision.

37. Given my findings on foul and surface water drainage, it is not necessary to impose a condition to control either matter. To avoid repetition, I have imposed only one of the arboricultural conditions suggested. As the Unilateral Undertaking deals with affordable housing the suggested condition is superfluous. All these matters were agreed at the hearing.

38. Whilst not set out as a condition, the developer must comply with the duties outlined in section 71ZB of the Town and Country Planning Act 1990.

39. Under Section 106 of the 1990 Act the appellant's Unilateral Undertaking contains obligations to provide 25% affordable housing, to provide and manage public open space within the site, and to offer the existing playing fields to the Council, and if not accepted, to offer it to Acton Community Council. In the event that neither accepts the offer the landowner is committed to make the land available for sport and/or recreation. There is also an obligation to make a financial contribution towards primary school provision either at Borras Park County School or towards a new primary school.

40. The Council has confirmed that the obligations are necessary and align with its adopted policies and guidance. I am satisfied that, as they are necessary and related in scale and kind to the proposed development, they meet the legal tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the policy tests in Circular 13/97. The Council has also confirmed that none of the proposed contributions would exceed the pooled limit set out in Regulation 123. As such I afford the obligations considerable weight in the determination of the appeal.

Conclusions

41. For the reasons set out above I find that the scheme acceptable in relation to both main issues and the other matters raised in objection. Any harms that could arise in relation to those matters, and which are not addressed by the planning conditions and legal obligations would be minor impacts. They would be clearly outweighed by the factors that I have identified in favour of the scheme. I shall therefore allow the appeal.

42. 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 of making towns better places to live and work.

Hywel Wyn Jones

INSPECTOR

Schedule of Conditions

1) Details of the access, appearance, landscaping, layout, and scale, (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: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

2) 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: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

3) 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: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

4) The development hereby approved shall be limited to 74 dwellings.

   REASON: To define the terms of the planning permission and to ensure that the development has been assessed adequately in terms of the impact upon the local highway infrastructure. This will accord with the requirements of policies GDP1 and T8.

5) The landscaping and layout reserved matter to be submitted for the approved development pursuant to the requirements of condition 1 above shall include a scheme for all areas of open space and green space to be provided within the development site, including public amenity space and equipped children's play areas. The scheme shall be implemented in accordance with the approved details prior to the first occupation of the dwellings.

   REASON: In the interests of providing for a high standard of development for the future amenity of the occupiers of the site in accordance with policies GDP1 and CLF4 of the Wrexham Unitary Development Plan.

6) Vehicular access to the site shall only be made from Holt Road (A534).

   REASON: To ensure that the development makes provision for a safe and convenient access to the site in accordance with policy GDP1 of the Wrexham Unitary Development Plan.

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 unless the prior written approval of the Local Planning Authority has been obtained.

   REASON: To protect the amenities of the occupiers of nearby properties in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

8) 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:

a) A specification for tree protection fencing and ground protection measures that comply with British Standard 5837:2012;

b) 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;

c) 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;

d) Details of general arboricultural matters including proposed practices with regards to cement mixing, material storage and fires;

e) Details of the frequency of supervisory visits and procedures for notifying the findings of such visits to the Local Planning Authority;

f) Method for protecting retained trees during demolition works;

g) Details of all proposed tree works, including felling and pruning.

REASON: To ensure the work is carried out to accepted arboricultural practices for the long-term wellbeing of the tree(s) in accordance with Policies GDP1, PS2 and EC4 of the Wrexham Unitary Development Plan.

9) No part of the development shall commence until a Bio-Security Risk Assessment has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with any recommendations that may be forthcoming within the approved assessment.

REASON: In order to ensure that the development will not cause harm to species which are protected through the planning system in accordance with policy GDP1 of the Wrexham Unitary Development Plan.

APPEARANCES

FOR THE APPELLANT:

Thea Osmund-Smith	Barrister
Andrew Smith	Agent
Joy Morton	University Solicitor
David Elcock	University Executive Director of Finance

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Phillips	Head of Planning Policy and Planning Control Lead

INTERESTED PERSONS:

Cllr Mike Davies	Local Ward County Councillor
Trevor Coxon	Local resident
Gerry Kellett	Real Planning consultancy

DOCUMENTS

1 Unilateral Undertaking, dated 4 May 2021