Report of the Chief Officer Economy and Planning

Application Reference
P/2025/0085

Applicant
John Kent

Agent
Simon Smith

Site Address
WILLMORE, THE CHEQUER, BRONINGTON, WHITCHURCH, SY13 2JQ

Description of Development
AMRYWIO AMOD 2 CANIATÂD CYNLLUNIO P/2022/0792 I DIWYGIO DYLUNIAD ADEILAD/ANNEDD / VARIATION OF CONDITION 2 OF PLANNING PERMISSION P/2022/0792 TO AMEND DESIGN OF BUILDING/DWELLING

Ward
Bronington and Hanmer/Bronington a Hanmer

Community
Bronington/Bronington

Recommendation
Grant

Officer Report

Site Description
The site lies outside of any defined Settlement Limit, within the open countryside. A public right of way exists to the east of the site.



Proposal

Planning permission was granted in 2022 (Ref. P/2022/0792) for the demolition of an existing bungalow and the erection of a replacement dwelling plus detached garage.

Development has commenced, however it deviates from the previously approved plans. This application therefore seeks retrospective planning permission to regularise the development that is now taking place. At the time of writing this report, the majority of the exterior of the building has been completed with the exception of some minor details and the addition of render. The interior has yet to be completed, therefore the development is not yet occupied.

The dwelling as built is to an amended design that allows space for rooms to be provided in the roof. It also has a slightly larger footprint than the previously approved plans. The external materials differ, with brick with render walls and a tiled roof in place of the previously approved red facing brick and Welsh roof slate. No changes to the detached garage are proposed.

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Reason for Committee Determination

- Objection received from the Community Council
- Individual letters of objection received from the owners/occupiers of 3 or more properties.

Site History

P/2023/0493 - Non-material amendment to planning permission P/2022/0792 to amend plans - Granted 24/08/2023.

P/2023/0317 - Non-material amendment to planning permission P/2022/0792 to amend window design - Refused 05/07/2023.

P/2023/0141 - Erection of replacement dwelling - Withdrawn.

P/2022/1044 - Discharge of conditions 3 (materials) and 6 (ecology) - Approved 27/06/2023.

P/2022/0792 - Demolition of existing dwelling and erection of replacement dwelling - Granted 17/11/2022.

Development Plan

DM1 - Development Management Considerations
H7 - Housing in the countryside
H8 - Replacement Dwellings in the Countryside
NE1 - International and National Nature Conservation Designations
NE6 - Waste Water Treatment and River Water Quality
SP2 - Location of Development
SP11 - Transport and Accessibility
SP12 - Design Principles & Masterplanning Framework
SP14 - Natural Environment
SP19 - Green Infrastructure
T1 - Managing Transport Impacts

Local Planning Guidance Notes (LPGN):

LPGN13 - Housing in the open countryside
LPGN16 - Parking standards
LPGN21 - Space around dwellings
LPGN32 - Biodiversity and development

Relevant National Policy

Planning Policy Wales 12
Future Wales: The National Plan 2040
The Planning (Wales) Act 2015

Technical Advice Notes (TAN):
TAN5 - Nature conservation and planning
TAN12 - Design

TAN18 - Transport

Consultation Responses

Community Council:
Objects to the application for the following reasons:

- Sets a precedent - this is a retrospective application as the work has already been carried out to the property;
- Variation to approved planning application - The work that has already been carried out to the property varies considerably from the original plans that were submitted and approved in terms of an increase in height and an increase in footprint; and
- Loss of privacy - The windows that have been installed in the gable end overlook the neighbouring properties.

Local Member:
Concerns raised regarding the velux windows in the roof being omitted and a staircase not being shown to get to the upper floor.

Natural Resources Wales:
No comments to make, noting the content of their response to application Ref. P/2022/0792 raised no objection and did not recommend any conditions.

Dwr Cymru Welsh Water:
Comment that they were consulted on the original planning application and offered no objection.

Highway Officer:
Requested that the layout of all floors be provided, that a plan showing the layout/access/parking be provided and confirmation sought as to whether a second bedroom would be included within the roofspace of the garage.

No further response has been received following the submission of the requested information.

Public Rights of Way Officer:
No response received.

Contaminated Land Officer: No comments.

Public Protection Officer:
No comments.

Publicity Undertaken:
Notification Letters: Sent out on 17th February 2025.

Responses to Publicity:
Three letters of objection were received towards the proposal, raising the following material planning concerns:

- Flooding has occurred as a result of the build;
- Increased noise from extra vehicles at the site;
- The scheme highlights considerable differences to the original proposal; it is evident that there is non-compliance with the original application;
- The design and appearance does not adhere to the original submission;
- This would set a precedent for applicants to vary, adapt and/or expand their design and appearance without adhering to planning legislation; and
- The original plans were for a single-storey dwelling but it has been built as a dormer; the upstairs window causes a loss of privacy.

Principle of Development

Current Status of the Local Development Plan

The Court of Appeal judgement handed down on the 20th of December 2024 concluded that the Planning and Compulsory Purchase Act 2004 (the 2004 Act) does not impose a duty on a Local Planning Authority to adopt a Local Development Plan. It has the effect of overturning the High Court judgement of 29 November 2023.

The Wrexham Local Development Plan (2013-2028) (LDP) was adopted by Full Council on 20th December 2023. The judgement of the 20th December 2024 does not, by itself, alter the status of the LDP as 'the development plan', as defined in section 38(4)(c) of the 2004 Act and further legal process is underway, but not completed, in order to 'unadopt' it. In accordance with section 38(6) of the 2004 Act, any planning applications or appeals must be determined in accordance with the development plan unless material considerations indicate otherwise.

The LDP therefore remains adopted and therefore the starting point for the determination of planning applications at this point in time.

The principle of the development has already been established by the granting of permission for a replacement dwelling under planning permission Ref. P/2022/0792. Permission is now sought for dwelling of an amended design. The previous application was determined against the policies of the Wrexham Unitary Development Plan. This has now been superseded by the Wrexham LDP. However, the principle of a replacement dwelling is still considered acceptable under Policies H7 and H8, which are generally consistent with the policies of the former UDP in respect of this type of development. The dwelling has replaced a bungalow that was of permanent construction and is on the site of the original dwelling in accordance with the requirements of policy H8.

Taking into account the above, the principle of the erection of a replacement dwelling is acceptable.

Design

Policy DM1 requires development proposals to accord with or enhance the character and appearance of the site and surrounding landscape in terms of siting, layout, scale, height, design, use of materials and landscaping.

The site lies within a linear row of houses along the A525 that consist of a mixture of single-storey and two-storey dwellings finished with a mix of external materials including red brick and render.

The previously approved plans proposed an L-shaped one-bedroom bungalow with a detached single-storey garage to be constructed using red brick and Welsh slate. This application seeks permission to amend the design of the previously approved plans to an L-shaped, one-bedroom dormer bungalow with an additional room in the roof and detached garage constructed using half brick/half render with a tiled roof containing a number of roof lights. The footprint of the dwelling remains largely the same as the previously approved plans, with the exception of a larger a single storey projection to the rear of the dwelling. No alterations are proposed to the detached garage previously approved.

The previously approved replacement dwelling would have had a floor area 61% larger than the original bungalow and garage that occupied the site. Guidance in LPGN13 recommends that the floor area of replacement dwellings in the countryside should not be more than one third larger than the original dwelling. However, a 61% increase was considered acceptable. The overall scale and form of the originally approved replacement dwelling would not have detracted from the character of the site or wider rural landscape. The approved detached garage could also have been constructed at a later date under permitted development rights.

The dwelling as built exceeds the floor area of the original dwelling and garage by 63%. The roof height of the amended design is 5.8m or 0.7m higher than that of the previously permitted replacement dwelling. The additional 0.7m allows for the roof space to be utilised. The modest increase in size compared to the previously approved plans are considered minor, do not result in overdevelopment of the site or detract from the character of the wider rural landscape, particularly when regard is had to fact that the dwelling is viewed in the context of nearby dwellings, including the bungalow adjacent to the site and larger two-storey dwellings.

The development retains ample private amenity space for the dwelling.

Having regard to the above, the development accords with policy DM1.

Impact on Neighbouring Amenity

Policy DM1 (ii) requires development proposals to not have an unacceptable effect on the amenity of the occupiers of nearby properties/land; proposals should also provide a satisfactory standard of amenity for the occupiers/users of the development itself.

The proposed dwelling is approximately 13m from the side elevation of the adjacent bungalow ‘Pleasant View’ to the west and approximately 40m from the adjacent dwelling ‘Dean Cottage’ to the east. These distances are consistent with the previously approved plans. The additional 0.7m of roof height does not result in a significant loss of light to either of the nearest properties and is not considered to be visually overbearing.

Concerns have been raised regarding a loss of privacy to the nearby dwelling to the west from the window to serve office space proposed to be provided in the roof space. There is a bedroom window at ground floor level in the side elevation of the dwelling facing Pleasant View, which also has window serving habitable rooms. The separation distance is 13 metres, which falls below the 22m recommended in LPGN21. However, the dwelling that previously occupied the site had two windows serving habitable rooms that also faced Pleasant View at a distance of approximately 11m. Moreover, overlooking would have been minimised by boundary treatment. There is an existing fence along the boundary, which would continue to provide screening. The introduction of a habitable room window on the side elevation at ground floor level therefore results in no additional overlooking compared to what would have been experienced previously.

The introduction of a window at first floor level introduces an additional degree of overlooking. It is considered both reasonable and necessary that the window be obscurely glazed in order to minimise this impact, which could be secured by a suitably worded condition.

Taking into account the above, subject to an appropriately worded condition requiring the obscure glazing of the first floor window, the revised design of the dwelling does not have an unacceptable impact on the living conditions of the occupiers of neighbouring dwellings. In such terms it accords with policy DM1.

Highway Considerations

No changes to the access, driveway layout and turning/parking area approved under planning permission Ref. P/2022/0792 are proposed. There will not be any material change in levels of vehicular traffic to/from the site as a result of the amendments nor would traffic to/from the site be materially different to than would have previously been the case when the former, now demolished, bungalow was occupied. Having regard to this, the development poses no parking or highway safety issues and accords with policies DM1 and T1.

Natural Environment

PPW12 requires development to provide a net benefit for biodiversity (NBB) i.e. a better outcome than if the site was left undeveloped. Failing to provide such a benefit is a valid reason for refusal. Every application regardless of size must not only mitigate any negative impacts of the development, but also have a positive benefit for biodiversity which will be in place for the lifetime of the development. Enhancements should be onsite, proportional to the size of development, tailored towards features valuable in the area or providing linking habitats GI plan.

The previous planning permission included NBB measures in the form of the reinstatement of native hedgerows to all boundaries and the installation of a bat box on one elevation of the dwelling. These have both been included on the submitted plans for this current application, therefore the amended proposal will secure a net benefit to biodiversity.

Condition 6 of planning permission P/2022/0792 read as follows:

No development shall commence until a Great Crested Newt Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Method Statement should include, but not necessarily be limited to: the submission of details and plans concerning Great Crested Newt reasonable avoidance and mitigation measures. Thereafter, the development shall be undertaken in accordance with the approved Method Statement at all times.

This condition was discharged under planning permission ref. P/2022/1044 on 27th June 2023. A suitably worded condition could require the development (as amended) to adhere to the approved Great Crested Newt Method Statement.

Having regard to the above, the proposed development accords with policies SP14 and NE1 as well as Planning Policy Wales Chapter 6.

Drainage

Policy NE6 requires development proposals to ensure that there would be no adverse effect on the integrity of the River Dee and Bala Lake Special Area of Conservation (SAC) through an increase in phosphorus discharges.

The previous approval proposed that a new package treatment plant would be installed for the development. The current application does not propose to alter the previously approved drainage arrangements. Moreover, given that the dwelling replaces one that previously occupied the site, there will not be a material increase in foul water flows from the site. NRW raised no objections to the proposal at the time of the previous application and have not raise any objections to this application.

Having regard to the above, there is no conflict with policy NE1.

Conclusion

The dwelling as built represents a relatively small increase in the overall scale of approved development on the site coupled with a change to the external appearance and materials. The development is not out of character with the site or surrounding area and does not result in due to harm to the living conditions of the occupiers of neighbouring dwellings. It also does not give rise to any highway safety or drainage concerns. It therefore accords with the relevant LDP policies.

Conditions

1. Prior to first use of the vehicular access hereby approved, the access shall be surfaced with hard bound materials (e.g. bituminous macadam) for a minimum distance of 5 metres behind the adjoining highway.

2. The development shall only be carried out in strict accordance with the details shown on the following plan(s) and document(s):

- Drawing no's A1 (Location Plan) and A2 (Block Plan) dated 31.03.2025;
- Sheet no. 2 (Figure 5 - Floorplan);
- Sheet no. 3 (Figure 6 - First Floorplan);
- Sheet no. 6 showing elevations - received on 08/05/2025;
- Drawing no's A18, A19, A20, A21 and A22 detailing garage floorplan and elevations, dated 12.05.2025; and
- Newt Precautionary Statement completed by En-Plan approved under ref: P/2022/1044 on 27/06/2023

3. The development hereby permitted shall not be occupied until the measures to deliver net benefit for biodiversity (NBB) shown on Drawing A2 (Block Plan) dated 31.03.2025 and Sheet 6 (Showing elevations, received on 08/05/2025) have been implemented in full. The measures shall thereafter be maintained for the lifetime of the development.

4. The development shall be carried out in strict accordance with the Newt Precautionary Statement completed by En-Plan which was approved under Ref: P/2022/1044 on 27th June 2023.

5. The hedgerow shown to be reinstated on Drawing no. A2 (Block Plan) dated 31.03.2025 shall be planted prior to the first occupation of the dwelling hereby permitted. The hedgerow shall use a minimum of 5 of the following species: 80-85% Blackthorn Prunus spinose and Hawthorn Crataegus monogyna, 5-15% Hazel Corylus avellana or Field Maple Acer campestre, 0-5% Holly Ilex aquifolium Field Rose Rosa arvensis, Gooseberry Ribes uva-crispa, Bird Cherry Prunus padus or Dog Rose Rosa canina. 60cm+ bare-rooted transplants or pot grown plants shall be used for some species such as Holly. The plants should be in a double staggered row approximately 30cm apart with 6 plants per metre.

6. Prior to the first occupation of the dwelling hereby permitted is first occupied, the first floor window in the elevation facing west shall be fitted with obscured glazing to Pilkington Level 3 or equivalent and any part of the window that is less than 1.7m above the floor of the room in which it is installed shall be non-opening. The windows shall be permanently retained in that condition thereafter.

7. Prior to the first occupation of the dwelling hereby permitted, render shall be applied to the external surfaces in accordance with details first submitted to and approved in writing by the Local Planning Authority.

8. Prior to the first occupation a scheme of boundary treatment shall be implemented along the south-western boundary in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. The means of enclosure erected or provided in accordance with the approved scheme shall thereafter be retained.

Reasons

1. To ensure that no deleterious material is carried onto the highway, in the interests of highway safety in accordance with Policy DM1 of the Wrexham Local Development Plan.

2. To comply with Section 91(3) of the Town and Country Planning Act, 1990.

3. To ensure the development delivers net benefit to biodiversity in accordance with paragraph 6.4.5 of Planning Policy Wales 12.

4. In order to protect wildlife interests in accordance with Policies DM1 and SP14, NE1 and NE2 of the Wrexham Local Development Plan.

5. To ensure that an appropriate mixture of native hedgerow is reinstated at the site, in the interests of biodiversity, having regard to Policies NE3 and SP14 of the Wrexham Local Development Plan.

6. To protect the amenities of the occupiers of nearby properties in accordance with Policy DM1 of the Wrexham Local Development Plan.

7. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies DM1, SP12 and SP14 of the Wrexham Local Development Plan.

8. To protect the amenities of the occupiers of nearby properties in accordance with Policy DM1 of the Wrexham Local Development Plan.

Notes

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

- Under the Environmental Protection Act 1990 anyone found disposing of construction site waste by burning is likely to be in breach of their duty of care with regard to waste disposal;

- Under the same Act an abatement notice may be served where smoke is judged to be causing a nuisance to neighbouring properties. Failure to comply with the requirements of the notice can result in prosecution;

- Under the Clean Air Act 1993 it is an offence for a commercial activity to burn anything that gives rise to dark smoke.

To prevent offences under the above named Acts there should be no bonfires on the site, to include the prohibition of the burning of cleared vegetation. The applicant should contact the Council's Environmental Health & Housing Standards Team on healthandhousing@wrexham.gov.uk or 01978 292040 for further advice and information.

Notes

The Applicant is advised that under the dust from construction and / or demolition activities can be judged to be causing a statutory nuisance to neighbouring properties. A legal notice can be served requiring that any dust nuisance is abated, and failure to comply with the requirements of the notice can result in prosecution. The applicant should contact the Council's Environmental Health & Housing Standards Team on healthandhousing@wrexham.gov.uk or 01978 292040 for further advice and information.

Notes

Following the commencement of Schedule 3 of the Flood and Water Management Act, the works as proposed are required to obtain approval from the SuDS Approving Body (SAB) prior to commencement of those construction works.

Further details of the SAB, the new national standards, the pre-application advice service and the application for approval process can be found on the Wrexham CBC's SAB webpage: https://www.wrexham.gov.uk/english/planning_portal/sab/sab.htm or by contacting the SAB Team directly at SAB@wrexham.gov.uk

Notes

All works in relation to the implementation of this permission, including deliveries to and /or leaving the site, should be undertaken only between the hours of 07.30 to 18.00 Monday to Friday, 08.00 to 14.00 on a Saturday, and at no time on a Sunday or a Bank Holiday. Outside these times, any works which are audible beyond the site boundary have the potential to cause unreasonable disturbance to neighbouring premises.

The applicant is advised that the Council has the option to control construction noise by serving a Control of Pollution Act 1974, Section 60 Notice where deemed necessary, and failure to comply with such a Notice can result in prosecution.

The applicant is further advised that any complaints received relating to noise of any type from the development may also be investigated using the Council's Standardised Procedure for Dealing with Noise Nuisance Complaints. This is done under the Statutory Nuisance provisions provided within the Environmental Protection Act 1990, and legal action may be taken where appropriate.

The applicant must adhere to the times given above wherever possible. If, however, there are urgent or unavoidable circumstances requiring work outside of the specified times, permission to proceed may be sought by contacting Environmental Health & Housing Standards at healthandhousing@wrexham.gov.uk or 01978 292040. Please use the same contact details for any other enquiries regarding construction / demolition site noise.