



Appeal Decision

by C MacFarlane BSc(Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 08/07/2025

Appeal reference: CAS-03954-V1N7G9

Site address: Land opposite Eyton Primary School, Eyton, Wrexham LL13 0YD

- 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 JH & R Morris against the decision of Wrexham County Borough Council.
 - The application P/2023/0439, dated 9 June 2023, was refused by notice dated 12 June 2024.
 - The development proposed is outline planning application for residential development of up to 6 dwellings, formation of vehicular access, formation of a school car park, and all associated works, on land opposite Eyton Primary School, Eyton, Wrexham LL13 0YD (re-submission).
 - A site visit was made on 30 April 2025.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline, with all matters except access reserved for determination at a later stage. I have dealt with the appeal on this basis. A proposed site plan was submitted with the application and includes the layout of the proposal and siting of the dwellings, which I have considered as indicative.
3. The Council's reasons for refusal allege conflict with policies in the Wrexham Local Development Plan 2013-2028 (LDP). The Council's decision to adopt the LDP was quashed by the High Court on 19 May 2025. Consequently, the development plan comprises Future Wales and the Wrexham Unitary Development Plan 1996-2011, adopted 2005 (UDP). The Council has indicated the UDP/national policies with which it considers the proposed development conflicts and the appellant has had the opportunity to comment.
4. Welsh Government (WG) published a new Technical Advice Note (TAN) 15 'Development, Flooding and Coastal Erosion (2025)' during the appeal process. In accordance with the content of the accompanying Ministerial Written Statement dated 31 March 2025, I have determined this appeal on the basis of the previous version of TAN 15 due to it being submitted before publication of the new TAN.

Main Issues

5. The main issues are:

- i) Whether the site location would be acceptable, having regard to policies restricting development in open countryside;
- ii) The effect of the proposed development on ecological interests; and
- iii) Whether the proposed development would be acceptable with regard to flood risk.

Reasons

Open countryside

6. The appeal site forms part of a field currently used for grazing. It is located outside of any settlement limit and is therefore within open countryside as identified in the UDP. The site is a roughly rectangular parcel of land adjoining the B5426 highway, with dwellings, a primary school and a caravan park located along the opposite side of the highway to the south. A small group of dwellings are located along the highway to the west of the site. Aside from this cluster of built form, the surrounding development pattern in the wider area consists of small groups and individual properties.
7. The area around the site is inherently rural, comprising mainly agricultural land with trees and hedgerows forming field boundaries, and areas of woodland. Although ground levels fall steeply along the sides of the watercourse that crosses the site, the wider area is generally flat. The result is an area of attractive rural character and appearance.
8. In seeking to meet future needs following the principles of sustainable development, whilst safeguarding the natural environment, UDP Policy PS1 directs new housing development to within defined settlement limits. This is expanded upon by UDP Policy H5, which permits certain exceptions within open countryside, including where the development would constitute infilling subject to the general development requirements set in UDP Policy GDP1. Policy GDP1 states that development should accord with the character of the site and make a positive contribution to the appearance of the nearby locality.
9. Although the site is bordered by built form to the south and west, due to the absence of development to the east and the significant width of the site fronting the highway, I do not consider the proposal would constitute infill development, which paragraph 6.13 of the UDP defines as a development of no more than two dwellings in a small gap within a well-developed built frontage. Instead, the proposal would represent an expansion of built form along a currently undeveloped stretch of the northern side of the highway, encroaching significantly into the countryside and eroding its rural character.
10. Whilst there is a primary school and bus stop close to the site, there is a lack of other facilities and employment opportunities nearby. Although the appellant refers to a frequent bus service, I have not been provided with any evidence to support this statement. Nor have I been given details of the other services which the appellant refers to in the surrounding area. In any event, it is apparent that there are limited facilities close by.
11. I note the Plassey retail and leisure complex features a range of shopping and leisure opportunities, however, based on the limited information presented, I am unable to determine whether these would be of a nature capable of meeting the day-to-day needs of the future occupiers of the proposal. Moreover, the Plassey complex is a significant walking or cycling distance from the appeal site, and would require users to travel along a

highway with a regular flow of traffic and lacking a pedestrian footway or lighting for much of the route. I therefore do not consider that this would represent a safe and realistic option for travel on foot or by bicycle, and that occupiers would be reliant on private vehicles to travel to further away settlements to meet their needs. As such, the proposal would not be sustainably located.

12. Although the size and scale of the dwellings are intended to reflect those in the surrounding area, this would not address the fundamental harm arising from the location of the proposal in open countryside. I therefore conclude the proposal would be unacceptable having regard to planning policies restricting development in the open countryside, and would fail to comply with UDP Policies PS1, H5 and GDP1. It would also conflict with the strategic placemaking principles in Future Wales, which include enabling walking and cycling to local facilities and public transport, and reducing reliance on car travel, and the objective set out in Planning Policy Wales (PPW) to conserve and enhance the countryside.

Ecology

13. Notwithstanding the reference to 'improved' grassland in the Council's reason for refusal, the appellant's Preliminary Ecological Appraisal (PEA) concludes that the proposal would result in the loss of unimproved species-rich grassland on the sloping banks of the watercourse which, due to its relative scarcity, is recognised as a priority habitat. The PEA further notes that the loss of this habitat would be a significant negative impact.
14. Whilst it may be the case that the land beyond the slopes has been improved through the application of fertilizers and is therefore of limited ecological value, there is little before me to counter the conclusion of the PEA that the topography around the watercourse restricts the potential for agricultural improvements thereby retaining the ecological value of this area. Although layout and siting are reserved matters, given the significant portion of the appeal site that is covered by the sloping land to the watercourse, I consider it is unlikely that the loss of this priority habitat could be avoided in the eventual design.
15. In addition, whilst protected species are not found to be present, the Council has highlighted the presence of ponds within 250m of the site that were not surveyed as part of the PEA. Given there are records of Great Crested Newt in the surrounding area, I consider a precautionary approach is appropriate and find that sufficient evidence has not been provided to demonstrate the proposal would not have a harmful effect on this protected species.
16. Although the PEA proposes measures including compensatory hedgerow planting, bat and bird boxes, hedgehog domes and insect hotels, this would not address the loss of a priority habitat and potential harm to a protected species. As such, the proposal would not accord with the step-wise approach in ensuring a net benefit for biodiversity, as required by PPW and Policy 9 of Future Wales, and would cause significant harm to ecological interests. The proposal would therefore be contrary to UDP Policies PS11 and EC6, which encourage proposals which improve the biodiversity value of sites, and allow development on sites of biodiversity interest where the need is outweighed by the value of the site and compensatory measures are provided.

Flood risk

17. The area of the site following the watercourse falls within flood zone 3 for surface water and small watercourses, as identified by the Flood Map for Planning. PPW sets out the general principle of positive avoidance of development in areas of flood risk, and that development must not increase flood risk either on or off-site, with additional explanation provided in TAN 15.

18. Whilst the area falling within zone 3 may be small, it crosses through the centre of the site and, although the layout has yet to be determined, given the dimensions of the site it is therefore unlikely that the proposal could be accommodated without encroaching on this area. Due to the absence of further information or a Flood Consequences Assessment accompanying the proposal, I cannot be confident the proposal would not result in unacceptable risk of flooding to life or property either on or off-site. Nor can I be satisfied that this matter is capable of being adequately addressed through a condition requiring the submission of a drainage scheme, and as such I do not consider this to be an appropriate approach in this instance.
19. I therefore conclude that the proposal would be unacceptable with regard to flood risk and would be contrary to PPW and TAN 15, as well as UDP Policy GDP1, which seeks to ensure development does not result in, or is subject to, flooding either on or off the site.

Other Matters

20. I acknowledge the benefit to highway safety the proposal would bring about, specifically in relation to the provision of vehicle parking in connection with the primary school. I also note the support for the proposal received from the school, and that the Council does not object in principle to this element of the proposal. Although I give this matter significant weight, there is nothing to indicate that this objective could not be generally achieved through means other than the scheme before me, and I therefore do not consider this benefit outweighs the permanent and wider harms I have identified.
21. I have taken account of the appeal decisions referred to by the appellant. However, the main issues in those cases, as well as the planning policy framework, scale and nature of the developments do not reflect the circumstances of the appeal proposal. I recognise the proposal would contribute towards housing supply in the local area, however, the scale of this contribution would be small and would not outweigh the harms of the scheme.
22. Natural Resources Wales comments refer to the effect of the proposal on the River Dee and Bala Lake Special Area of Conservation (SAC), including those concerns which it considers may be capable of being addressed through a suitably worded planning condition. However, I have not proceeded to carry out an assessment as to whether there would be a likely significant effect on the qualifying features of the SAC as I have found the development unacceptable on other grounds. Even should the development be acceptable with regard to its effect on the SAC, this would not outweigh my conclusions on the main issues.
23. Whilst the proposal may be acceptable with regard to the living conditions of future and nearby occupiers, this is a normal expectation of development and therefore weighs neither for nor against the proposal.
24. In reaching my decision, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

Conclusion

25. For the reasons given above, the appeal is dismissed.

Claire MacFarlane

INSPECTOR