



Appeal Decision

by I Stevens BA (Hons) MCD MBA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 16/04/2024

Appeal reference: CAS-03046-G8B0H4

Site address: Lower Rackery House, Dark Lane, Burton, Rossett, LL12 0AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Tom Phillips against the decision of Wrexham County Borough Council.
 - The application Ref P/2023/0231, dated 4 April 2023, was refused by notice dated 8 September 2023.
 - The development proposed is described as construction of a new vehicular entrance including changes to the boundary wall and gates, changes to topography to provide a level field including a new retaining wall, and new fencing to provide smaller paddocks for land management.
 - A site visit was made on 25 March 2024.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Construction of the proposed development has commenced. I have therefore dealt with the appeal on the basis that it seeks retrospective planning permission under the terms of Section 73A of the Town and Country Planning Act 1990.
3. The Wrexham County Borough Local Development Plan 2013-2028 (LDP) was adopted on 20 December 2023, superseding the Unitary Development Plan on which the Council's decision was based. The appeal is determined in accordance with the adopted LDP having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004. Both parties have referred to LDP policies in their submissions and I have taken these into consideration in my decision.
4. Since the submission of evidence, Edition 12 of Planning Policy Wales (PPW) has been published. As it consolidates previously published content it does not raise any new matters that have any significant bearing on the decision.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

6. The appeal site comprises several agricultural buildings and associated land in the open countryside. The surrounding area is rural in nature and characterised by undulating fields, groups of trees and hedgerows, and sporadic properties along Dark Lane, including one dwelling opposite the appeal site.
7. The buildings within the appeal site were granted planning permission for conversion to residential use (Council Ref P/2018/1083). The appeal proposal is for an amendment to the approved access arrangements, along with the construction of a retaining wall to create a level paddock area on land adjacent to the barns.
8. The new vehicle entrance has widened a previous agricultural field access. The existing site entrance has been closed off and replaced with a pedestrian access onto the public right of way that runs through the appeal site. The front boundary treatment includes extensions and additions to the existing stone wall, which now runs either side of the new site access. Timber gates will be installed at the vehicle and pedestrian entrances.
9. The Council raise no issues with the site access arrangements in terms of its design, highway alignment, and visibility onto Dark Lane. Neither are there any fundamental issues with the pedestrian access, or the front boundary wall treatment. Having visited the site, I see no reason to disagree with the Council on these parts of the proposal.
10. At issue is the proposed retaining wall which has been partly constructed behind one side of the new side access. The land subject to these works had a gentle slope rising away from the highway. The two constructed concrete and steel walls are clad in vertical timber panels and interspersed with sections of planting. The front side of the retaining wall faces the highway and runs flush with the new site entrance, while the longer side wall runs alongside the driveway and narrows as the land rises away from the entrance. The works have raised the land level up by about 1m at its highest point. This has created a level area of land above the walls, which will be divided into paddocks for agricultural use, and enclosed by metal rail fencing along the wall edges.
11. The extent of land re-profiling and earthworks involved in constructing the retaining wall and paddock area is significant. The flat, raised land with its abrupt edges are visible in glimpses along the highway frontage to the site, above the stone boundary wall and hedgerow. The front retaining wall is also visible from some distance along Dark Lane to the east of the appeal site. In these views, the works have an unnatural appearance, in stark contrast to the surrounding rolling landscape. The extent to which the works have recontoured the field levels, rather than working sympathetically with them, is apparent. The sections of wall planting already in place and proposed grassed surface do not diminish the harsh appearance of the structure, which has an irregular presence in the rural landscape.
12. In support of the proposal, the appellant refers to the suburban context of the appeal site and presence of other boundary features to properties. Given the presence of fields and natural boundaries, the site's visual context is not strongly influenced by residential or commercial development. The undulating nature of the surrounding land, along with the physical distance from commercial development to the south, contributes to the rural character. The dwelling opposite has a stone boundary wall and metal rail fence, as do other properties further along Dark Lane to the west. These features are not untypical or unsympathetic in a rural area. The presence of electricity infrastructure in this location is not necessarily a determinative feature of suburban form, given that pylons typically cross fields in rural areas.

13. I understand the land management purposes behind the proposal, and that safe vehicle access is a reasonable aim. However, no issues have been raised with the access arrangements, and I am not satisfied this is the only way of achieving the appellant's desired intentions. Whilst noting the appellant's clarification of topographical details, having viewed the works undertaken, they introduce an over-engineered appearance to the site and are an incongruous addition to the rural landscape. The suggested approach to secure details of materials via planning conditions does not overcome the harm I have identified.
14. The appellant suggests that the works are comparable to a means of enclosure that could be lawfully constructed under permitted development rights, with reference to case law on this matter. However, in the absence of any formal determination as to the lawfulness of such a scheme, I am unable to give this any weight. Neither does it follow that the approved residential development justifies the works undertaken as part of this appeal. Consequently, I am not satisfied that there is a realistic fallback in this instance.
15. I conclude that the development is harmful to the character and appearance of the surrounding area. It is therefore contrary to the high quality and sustainable design aims of Policy DM1 in the Wrexham LDP.

Other Matter

16. The Council's refusal reasons also referred to LDP Strategic Policy 14, in so far as the scheme does not, in their view, provide any compensatory planting or biodiversity enhancement. Contrary to the appellant's assertions, the policy's provisions are engaged in this instance, as it is a local and national policy requirement to secure biodiversity enhancement through proposals. Whilst it is possible for such measures to be secured by planning condition, given my findings on the main issue, it has not been necessary to consider this matter any further.

Conclusion

17. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be dismissed.
18. 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 one or more of the Welsh Ministers' well-being objectives.

I Stevens

INSPECTOR