



TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

SECTION 78 APPEAL

WRITTEN STATEMENT

Appeal by Stuart Huxley

Glebe House Farm, Horseman's Green

TOWN AND COUNTRY PLANNING (REFERRED APPLICATIONS AND APPEALS
PROCEDURE) (WALES) REGULATIONS 2017

PEDW REFERENCE: CAS-03161-H3N3X0

LOCAL PLANNING AUTHORITY REFERENCE: P/2022/0808

**Gwyn Humphreys BSc, AssocRTPI
Development Management Lead Officer
Wrexham County Borough Council
Lambpit Street
Wrexham
LL11 1AR**

1. INTRODUCTION

- 1.1 This appeal relates to the decision of Wrexham County Borough Council to refuse outline planning application P/2022/0808 for the following development: *“Outline application for erection of 3 dwellings (all matters reserved)”* at Glebe House Farm, Horseman's Green, Whitchurch, SY13 3DY.
- 1.2 Application P/2022/0808 was registered on 13th September 2022, and was subsequently refused under delegated powers on 13th June 2023. The reasons for refusal are as follows:
1. Insufficient information has been submitted to demonstrate that the proposed development would not result in an increase in phosphate levels to the River Dee and Bala Lake Special Area of Conservation. The proposal is contrary to paragraph 6.4.18 of Planning Policy Wales and EC6 of the Wrexham Unitary Development Plan.
 2. It is not possible to provide the new development with a safe means of vehicular access and as such the development does not accord with Policy GDP1 of the Wrexham Unitary Development Plan or Policy DM1 of the Wrexham Local Development Plan.
- 1.3 A copy of the decision notice has been forwarded previously as part of the Questionnaire submission. A copy of the Officer Delegated Report is appended at Appendix 1.

2. THE SITE AND ITS SURROUNDINGS

- 2.1 The appeal site is located wholly within the settlement limit for Horseman's Green as per the adopted Wrexham Local Development Plan. The site comprises a former agricultural farmstead, including a derelict dwelling house, a former agricultural building and a Dutch barn which the LPA understands is still in agricultural use. The site area measures approximately 0.23 hectares. The appeal site is surrounded existing residential development to the south, within the settlement boundary, and by areas of agricultural land to the north, within the open countryside. Access to the site is gained via an unadopted access track off Horseman's Green Road, to the south.
- 2.2 A location plan, outlining the appeal site in red and its immediate context is provided below.



- ## 4. PLANNING HISTORY

- ## 5. RELEVANT PLANNING POLICY

5.1 The Development Plan for this area comprises the adopted Wrexham Local Development Plan 2013-2018 (LDP), which was formally adopted by the Council on 20th December 2023.

5.2 Application P/2022/0808 was refused on 13th June 2023, and was therefore considered against the policies contained within the former Wrexham Unitary Development Plan, which has now been superseded by the LDP. However, as is evident within the Officer Delegated Report appended at Appendix 1, the proposals were also considered against the requirements of LDP policies. Given the development was assessed against LDP policies prior to its determination, the Local Planning Authority does not consider the adoption of the LDP in the intervening period alters the overall assessment of the proposals.

5.3 Within the LDP, the following policies are applicable:

Strategic Policies:

- SP1 – Housing Provision
- SP2 – Location of Development
- SP11 – Transport and Accessibility
- SP12 – Design Principles and Masterplanning Framework
- SP13 – Health and Wellbeing
- SP14 – Natural Environment
- SP15 – Historic and Cultural Environment
- SP18 – Climate Change
- SP19 – Green Infrastructure

Housing Policies:

- H2 – Affordable Housing, Non-Strategic Housing Allocations and Windfall Sites

Natural Environment:

- NE1 – International and National Nature Conservation Designations
- NE3 – Trees, Woodlands and Hedgerows
- NE6 – Waste Water Treatment and River Water Quality

General Development Management Policies:

- DM1 – Development Management Considerations

Transport Policies

- T1 – Managing Transport Impacts

5.4 The applicable [Wrexham Local Planning Guidance Notes](#) (LPGN) are:

- 16 – Parking Standards
- 17 – Trees & Development
- 21 – Space Around Dwellings
- 30 – Design
- 32 – Biodiversity & Development

National Planning Policy and Guidance

5.5 National planning guidance issued in the form of [Future Wales: The National Plan 2040](#) (FW) and [Planning Policy Wales, Edition 12 2024](#) (PPW) is of relevance to this appeal. Application P/2022/0808 was determined in accordance with PPW (Edition 11), which was superseded on 7th February 2024 by PPW (Edition 12).

5.6 [Technical Advice Notes](#) (TANs) are also of relevance to the appeal, including the following:

- TAN 5 – Nature Conservation & Planning
- TAN 11 – Noise
- TAN 12 – Design
- TAN 18 – Transport
- TAN 24 – The Historic Environment

5.7 In addition, the following national planning documents/legislation are relevant to the appeal and the Council's case:

- Well-being of Future Generations (Wales) Act 2015
- Manual for Streets (Welsh Assembly Government, DCLG and DfT – March 2007)
- Welsh Government Circular 016/2014 – The Use of Planning Conditions for Development Management
- Environment (Wales) Act 2016

6. THE LOCAL PLANNING AUTHORITY'S CASE

6.1 In the opinion of the Local Planning Authority, the principal issues for consideration in the determination of this appeal are as follows:

- 1) The proposed foul drainage arrangements and whether they would lead to a likely significant effect upon the integrity of the River Dee and Bala Lake Special Area of Conservation (SAC) by way of increased phosphate inputs; and
- 2) The proposed access arrangements and whether the intensified use of the existing access track and vehicular access would cause a detrimental impact upon highway and pedestrian safety along Horseman's Green Road.

6.2 The Officer Delegated Report is appended at Appendix 1. The report is considered to be comprehensive, and clearly states the LPA's case and the policies and guidance upon which the decision to refuse outline planning permission was based. It is not therefore considered necessary to repeat the considerations and arguments made in the Officer Delegated Report, which should be considered as the main basis of the LPA's case.

6.3 The sub-sections that follow seek to address specific issues relevant to the determination of this appeal, including those raised within the Appellant's Grounds of Appeal Statement.

Foul Drainage & Phosphates:

- 6.4 The appeal site lies wholly within the freshwater catchment of the River Dee and Bala Lake SAC. Therefore, Natural Resources Wales' *Advice to planning authorities for planning applications affecting phosphorus sensitive river Special Areas of Conservation* is of relevance, as are the stringent standards introduced with regards new phosphorous discharges within the SAC catchment.
- 6.5 NRW's advice outlines that *"the following developments can be screened out as not likely to have a significant effect on a river SAC in relation to phosphorus inputs, as there is unlikely to be a source of additional phosphorus or pathway for impacts:*
- ... private sewage treatment systems discharging domestic wastewater to ground, which are built to the relevant British Standard (BS 6297:2007+A1:2008), the maximum daily discharge rate is less than 2 cubic metres (m3) and the drainage field is located more than 40m from any surface water feature such as a river, stream, ditch or drain and located more than 50m from a SAC boundary and at least 200m from any other known discharge to ground"*.
- 6.6 The advice also goes on to state *"we advise Planning Authorities to seek the following information in support of a planning application or Habitats Regulations Assessment for a scheme involving a private sewage treatment system:*
- confirmation of how foul wastewater will be managed;*
 - clear scale plans showing the location of the proposed private sewage treatment system and discharge location;*
 - where a private sewage treatment system is proposed within a sewered area, evidence to justify why a connection to public sewer is not feasible in line with Circular 008/2018 and Planning Policy Wales. For all other private sewage treatment systems, evidence that Circular 008/2018 has been followed; and*
 - where discharges to ground are proposed, developers should provide the results of infiltration testing with calculations to demonstrate that the drainage field size and design is appropriate for the volume of discharge proposed and follows the relevant British Standard"*.
- 6.7 The parties agreed during the assessment of the planning application that the proposed foul drainage system serving the development would have a maximum daily discharge rate of less than 2 cubic metres, and that the drainage field would be located in excess of 40 metres from any surface water drainage feature and in excess of 50 metres from the SAC boundary itself.
- 6.8 However, insufficient information has been provided to allow the LPA to undertake a Habitat Regulations Assessment and conclude with any certainty that the development would not cause a likely significant effect upon the integrity of the SAC.
- 6.9 Firstly, no clear scale plans showing the exact location of the proposed package treatment plant and drainage field have been supplied. In addition, no information has been provided to confirm how the system and drainage field would be constructed in accordance with BS 6297:2007+A1:2008. Furthermore, no results of soil infiltration testing from the area of the propose drainage field have been supplied. In the absence of such results, it cannot be established that the ground conditions

on-site would support a drainage field and allow it to function properly without causing a pollution event locally. Finally, the LPA considers it highly likely that several existing discharges to ground already exist within 200 metres.

- 6.10 Indeed, whilst the LPA does not have any complete data to prove that surrounding properties have existing discharges to ground, given that the majority of dwellings within Horseman's Green are not connected to the very small scale public sewerage system, it would seem sensible to conclude that some, if not all, of the surrounding properties are served by private sewerage systems discharging wastewater to ground.
- 6.11 The NRW advice states that *"in the absence of complete data, Planning Authorities are advised to use mapping/aerial photography to assess proximity to existing properties likely to have a private drainage system and consider whether further site investigation may be required"*. Therefore, in this instance, given the proximity of the application site to numerous neighbouring residential properties, it is considered further investigations would need to be undertaken by the Appellant, and at present, in-line with the published NRW advice, insufficient information has been provided to allow a HRA to be undertaken confirming the development would not cause a likely significant effect upon the integrity of the River Dee and Bala Lake SAC.
- 6.12 In light of the above, the LPA would maintain that the development is contrary to the requirements of LDP Policies SP14, NE1 and NE6 with regards the potential adverse impact of the development upon the integrity of the designated ecological site.

Access & Highway Safety:

- 6.13 The application proposes that the development be accessed via an existing access track off Horseman's Green Road, to the south of the application site. It is widely accepted that the existing access is substandard in terms of visibility. Indeed, the Authority's Highway Officer notes that an access in this location should provide visibility splays of 2.4m x 33m in both directions measured to the nearside edge of the adjoining highway in accordance with Manual for Streets. It is noted the existing access provides splays of approximately 2.4m x 7m in both directions measured to the nearside edge; with visibility in both directions being restricted by virtue of crossing third-party land outside the ownership or control of the Appellant.
- 6.14 In terms of traffic generated by the proposed development, the LPA maintains that there would be an increase over and above the existing situation. The access currently provides access to three residential properties, a derelict dwelling house, a Dutch barn, a former agricultural building and agricultural land. Should the proposals gain planning permission, it would provide access for six residential properties and agricultural land. The LPA is therefore of the opinion the development would unquestionably lead to an intensification of use of the existing substandard access given the daily expected movements associated with a residential property in such a location and the heavy reliance upon the private motor vehicle.
- 6.15 Annex B of TAN 18 does state *"where planning applications are submitted within an existing development site and served by an existing substandard access, there should be scope for a limited redevelopment that incorporated a substantial access improvement, even though the improved access would still be below standard"*.

However, the LPA would contend that in proportion to the current likely movements through the access, the proposed development would not be a 'limited development' but would actually lead to a substantial increase in the number of average daily vehicular movements through the access. Furthermore, on this occasion it is noted that only very limited improvements to the access' visibility are proposed; with only a new footway being proposed. Whilst this would slightly increase access visibility, the LPA considers that a 'substantial access improvement' would not be provided in this instance given that visibility in both directions would still be significantly prejudiced by virtue of visibility splays crossing third party land. Paragraph 3.45 of Welsh Government Circular 016/2014 confirms it would not be appropriate for the Appellant to be required to undertake works on third party land, and therefore it is considered there is very little scope for the existing access to be improved.

6.16 In terms of the proposed new footway, the Highway Officer considers this would cause a detrimental impact upon highway safety and the free flow of traffic within the environs of the access point; given that it would unacceptably reduce the width of the adopted highway and would also cause an unnecessary change in horizontal alignment of the carriageway. Nothing within the Appellant's Grounds of Appeal Statement alters the LPA's views on this matter.

6.17 Therefore, it is considered the development would not be provided with an acceptable means of vehicular access, and given the constraints associated with the existing access point, there are limited opportunities for this to be improved to a satisfactory standard to accommodate the scale of development sought on the site. The LPA therefore maintains that the development is contrary to the requirements of LDP Policies DM1 (Criterion vi) and T1.

7. CONCLUSION

7.1 For the reasons detailed in the Officer Delegated Report, Decision Notice and in this LPA statement, the Inspector is respectfully requested to dismiss this appeal.

8. LIST OF SUGGESTED CONDITIONS

8.1 Should the appointed Inspector be minded to allow this appeal, Wrexham County Borough Council considers that the following conditions should be imposed:

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 requirements of Section 92 of the Town and Country Planning Act 1990.

2. 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 requirements of Section 92 of the Town and Country Planning Act 1990.

3. 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 requirements of Section 92 of the Town and Country Planning Act 1990.

4. No development shall commence until a GCN Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The Conservation Plan should build upon the principles outlined in the Ecological Appraisal and include, but not necessarily be limited to the following.

- The submission of GCN / amphibian avoidance and mitigation measures. The details to include identified Reasonable Avoidance Measures (RAMs) such as barrier fencing.
- The submission of details concerning the GCN enhancement area including management plan, tenure and surveillance.
- Details of timing, phasing and duration of construction activities and conservation measures.
- Timetable for implementation demonstrating that works are aligned with the proposed phasing of the development.
- Ecological Compliance Audit to evidence compliant implementation of all ecological avoidance, mitigation and compensation works, either proposed or subject to the provisions of reserved matters conditions. The Audit shall identify Key Performance Indicators (KPIs) that are to be used for the purposes of assessing and evidencing compliant implementation of proposals.
- Persons responsible for implementing the works.
- Details of measures to prevent or reduce incidental capture or killing.

The GCN Conservation Plan as approved shall be fully implemented throughout the course of the approved development.

Reason: To ensure that an approved GCN Conservation Plan is implemented, which protects GCN affected by the development, in accordance with LDP Policy SP14.

5. No development with the potential to impact on invasive species, shall commence until a Biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall include measures to control, remove or for the long-term management of invasive species both during construction and operation.

Reason: To ensure that an approved Biosecurity Risk Assessment is implemented to secure measures to control the spread and effective management of any invasive non-native species at the site in accordance with Policy SP14 of the Wrexham LDP.

6. No development shall take place until full details of an Ecological Clerk of Works for the duration of the construction works have been submitted to and approved in

writing by the Local Planning Authority. Development shall thereafter be carried out in strict accordance with the approved details.

Reason: In the interests of ecology and to ensure no adverse impacts upon protected species in accordance with Policy SP14 of the Wrexham Local Development Plan.

7. No development shall commence until a detailed scheme of Net Biodiversity Benefit (NBB) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a Long-Term Management and Maintenance Plan for the NBB measures on the site.

Reason: To ensure the development delivers net benefit to biodiversity in accordance with Policy 9 of Future Wales and Paragraph 6.4.5 of Planning Policy Wales (Edition 12).

8. The NBB measures approved as part of Condition 7 shall be fully implemented prior to the first occupation of any dwelling on the site, and shall thereafter be managed and maintained in the long-term in accordance with the approved Long-Term Management and Maintenance Plan.

Reason: To ensure the development delivers net benefit to biodiversity in accordance with Policy 9 of Future Wales and Paragraph 6.4.5 of Planning Policy Wales (Edition 12).

9. Vehicular access shall only be gained via Horseman's Green Road, to the south of the application site.

Reason: In the interests of highway safety to ensure compliance with Policy DM1 of the Wrexham Local Development Plan.

10. No development shall take place until a scheme to enable the provision of gigabit capable broadband infrastructure from the site boundary to the dwellings hereby permitted has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To support the roll-out of digital communications infrastructure across Wales in accordance with Policy 13 of Future Wales.

11. There shall be no clearance of vegetation on site between the months of March to August inclusively in any calendar year.

Reason: In order to ensure that no protected species are adversely affected by the development and to ensure compliance with Policy SP14 of the Wrexham Local Development Plan.

12. The development hereby approved shall be limited to a maximum of 3 dwellings.

Reason: To define the terms and scope of the planning permission.