



Appeal Decision

by C MacFarlane BSc(Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 24/05/2024

Appeal reference: CAS-03093-K7X5B3

Site address: Gamford House, Gamford Lane, Rossett, Wrexham LL12 0EW

- 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 Nathan Cunningham against the decision of Wrexham County Borough Council.
 - The application Ref P/2023/0036, dated 11 January 2023, was refused by notice dated 12 May 2023.
 - The development proposed is redevelopment of site, 9 carbon zero detached dwellings and an office building, and associated landscaping.
 - A site visit was made on 30 April 2024.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Different names are entered in the application and appeal forms, however, the appellant's representative confirmed during the course of the appeal that it is to proceed in the name of Mr Nathan Cunningham.
3. The Wrexham Local Development Plan (LDP) was adopted on 20 December 2023, following the determination of the application by the Council and prior to the start date of this appeal. Both parties have addressed this matter through the appeal process and I am satisfied that no prejudice has occurred to either position. Whilst some references have been made to policies within the previous Unitary Development Plan, my decision must be made on the basis of the LDP, being the adopted development plan at this time.
4. Since the appeal was submitted, Planning Policy Wales 12 (PPW) was published on 7 February 2024. It consolidates previously published revisions to PPW and other Welsh Government (WG) announcements, including revisions to Chapter 6 of PPW that were published in October 2023. I am satisfied both parties have had the opportunity to comment on the revised document as part of the appeal process.
5. A subsequent application for 10 dwellings on the appeal site was subject to a resolution to grant planning permission by the Council. A direction has been issued by WG instructing the Council not to grant permission for that application, and for any development of the same kind, to enable further consideration to be given to whether or

not the application should be referred to the Welsh Ministers for their determination. Based on the latest information provided to me, the application remains as yet undetermined and therefore no permission has been granted.

Application for costs

6. An application for costs has been made by Mr Nathan Cunningham against Wrexham County Borough Council. This application is the subject of a separate Decision.

Main Issues

7. The main issues are (i) the effect of the proposed development on the character and appearance of the site and surrounding area, (ii) the effect of the proposed development on ecological interests, and (iii) whether the proposed development would make acceptable arrangements for foul drainage.

Reasons

Character and appearance

8. The appeal site is a parcel of land containing a derelict two-storey dwelling, a number of vacant buildings associated with previous agricultural and commercial activities, and areas of hardstanding and rough vegetation. The site is located in open countryside for the purposes of the LDP, with the closest settlements being Lavister and Rossett. The buildings within the site are in varied states of repair and are mostly pitched roof, single-storey design constructed of red brick, wooden slats and blockwork. Roofs, where they exist, are mainly slate and profiled metal sheeting. It is apparent that the buildings are generally in poor condition, with graffiti and detritus around the site indicating anti-social behaviour and damage having occurred in the past. The surrounding area is typified by agricultural land, hedgerows, trees, narrow highways and a scattered, low-density development pattern. This results in an attractive verdant landscape that is inherently rural in character.
9. LDP Policy SP2 directs development to within defined settlement limits in order to provide growth in a sustainable manner and to strictly control development in open countryside. This is supported by LDP Policy H7 which lists the limited types of housing proposals that may be acceptable outside settlement limits. LDP Policy EM4 continues this protective approach by restricting employment proposals outside of settlement limits to conversions, those in connection with a rural enterprise or an extension of an existing employment site, in order to protect rural areas from inappropriate development. The appeal proposal has not been presented as falling within any of the permissible categories set out in LDP Policies H7 and EM4, and nothing I have read or seen leads me to find differently. The proposal would therefore conflict with the aforementioned LDP policies.
10. The parties dispute the character of the site and I have had regard to the appellant's Landscape Character Assessment. I note a Lawful Development Certificate has been granted in recent years for a mixture of uses comprising mainly agricultural, commercial and storage. Notwithstanding this use of the buildings and land, I consider the site has retained much of its agricultural character and appearance, with its cluster of utilitarian buildings, several of which are of traditional or commonplace agrarian design and materials, around a central yard area and close to a dwelling. I also acknowledge that the site has been previously developed, the re-use of which would accord with the objectives of PPW. However, it does not follow that all previously developed land will be suitable for any type of re-development.
11. It is clear that the appeal proposal would result in a fundamental change to the character of the site, even if I were to concur with the appellant's view that it is industrial or mixed, rather than agricultural or rural. The replacement of the existing cluster of buildings of

plain and functional appearance, with dwellings of overtly modern appearance, associated car parking, gardens and domestic paraphernalia, internal roads and an office building, all set in a regularised layout more commonly associated with a suburban environment, would noticeably urbanise the site. The result would be a form of development that, although tidying up the site, appears significantly at odds with the surrounding area and erodes its attractive rural character. The provision of additional landscaping would somewhat soften the appearance of the development but would not negate the fundamental harm arising from the location and design of the proposal.

12. Although there are clusters of dwellings and properties in the wider area, these are limited in number and of differing age and appearance to the appeal scheme, such that they are not directly comparable with the circumstances in this case. In any case, the presence of these sporadic groups serves to underline my concerns regarding the intrusion of development into open countryside, and which the LDP seeks to restrict, rather than representing a desirable feature to be replicated.
13. I note the site benefited from the grant of planning permission in 2016 for redevelopment, however, it is unclear from the information before me whether this is extant and represents a realistic fallback position, particularly given the appellant's assertion that vandalism has rendered the buildings incapable of conversion. Moreover, the 2016 scheme was materially different to that before me, being largely conversion of the existing buildings and subject to assessment against the development plan in place at that time. This factor therefore carries little weight in my considerations.
14. In summary, I conclude that the proposed development would cause significant harm to the character and appearance of the site and surrounding area, contrary to LDP Policies SP2, H7, EM4 and DM1 which requires development proposals to accord with or enhance the character, local distinctiveness and appearance of the site, existing building(s) and surrounding landscape.

Ecology

15. The appellant's Preliminary Ecological Appraisal (PEA) identifies several of the buildings as having bat roost potential, as well as ponds which may support Great Crested Newt, and recommends further survey work be carried out in both respects. I note the post-decision correspondence provided by the Council, which refers to fraudulent activity in relation to the PEA. In the absence of further clarification, I cannot therefore be confident of the robustness of the PEA. However, its findings in this respect are generally borne out by the Council and Natural Resources Wales' (NRW) confirmation of both species being recorded at the site.
16. In the absence of the further survey work required, I cannot be certain of the extent and nature of the effects the proposed development would have on these protected species. It follows that I also could not be certain that any mitigation proposed would be adequate and effective, or that it would provide a net benefit for biodiversity in accordance with the requirements of PPW. For this reason, I do not consider that the use of a planning condition to require further surveys at a later date would be an acceptable approach, as I cannot be confident the development could be made acceptable.
17. Due to the lack of information before me, I find that the proposal would cause significant harm to ecological interests, a position that is reflected in NRW's objection to the scheme. It would therefore fail to comply with LDP Policies SP14 and NE1, which permit development where it protects, conserves and enhances the natural environment, and avoids detrimental impacts to protected species.
18. In its submissions and reason for refusal in relation to ecological interests, the Council refers to LDP Policy SP15, which applies to development affecting the historic and

cultural environment. As such matters have not been substantively addressed by either party, and there is nothing before me to indicate otherwise, I do not consider Policy SP15 to be relevant in this case.

Drainage

19. The original application scheme, and the Council's assessment and objection, were based on the provision of private sewerage arrangements for foul drainage. However, the appellant has indicated during the appeal process that the proposal is now intended to connect to the main sewer which lies 206m from the site. No further information has been given, and I note the response from Dŵr Cymru Welsh Water (DCWW) to the planning application which states that should circumstances change and a connection to the public sewerage system be preferred, then they must be re-consulted on the proposals. There is nothing before me to indicate that any such further consultation or discussion has taken place with DCWW.
20. PPW paragraph 6.6.20 requires developers to demonstrate that proposals can connect to the nearest main sewer, and WG Circular 008/2018 explains the importance of ensuring effective and sustainable provision to manage sewerage, for the protection of public health, amenity and the local environment. Whilst the latest intention to connect to the main sewer appears to be made in order to overcome the Council's objection, given the lack of information before me, and the considerable distance involved to the main sewer, I am not satisfied that the scheme has demonstrated that suitable provision has been, or can be, secured. I therefore find that the proposed development would not make acceptable arrangements for foul drainage and would be contrary to the requirements of PPW and Circular 008/2018.

Other Matters

21. One of the Council's reasons for refusal relates to the effect of the proposal on the River Dee and Bala Lake Special Area of Conservation (SAC), due to the potential for the proposal to result in increased phosphates entering the river catchment. NRW also considers that further information is required in this respect. I note the appellant's Phosphorus Statement, which refers to the development connecting to the Lavister Wastewater Treatment Works, and the use of a pond and reed bed to offset the phosphorous generated. However, I have not carried 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 in regard to its effect on the SAC this would not outweigh my conclusions on the main issues.
22. The Council has highlighted the need for a planning obligation to secure contributions towards affordable housing, in line with LDP Policy H2. No legally binding document which would secure such an obligation has been provided by the appellant as part of the application or appeal process. However, as I am dismissing the appeal for other reasons, it has not been necessary to pursue this matter further.
23. The proposal would make a modest contribution towards the supply of housing and employment space within the County Borough, and I acknowledge the future provision in the LDP assumes windfall developments will take place. Given the very recent adoption of the LDP and the planned provision this makes, this does not outweigh the fundamental harms I have identified and the proposal's failure to comply with LDP policies regarding development in open countryside.
24. The zero-carbon nature of the proposal would also provide a benefit in terms of energy efficiency and contributing towards Wales' need to meet its targets in this respect. In addition, some benefits to the local economy would be secured through the provision of

employment space, jobs and local spending. However, such benefits would be relatively small and localised given the scale of the development and would therefore not be sufficient to outweigh the wider and permanent harm caused.

25. Although local facilities and services are available in the nearest settlements, the proposal would conflict with LDP policies regarding housing development in open countryside, which aim to control development in a sustainable manner. This consideration therefore carries little weight in my determination of the appeal.
26. Whilst the appellant has referred to positive consultation responses from the local community at the pre-application stage, this does not lead me to conclude differently on the main issues I have identified, nor does it justify granting planning permission.
27. The appellant has raised concerns regarding the procedural handling of the application by the Council but this does not alter my assessment of the planning merits of the proposal.
28. 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

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

Claire MacFarlane

INSPECTOR