



TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

SECTION 78 APPEAL

WRITTEN STATEMENT

Appeal by Mr N Elliott and Mrs K Elliott

Land at Black Rock Farm, Sesswick Way, Cross Lanes

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

PEDW REFERENCE: CAS-03080-T2Z6V6

LOCAL PLANNING AUTHORITY REFERENCE: P/2020/0011

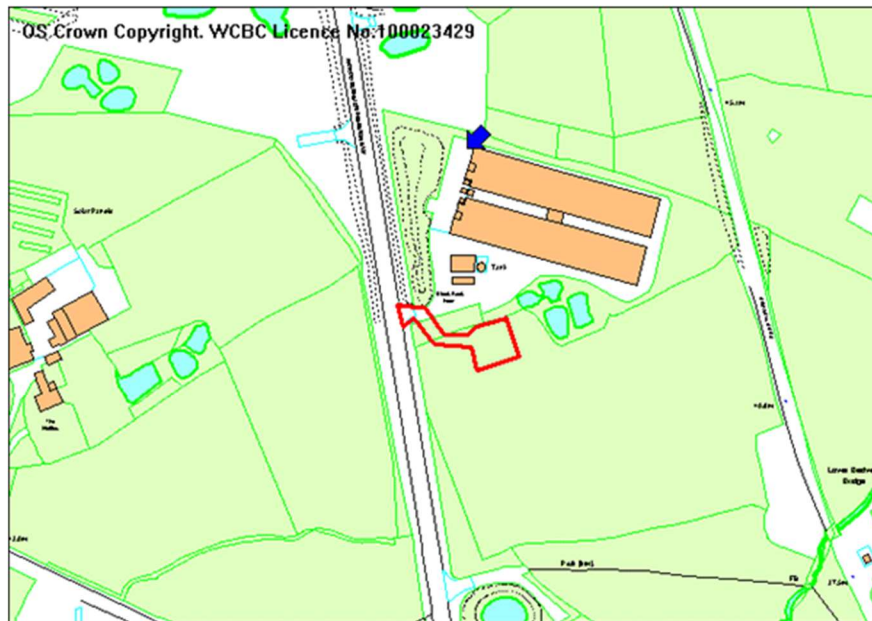
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1. INTRODUCTION

- 1.1 This appeal relates to Wrexham County Borough Council failing to determine and provide a decision on outline planning application P/2020/0011, for the following development: *“Application for outline planning permission (with some matters reserved) to erect a single dwelling for an agricultural worker”* at Black Rock Farm, Sesswick Way, Cross Lanes, Wrexham, LL13 0SQ.
- 1.2 Application P/2020/0011 was registered on 13/01/2020. Whilst the application has not been determined, the Local Planning Authority has compiled a Stance Report, which details the LPA’s position on the acceptability of the proposals. A copy of the report is exhibited in Appendix 1 (appended); the report concludes the proposals are unacceptable for the following reasons:
- Insufficient information has been submitted to justify the creation of a new residential unit within the open countryside. The functional requirement for a fulltime worker to be resident on-site has not been demonstrated, the financial performance and future viability of the enterprise has not been proven, and a lack of alternative appropriate accommodation within the application site’s vicinity has not been shown. The application is therefore contrary to the requirements of TAN 6, the TAN 6 Practice Guidance for Rural Enterprise Dwellings, Part 3.60 of Planning Policy Wales (Edition 12) and Policy H7 of the adopted Wrexham Local Development Plan.
 - The proposed development would lead to increased phosphate inputs entering the freshwater catchment of the River Dee and Bala Lake Special Area of Conservation. A likely significant effect upon the integrity of the SAC cannot be ruled out, contrary to the requirements of Planning Policy Wales (Edition 12), Technical Advice Note 5, Policies SP14, NE1 and NE6 of the adopted Wrexham Local Development Plan, as well as the Environment (Wales) Act 2016 and the Conservation of Habitats and Species Regulations 2017 (as amended).

2. THE SITE AND ITS SURROUNDINGS

- 2.1 The appeal site relates to an area of agricultural land to the south of an existing poultry unit and access/turning area at Black Rock Farm. The site is accessed directly via Sesswick Way, which bounds the site to the west. The appeal site is otherwise thereafter surrounded by further areas of agricultural land to the south and east.
- 2.2 A location plan, outlining the appeal site and its immediate context is provided below.



3. DETAILS OF DEVELOPMENT

- 3.1 The appeal seeks outline planning permission for the erection of a new rural enterprise dwelling, together with associated works including a new driveway and parking area, and installation of foul drainage apparatus. Matters concerning access arrangements are to be considered as part of the appeal, whilst appearance, landscaping, layout and scale would be reserved for future consideration should the appeal be allowed.
- 3.2 The proposed dwelling would have maximum dimensions of 8.5 x 11 metres, measuring a maximum of 4.8 metres to the ridge and 8.4 metres to the ridge. It is noted that a temporary dwelling, for 6 years, was granted at the site as part of appeal ref: P/2016/0533. The current proposal would provide a permanent replacement for the existing temporary dwelling on-site.

4. PLANNING HISTORY

- 4.1 Details of the appeal site's planning history are provided within the Stance Report, appended at Appendix 1.

5. RELEVANT PLANNING POLICY

Local Planning Policy and Guidance

- 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 Whilst the development plan for the area at the time of the application's submission was the former Wrexham Unitary Development Plan, as noted the LDP was adopted by the Council on 20th December 2023, and now comprises the development plan for the Wrexham LPA Area.

5.3 Within the LDP, the following policies are applicable:

- SP1 – Housing Provision
- SP2 – Location of Development
- SP11 – Transport & Accessibility
- SP12 – Design Principles & Masterplanning Framework
- SP13 – Health & Wellbeing
- SP14 – Natural Environment
- SP18 – Climate Change
- SP19 – Green Infrastructure
- H7 – Housing in the Countryside
- NE1 – International and National Nature Conservation Designations
- NE2 – Local Designations for Nature Conservation and Geological Importance
- NE3 – Trees, Woodlands & Hedgerows
- NE6 – Waste Water Treatment and River Water Quality
- DM1 – Development Management Considerations
- T1 – Managing Transport Impacts

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

- 02 – Agricultural Appraisals
- 07 – Landscape & Development
- 13 – Housing in the Countryside
- 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.

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

- TAN 2: Planning & Affordable Housing
- TAN 5: Nature Conservation & Planning
- TAN 6: Planning for Sustainable Rural Communities
- TAN 12: Design
- TAN 18: Transport

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
- Town and Country Planning Act 1990 (as amended)
- Planning (Wales) Act 2015
- Environment (Wales) Act 2016
- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management
- Welsh Government Circular 008/2018: Planning requirement in respect of the use of private sewerage in new development, incorporating septic tanks and small sewage treatment plants
- Welsh Office Circular 13/97 – Planning Obligations

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) Whether the principle of development in this location is acceptable taking into account the requirements of LDP Policy H7 and Technical Advice Note 6; and
- 2) Whether the proposed foul drainage arrangements are acceptable, including any potential impacts upon the River Dee and Bala Lake SAC by way of increased phosphate inputs.

6.2 The Local Planning Authority's case on each of the above issues is principally dealt with in turn within the Stance Report appended at Appendix 1. The Stance Report concludes that the proposals are unacceptable for the reasons as previously noted in paragraph 1.2 of this statement.

6.3 As is noted within the Stance Report, the LPA also considers that a Planning Obligation is required to secure the long-term maintenance and management of the compensation areas for Great Crested Newt. Given that this relates to the long-term arrangements for the compensation land, and could potentially involve the leasehold or freehold of the land being transferred to a third party, it is considered this matter could not satisfactorily be dealt with by planning condition. The absence of a Planning Obligation under Section 106 of the Town and Country Planning Act, 1990, should constitute a further reason for refusal due to a lack of compensatory measures being in place to mitigate for impacts upon Great Crested Newt caused by the proposals.

7. CONCLUSION

7.1 For the reasons detailed in the Stance Report 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 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. The occupancy of the dwelling shall be restricted to:
 - a) a person solely or mainly working, or last working on a rural enterprise in the locality, or a widow, widower or surviving civil partner of such a person, and to any resident dependants; or, if it can be demonstrated that there are no such eligible occupiers,
 - b) a person or persons who would be eligible for consideration for affordable housing under the local authority's housing policies, or a widow, widower or surviving civil partner of such a person, and to any resident dependants.

Reason: To ensure that the dwelling is only occupied by a family of a bona fide rural worker in accordance with the Council's established planning policies governing residential development in the countryside, and Technical Advice Note 6.

5. No development shall commence until a detailed plan to provide net benefit for biodiversity (NBB) has been submitted to and approved in writing by the Local Planning Authority. The measures shall be fully implemented as approved prior to the first beneficial occupation of the dwelling, and shall be retained thereafter for the lifetime of the development.

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).

6. A detailed site plan shall be submitted as part of the first reserved matters application, detailing that no works will take place within 5 metres of the identified GCN pond, as per the submitted GCN Mitigation Strategy [By: Etive Ecology Ltd; Dated: 02/11/2022].

To ensure that no protected species are harmed by the development and in the interests of ecology in accordance with Policy SP14 of the Wrexham Local Development Plan.

7. No development shall take place until a scheme to enable the provision of gigabit capable broadband infrastructure from the site boundary to the dwelling 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.

8. Prior to the first beneficial occupation of the dwelling hereby approved, the vehicular access shall provide visibility splays of 2.4 metres x 215 metres to the north and 2.4 metres x 160 metres to the south measured to the nearside edge of the adjoining highway. Within these splays, there shall be no obstruction above the level of the adjoining carriageway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.

Reason: In the interests of highway safety in accordance with Policies DM1 and T1 of the Wrexham Local Development Plan and TAN 18.

9. The development shall be carried out in strict accordance with the following submitted and approved as part of this application:

Arboricultural Method Statement ref no. TCP / AMS/ version 1/AW.

Reason: To protect trees, in accordance with Policy NE3 of the Wrexham Local Development Plan.

10. The development hereby approved shall be limited to a maximum of 1 dwelling.

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