

PLANNING APPEAL

OUTLINE APPLICATION FOR THE ERECTION OF 3 DWELLINGS (ALL MATTERS RESERVED) AT GLEBE HOUSE FARM, HORSEMANS GREEN, WHITCHURCH, SY13 3DY (reference P/2022/0808)

Appellant's Grounds of Appeal

Introduction

This Appeal is against the refusal of Wrexham County Borough Council (the LPA) to grant planning permission for the development described above.

The application was refused on 13th June 2023.

The application documents and consultee/public comments can be viewed online at:-

<https://planning.wrexham.gov.uk/planning/search-applications?civica.query.FullTextSearch=P%2F2022%2F0808#VIEW?RefType=GFPlanning&KeyNo=73270&KeyText=Subject>

This report sets out the Applicant's Grounds of Appeal.

Reason for Refusal

The decision notice is attached at **Appendix 1**. There were two reasons for refusal, 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.

The Officer's report on the application is attached at **Appendix 2**, explaining the decision in more detail.

Matters Not in Dispute

Regarding **the principle of development**, the Officer report states :

"This proposal seeks permission for the erection of three dwellings (all matters reserved) at Glebe House Farm within the settlement boundaries of

Horsemen's Green. Wrexham Unitary Development Plan Policy PS1 directs new residential development to sites within settlements. Policy H2 allows residential development within settlement limits. As such, the principle of development is considered to be acceptable”.

Regarding **design and layout**, the Officer report states :-

“The application is made in outline only and layout is reserved for subsequent approval. An indicative site layout plan has been submitted to accompany the application. The impact upon neighbouring dwellings would be considered in details as part of a reserved matters submission. Nevertheless, it appears that the site can comfortably accommodate three dwellings in accordance with guidance within LPGN21 and on this basis, it is not considered that the design and layout warrant a reason for refusal”.

Regarding **visual amenity**, the Officer report states :-

“It is noted that the proposed development will break past the existing line of dwellings however, given there are a number of agricultural buildings existing on the development site, it is not considered that this would materially detrimentally affect countryside, landscape character, or the quality of the natural environment, and therefore complies with Policy PS2 of the Wrexham UDP.

Regarding **trees**, the Officer report states :-

“The Council's Arboricultural Officer has stated that the application lacks an Arboricultural assessment despite there being boundary features and hedgerow and trees present at the development site. They have gone on to state that to protect the functionality of these boundary features, the scheme must ensure adequate buffer zones of between 3-4m in width to separate hedgerows and trees from the proposed residential boundaries. The application is made in outline only and layout is reserved for subsequent approval, subsequently, it is considered that the location of any proposed dwelling in relation to trees and hedges, could be decided at reserved matters stage”.

We assume therefore that all of the above matters are not in dispute.

Main Issues

The main issues are therefore clearly the impact of the proposed development on phosphate levels in the River Dee and Bala Lake Special Area of Conservation, and the suitability of the proposed vehicular access to the site.

GROUNDINGS OF APPEAL

Issue 2 – Phosphate Levels – River Dee SAC

Phosphate Levels

The application was refused on the grounds that 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 Natural Resources Wales Interim Advice on this matter is attached at **Appendix 3**. On page 1 it states :-

“...The following types of development are unlikely to increase phosphate inputs:

- *Private sewage treatment systems discharging domestic wastewater to ground which are located more than 50m from a SAC boundary, and which have a maximum daily discharge rate of less than 2 cubic metres (m³)...”;*

On page 3 it states :-

“We do not consider that schemes involving private sewage treatment systems or changes to existing systems which:

- *discharge to ground into a drainage field constructed to the relevant British Standards; and*
- *are located more than 50m from a river SAC boundary; and*
- *have a maximum daily discharge rate of less than 2 cubic metres (m³) are likely to have a significant effect on the SAC”.*

The Sketch Layout Plan (**Appendix 4**) and Drainage Plan (**Appendix 5**) showed how the proposed dwellings would be served by package treatment plant and tertiary treatment via a reed bed, then discharging into a drainage field to the north-west of the site, in the Appellant’s ownership.

The Drainage Letter (**Appendix 6**) submitted with the application also set out how the specified treatment plant, together with tertiary treatment in the reed bed, would be effective in achieving 95% phosphate reduction.

We conclude that this will ensure there is no significant effect on phosphate levels in the SAC.

NRW submitted two letters on the application (**Appendix 7** and **Appendix 8**). In their second set of comments they stated :-

“We note the application meets the following criteria: 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 the discharge volume is under 2m³, however, there are a number known

discharges within a 200m radius of the proposal. Additionally, it must also be noted that many private drainage systems qualifying for an exemption from Environmental Permitting have not been registered with NRW and as such there may be limited data available on the location of existing drainage fields. In the absence of complete data, we advise your Authority 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. Poor operation of drainage fields can lead to increased phosphorus discharges to SAC river systems. We therefore advise your Authority to consider site conditions (such as proximity to adjacent drainage fields, soil type, depth to groundwater, distance to surface water features and SAC boundary etc) to determine with certainty that existing and proposed drainage fields will operate effectively in the future and prevent any phosphorus from entering a river SAC”.

The Officer report does not provide any additional information or evidence regarding proximity to existing properties likely to have a private drainage system, soil type, depth to groundwater, distance to surface water features and the SAC boundary - it simply restates the NRW comments, as follows :-

*“It is proposed that the foul water from the proposed houses would be disposed of via a Private Treatment Plant. NRW have noted that 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 the SAC boundary, and the discharge volume is under 2m³, **however, there are a number of known discharges within a 200m radius of the proposal. As such, the proposed development fails to meet all of the criteria outlined within NRW’s advice to planning authorities for planning applications affecting phosphorous sensitive river SACs** section ‘What does this mean for development proposals involving private sewerage treatment systems”.*

We must therefore reserve our position on the Phosphates issue until such time as the LPA provides further information (in its Appeal Statement) on how it has reached its conclusions. We will then be able to comment further.

Issue 2 – Suitability of the Proposed Access

Existing Highway Conditions

The site is served by a private drive off the Class III road known locally as Horsemen’s Green Road. The private drive serves 3 dwelling, a derelict farmhouse and agricultural land. The Class III road has no strategic significance and can more properly be described as a lightly trafficked access road. A “snapshot” manual traffic count conducted during the am peak hour (08.00-09.00) on 20 November 2023 recorded only 8 vehicles passing the site access.

The road adjacent to the site access is some 5.5 m wide with a kerbed footway opposite, varying in width between 1.0 m and 1.5 m. On the site side and to the south west of the site access the carriageway is bounded by a narrow grass verge backed by a live hedge. To the north east of the access the carriageway is bounded by a grass verge and backed by a brick pier and wooden picket fence.

Horsemen's Green Road is not subject to a local speed restriction but the highway authority has previously estimated typical traffic speeds to be of the order of

25 mph. This estimate is not contested. Street lighting is not provided through the village, there are no carriageway markings along the centre of the road and waiting restrictions are not in force.

The site access forms a bell mouth junction about 9.0 m wide with the Class III road and is typically around 4.6 m in width for a distance of 50.0 m or so from its junction with Horsemen's Green Road. It is therefore wide enough to enable the simultaneous entry and exit of vehicles without the need for them to stand on the highway carriageway whilst vehicles exit the private drive. The surface of the private drive is hardened for around the first 25.0 m and there is no evidence of mud or other deleterious material being carried onto Horsemen's Green Road by vehicles exiting the private drive.

It should be noted that roads with a similar width to that of the private drive are typically accepted by local highway authorities to serve low density developments. Whilst the private drive narrows towards the application site there is scope to either widen the drive or provide passing places. In terms of its width, the private drive is therefore considered to be suitable to serve as a means of access to the proposed development.

Appraisal of Visibility from the Site Access

Visibility from the proposed site access, the Y distance, is restricted to some 7.0 m in a south westerly direction by the highway boundary hedge. In a north easterly direction, when looking over the boundary fence of Croft House, (which appears to have been erected at a low level specifically to aid vision) visibility of some 31.0 m is available. This distance is generally compliant with the 25 mph Stopping Site Distance in Table 7.1 in Manual for Streets (MfS) which the local highway authority recognises is appropriate in this case. It is also noteworthy that the measure of forward visibility available to the drivers of vehicles approaching the site access from both directions along Horsemen's Green Road is in excess of 100m. This is more than three times the SSD (33 m) based upon the MfS parameters for a vehicle speed of 25 mph. The adequacy of forward visibility has been accepted by the highway authority.

There are numerous direct accesses onto the highway within Horsemen's Green which have visibility for emerging drivers restricted by the proximity of boundaries to the carriageway. It is therefore apparent that the restrictions to visibility at the access serving the site are not unusual in the local context. It is also apparent from the measurements undertaken at the site access that in some respects it benefits from superior visibility than some of its neighbours. Moreover, MfS2 10.5.9 says *"...unless there is local evidence to the contrary, a reduction in visibility below recommended levels will not necessarily lead to a significant problem"*.

When assessing visibility requirements, MfS considers the ability of a vehicle to stop safely in order to avoid a collision. Paragraph 10.1.4 of MfS2 states: *"Stopping site*

distance (SSD) is the distance drivers need to be able to see ahead and they can stop within from a given speed.”

In this particular case, given drivers are afforded good visibility to the left across the frontage of Croft House from the desirable 2.4 m X distance, measured from the edge of the carriageway, the driver emerging from the site could check the carriageway is clear in that direction, then take a longer look to the left to check that there was nothing approaching from that direction, before cautiously edging forward to obtain a better view to the right before joining the road.

In addition, research indicates that restricted lateral visibility may not necessarily lead to unacceptable safety impacts at junctions. Section 10.4 of MfS2 considers “Visibility at Priority Junctions” on pages 076 and 077. Paragraph 10.4.2 states *“It has often been assumed that a failure to provide visibility at priority junctions in accordance with the values recommended in MfS1 or DMRB (as appropriate) will result in an increased risk of injury collisions. Research carried out by TMS consultancy for MfS2 has found no evidence of this.”* The report concludes *“This study has been unable to demonstrate that road safety concerns regarding reduced Y distance are directly associated with increased collision risk at “high-risk” urban sites; Previous research for MfS1 demonstrated that main road speed is influenced by road width and forward visibility. Many of the locations in this study were straight roads with good forward visibility. The ability of a driver to stop is likely to be affected by more than just what is happening in the side road and an understanding of the factors influencing main road speed is important when assessing visibility requirements.”*

Highway Safety

In order to review the safety performance of Horsemans Green Road and the wider local highway network the Crashmap database was accessed. This revealed there has been only one recorded personal injury accident in Horsemans Green in the last twenty years and none in the vicinity of the site access itself. In the event there is a feature of the local highway network that results in compromised safety, it is often found that a number of incidents occur at the location which share similar characteristics (cluster sites). As previously stated, there are accesses which have below desirable levels of visibility and in various instances, comparably worse visibility than is provided at the site access. In this case, the absence of recorded injury accidents provides empirical evidence that road users travelling along Horsemans Green Road and turning to/from the various accesses/junctions along it, are able to interact with each other safely.

As a result of the foregoing, given the local context and highway alignment in this particular case, the likelihood of either driver failing to see the other vehicle in sufficient time to be able to react and stop safely in order to avoid a collision is so slight as to be considered insignificant, as the forward visibility towards the site access indicates that oncoming traffic would have sufficient time to observe and manoeuvre around a vehicle carefully edging out from the site access without unacceptably compromising highway safety.

Based on the excellent safety record along Horsemans Green Road, and the wider area of Horsemans Green, where there are numerous accesses with sub-standard lateral visibility, which in many cases is worse than is provided at the site access, it is apparent that the findings of the MfS2 research with respect to the lack of a relationship between restricted lateral visibility and collisions is robust and directly applicable to the local context of this particular case.

Moreover, the Y distance is a function of the speed of traffic and is not affected by the scale of development. Given the continued delay in the adoption of the LDP, the weight given to the policies in the UDP have, it is argued, been diminished. Instead weight should be given to more recent policies and guidance. In particular, TAN 18 states, inter alia, *“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 incorporates a substantial access improvement, even though the improved access would still be below standard”*. Access improvements are referred to further in this report.

Traffic Generation

As stated previously the site access serves as a means of access to some 3 dwellings, a derelict farmhouse and farmland. The traffic associated with Glebe Farm comprises daily visits to tend to stock, using vehicles ranging from tractors and trailers, and pick-up trucks. Land management comprises vehicles such as tractors with manure spreaders, telescopic loaders for the movement of straw and sundry vehicles used for general maintenance. Some of these movements tend to be seasonal but in general terms some 5 return trips (10 movements) per day are generated by the current land use.

In its response to the local planning authority dated 14 November 2022 the highway authority commented that *“Given the nature of the site in respect of shops, surgeries, employment, schools etc. it is likely that a dwelling in this location could generate 8 – 10 movements per day. The proposed development could therefore potentially generate around 24 – 30 vehicle movements per day”*. This estimate however makes no allowance for linked trips e.g. employment and educational trips being combined, likewise shopping and medical trips.

Trip generation databases such as TRICS show that residential trip rates average, per dwelling, around 0.15 arrivals and 0.4 departures in the AM peak hour and 0.4 arrivals and 0.22 departures in the PM peak hour.

However, for robustness and assuming no modal split, i.e. all trips will be by car, and allowing for 1 departure per dwelling during the a.m. peak – the development will only result in 3 movements leaving the site onto Horsemans Green Road, or 1 vehicle every 20 minutes. It can only be concluded therefore that the traffic likely to be generated by the proposed development will not only be minimal but will also change the nature of the traffic using the site access.

Proposed Highway Improvements

Notwithstanding the above, the appellant attempted to engage proactively with the highway authority with schemes to improve visibility from the site access and to

improve traffic management for the wider community. There is no continuous footway system along Horsemans Green Road and in particular across the site road frontage. It was proposed therefore, as part of the proposed development, that the footway to the south west of the site access be extended (see the plan at **Appendix 9**).

The proposed provision of a footway would not only improve pedestrian facilities in the vicinity of the site it would also enable a satisfactory measure of visibility to be achieved from the existing site access whilst also adding a traffic calming feature to Horsemans Green Road. Whilst the provision of a footway would reduce the width of the carriageway it would be entirely consistent with the advice in MfS which states at 7.2.3 *“In lightly trafficked streets, carriageways may be narrowed over short lengths to a single lane as a traffic calming measure”*.

The works would be funded by the development and subject to a Section 106/278 Agreement. Whilst the plan proposing the scheme was illustrative it was dismissed by the highway authority as it would “.. *prevent the simultaneous passage of vehicles....and create an unnecessary change in the horizontal alignment of the carriageway*”

This comment would appear to contradict MfS advice as detailed above. A further proposal to construct a priority traffic scheme by the provision of a build out was rejected by the highway authority on the grounds *“Our Traffic Sectionwould not support the proposed traffic calming scheme as this section of highway does not warrant a build out”* It could be implied by the lack of support for these two schemes that the highway authority do not consider the inadequacies of the site access to be so unsafe as to warrant any improvement.

Conclusions

The proposed development would result in a change in the nature of traffic using the site access and would be unlikely to result in a material increase in the volume of vehicles using the lightly trafficked Horsemans Green Road. Empirical evidence shows that the access operates safely and as such does not fail to meet Policy GDP1 of the time expired UDP, and DM1 of the unadopted LDP.

We await the LPA’s further information and evidence on the Phosphates issue.

David Parker Planning Associates and **The Whitehouse Partnership**, on behalf of Stuart Huxley

December 2023