



Appeal Decision

by **A L McCooey BA MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Decision date: 20/06/2024

Appeal reference: CAS-03161-H3N3X0

Site address: Glebe House Farm, Horsemans Green, Whitchurch, SY13 3DY

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Stuart Huxley against the decision of Wrexham County Borough Council.
 - The application Ref P/2022/0808, dated 6 September 2022, was refused by notice dated 13 June 2023.
 - The development proposed is the erection of 3 Dwellings.
 - A site visit was made by the Inspector on 22 May 2024.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is made in outline with all matters reserved. Scale parameters for a bungalow and the proposed houses have been submitted.

Main Issues

3. The main issues are: the impact of the proposal on the River Dee and Bala Lake Special Area of Conservation (SAC) and the effect of the proposed access on highway safety.

Reasons

4. The appeal site is located within the settlement limit for Horseman's Green in the adopted Wrexham Local Development Plan (as it was in the former Unitary Development Plan). The site contains a derelict dwelling house, a former agricultural building and a Dutch barn which is still in agricultural use. There are existing dwellings to the south and agricultural land to the north. Access to the site is gained via an unadopted access track off Horseman's Green Road, to the south.

Impact on the SAC

5. The site lies within the catchment of the River Dee and Lake Bala SAC. A private sewage treatment system is proposed to serve the development. The appellant has supplied a Sketch Layout Plan with the approximate location of the package treatment plant and tertiary treatment via a reed bed. This would then discharge into a drainage field in the Appellant's ownership to the north-west of the site. NRW has confirmed its advice in relation to such arrangements in the form of necessary information to be provided in order to screen out developments as not likely to have a significant effect on

a riverine SAC. The parties agree that the proposed foul drainage system would have a maximum daily discharge rate of less than 2 m³. It was also agreed that the drainage field would be located in excess of 40 m from any surface water drainage feature and in excess of 50 m from the SAC boundary itself. This accords with the NRW advice.

6. A letter from consultants states that the specified treatment plant, together with tertiary treatment in the reed bed, would be effective in achieving 95% phosphate reduction. The appellant argues that this would ensure there is no significant effect on phosphate levels in the SAC.
7. The Council indicates that most of the dwellings in the village are not connected to public sewerage. It is therefore highly likely that surrounding properties are served by private sewage systems discharging wastewater to ground in the vicinity of the proposed drainage field. The Council concluded at application stage that further investigations would need to be undertaken by the appellant in order to investigate these discharges and possible cumulative effects on the SAC. Irrespective of the claimed phosphate reduction by a package plant it is possible that the proposal would add to phosphate levels in the SAC. Despite this being raised in the delegated report as a reason for refusal and in the Council's appeal statement, the appellant has not addressed this matter further in the appeal submissions.
8. PEDW also wrote to the parties in December 2023 requesting information that would allow the development to 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. This included information on the proposed private sewage treatment system discharging domestic wastewater to ground, that it would be built to the relevant British Standard (BS 6297:2007+A1:2008) and that 4 criteria are met. As noted above, the parties agree that the first 3 criteria are met. However, no information on whether the proposed discharge to ground would be at least 200 m away from any other discharge to ground has been supplied. The development cannot be screened out as not likely to have a significant effect on a river SAC in relation to phosphorus inputs.
9. Therefore an appropriate assessment under the Habitat Regulations must be undertaken. The appellant was informed that the following would be required: Clear scale plans showing the location of the proposed private sewage treatment system and discharge location; evidence that Circular 008/2018 has been followed and 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. Comprehensive information on the proposed measures to avoid or mitigate potential phosphorous impacts, including details of implementation, maintenance arrangements and monitoring was also requested.
10. The information supplied by the appellant is incomplete and does not fully address the above matters. Nor does it address the issue of cumulative impacts with existing discharges nearby. In these circumstances I do not have sufficient information to conclude that the proposal would not be likely to have a significant effect on a river SAC in relation to phosphorus inputs. The development would therefore be contrary to the requirements of the Habitat Regulations and Policies SP14, NE1 and NE6 of the Wrexham Local Development Plan (LDP).

Highway Safety

11. Access to the site would be via an existing access track of Horseman's Green Road. The track currently serves the site and 3 dwellings. The proposal is for 3 dwellings, which would lead to a significant increase above existing traffic. The appellant's claims to the contrary are based on generic assumptions that each dwelling would only have one car

which would only exit the site and return once a day. The site is in a rural location with limited facilities and public transport provision necessitating trips by car to access schools, shops, employment, etc. The evidence is that the previous agricultural use of the site was seasonal in nature. I consider that the addition of traffic from the 3 proposed dwellings would represent a significant increase in the use of this track.

12. The Highway Authority indicates that the visibility available at the junction of the track with the road is 2.4 m x 7 m measured to the nearside edge, due to the presence of obstructions on neighbouring land outside the control of the appellant. Visibility splays of 2.4 m x 33 m would be required in accordance with Technical Advice Note 18 and the Manual for Streets.
13. The appellant undertook a one-hour traffic count on one day in November last year and recorded 8 vehicles passing the site access in the AM peak hour. Traffic speeds are estimated to be in the region of 25 mph. Whilst the road is relatively lightly trafficked, it is used by lorries and agricultural vehicles, as referred to by local residents. I noted such traffic during my site visit.
14. The claim that adequate visibility to the left emerging from the access would compensate for other deficiencies is not convincing. Visibility to the right would be more critical as approaching traffic on the main road would be on the same side of the road as the junction. The appellant would also have no control over the existing visibility to the left, which is across the frontage of an adjoining dwelling. I note the points in Manual for Streets 2 regarding a reduction in visibility below recommended levels will not necessarily lead to a significant problem to which the appellant refers and that the Crashmap data indicates that there were no accidents near the site access. However, consideration must be given to local conditions. There has been an accident elsewhere in the village. I observed vehicles exiting the access during my site visit and executed this manoeuvre myself. I consider that the visibility is so limited that the increased use of the access would be detrimental to highway safety, notwithstanding the fact that this is a straight stretch of road with forward visibility.
15. The appellant suggested providing a short section of new footway along the frontage of the adjoining dwelling to the south-west of the site access in an attempt to improve visibility. This would also improve pedestrian facilities and provide a traffic calming feature. This was rejected by the Highway Authority as it would be detrimental to highway safety and traffic flows, and would adversely affect horizontal alignment. The appellant's inference that this implies that the Highway Authority does not consider that the inadequacy of the access so unsafe as to warrant any improvement is without any evidential basis.
16. The appellant suggested that these works could be the subject of a Section 106 agreement under the Planning Act and a Section 278 agreement under the Highways Act. However, no Section 106 agreement has been submitted with the appeal. In any event, Highway Authority has clearly indicated that consent would not be granted for these works. I therefore afford this suggestion little weight.
17. I conclude on this issue that the proposed access would be detrimental to highway safety for the reasons given above. As such the proposal would be contrary to Policy DM1 of the LDP.

Other Matters

18. The presence of existing poor accesses in the area does not justify the approval of a further substandard access. No details of the available visibility at these accesses was provided. The issues raised in relation to existing parking in the village would not be related to the proposal. The application is in outline with all matters reserved for further approval. The other issues raised by residents could have been considered at the detailed stage or are not relevant to planning. As noted above the site is within the development limit and the Local Planning Authority has raised no other concerns in principle to the proposal.

Conclusion

19. Having taken all relevant matters into consideration, I conclude that the appeal should be dismissed for the reasons given above.
20. 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 ("the WBFG Act"). In reaching this decision, I have taken into account the ways of working set out at section 5 of the WBFG Act and I 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 set out as required by section 8 of the WBFG Act.

A L McCooey

INSPECTOR