
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 10/10/18

**gan Clive Nield BSc(Hon), CEng,
MICE, MCIWEM, C.WEM**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 02.11.2018

Appeal Decision

Site visit made on 10/10/18

**by Clive Nield BSc(Hon), CEng, MICE,
MCIWEM, C.WEM**

an Inspector appointed by the Welsh Ministers

Date: 02.11.2018

Appeal Ref: APP/H6955/A/18/3207621

Site address: Land off Mold Road, Gwersyllt, Wrexham, LL11 4AF

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- 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 ASC Real Estate Investments Ltd against the decision of Wrexham County Borough Council.
 - The application Ref GWE P/2017/0927, dated 3 November 2017, was refused by notice dated 5 March 2018.
 - The development proposed is the demolition of existing vacant buildings and the erection of a 54 No. bed low secure unit with associated parking and soft landscaping (full application) and the demolition of existing buildings and the erection of a housing development (outline application).
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Decision

1. The appeal is allowed and planning permission is granted in full for the demolition of existing vacant buildings and the erection of a 54 No. bed low secure unit with associated parking and soft landscaping and in outline for the demolition of existing buildings and the erection of a housing development on land off Mold Road, Gwersyllt, Wrexham, LL11 4AF, in accordance with the terms of the application, Ref GWE P/2017/0927, dated 3 November 2017, subject to the conditions in the attached Annex.

Procedural Matters

2. The application was made as a hybrid application as described above. The outline application also included details of the proposed access for approval. The low secure unit is proposed on the western part of the site and the housing development on the eastern part. The application form for the latter indicates that the proposal comprises 9 No. 3 and 4 bed houses and 27 No. 2 bed flats. However, the Council's refusal notice, the appeal statements and the latest plans refer to 6 No. 3 and 4 bed houses and 24 No. 1 and 2 bed flats. I have considered the appeal on the basis of the latter.
 3. The Low Secure Unit would provide care and treatment for people with mental health problems, and the development would include an Assessment Treatment Unit to provide enhanced therapeutic and clinical support for individuals experiencing varying degrees of difficulty or crisis.
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4. It is pertinent that the principle of redevelopment of the site has already been established as outline planning permission for residential development (up to 65 dwellings) was granted in March 2016 (Ref. P/2014/0931).
5. An application for costs was made by ASC Real Estate Investments Ltd against Wrexham County Borough Council. This application is the subject of a separate Decision.

Main Issue

6. The main issue in this case is the effect of the proposed development on the character and appearance of the area and, in particular, whether by virtue of its scale and use it would involve over-intensive use of the site.

Reasons

7. The Council's refusal stated "*The proposed development, by virtue of its scale and use, would involve an over-intensive use of the site. To allow the development would be contrary to Policy GDP1(a) of the adopted Wrexham Unitary Development Plan*". I note that that part of the policy states "*All new development should:- a) Ensure that built development in its scale, design and layout, and in its use of materials and landscaping, accords with the character of the site and makes a positive contribution to the appearance of the nearby locality*".
8. The site was previously used for industrial purposes and contains several large industrial-style buildings as well as a single storey office block. It is located within a small industrial estate, and the western part of the site lies below a high, steep bank. The proposed Low Secure hospital unit would comprise a mixture of one and 2 storey flat-roofed buildings, and the Design and Access Statement says that the housing development would comprise 2 storey houses and 3 storey blocks of flats.
9. In the context of the size, nature and location of the site these would be of quite modest scale and would not represent over-intensive development of the site. The proposal would include landscaping measures appropriate for the proposed hospital unit and the small housing estate. The development would also include security fencing for the Low Secure Unit, which would not appear out of place in the context of the industrial estate and would, in any case, be subject to landscaping measures to soften its appearance. In terms of physical development I consider the proposal would sit comfortably in its surroundings and would be likely to enhance rather than harm the character and appearance of the area.
10. Although not clearly expressed in the reason for refusal, Members' concerns appear to have included the level of security of the Low Secure Unit and its compatibility with neighbouring residential areas and schools. As explained in the Council's committee report, the hospital unit would be designed and operated to prevent escape and to provide accommodation that is secure in terms of the health and well-being of its patients. Such units are for the treatment of low risk patients who do not need the level of physical security provided by Medium or High Secure Units.
11. There is a need for units of this sort in North Wales, and the proposal is supported by UDP Policy H11, which covers the provision of residential care homes, nursing homes and specialist health care services. In view of the secure nature of the unit and the low risk of its patients, I do not consider the proposed use would significantly affect the neighbouring land uses.

12. I have taken into account all other matters raised by local residents and their representatives. However, I do not consider them to outweigh my conclusions on the main issue above, and I conclude that the appeal should be allowed and that planning permission should be granted subject to a suite of necessary conditions.
13. In reaching this decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.
14. The Council has put forward a suggested set of planning conditions, and the Appellant makes no comment on these. I have considered them against the tests prescribed in Welsh Government Circular 016/2014, The Use of Planning Conditions for Development Management, and I have altered some of the suggested conditions to reflect corresponding model conditions in the Circular.
15. Conditions for approval of reserved matters and for timetables for approval and start of development are required by legislation and, in order to define the scope of the approved development, conditions are needed specifying the relevant plans for the element of full permission and the maximum number of dwellings covered by the outline permission. A condition is also needed to ensure the access road is improved to a safe and otherwise satisfactory standard.
16. A condition is necessary to ensure existing trees are suitably safeguarded and, in the interests of the safety and amenity of future occupiers, conditions are needed to ensure land contamination risks are dealt with. For similar reasons, provision needs to be made for the controlled clearance of Japanese Knotweed from the site. Conditions are also needed to ensure suitable arrangements are made for foul, surface water and land drainage, including avoidance of discharge on to the access road. Although not specifically suggested by the Council, these need to specify that a sustainable drainage scheme is provided in accordance with Welsh Government policy and model conditions in the Circular.
17. In addition, several aspects of detailed design warrant control by conditions. Provisions for safeguards to protect bats and for control of external lighting are needed in the interests of wildlife protection, and the external materials of buildings need to be subject to approval in the interests of visual amenity and the appearance of the development. The amenity of future occupiers of the dwellings also requires details of the provision of open space to be approved. Finally, conditions are needed in respect of boundary treatment for the Low Secure Unit (for security purposes) and parking arrangements for the Unit (for highway safety reasons).
18. The conditions suggested by the Council make no mention of the provision of an appropriate proportion of affordable housing, as required by development plan policy. Whilst I understand it is intended to deal with this through a Section 106 Undertaking, in the absence of a signed and completed version of that I consider an appropriate condition to be necessary. The Circular provides a suitable model condition.

Clive Nield

Inspector

ANNEX of Conditions

1. Details of the appearance, landscaping, layout and scale (hereinafter called the "reserved matters") for the part of the development on the land described as "Extent of Outline Planning Application" on drawing no. 17-032-104 shall be submitted to and approved in writing by the local planning authority before that part of the development begins, and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall begin:
 - (a) in respect of that part of the site described as "Extent of Full Planning Application" on drawing no. 17-032-104, before the expiration of five years from the date of this permission; and
 - (b) in respect of that part of the site described as "Extent of Outline Planning Application" on drawing no. 17-032-104, before the expiration of five years from the date of this permission or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. In respect of that part of the site described as "Extent of Full Planning Application" on drawing no. 17-032-104, development shall be carried out in strict accordance with the following plans:
 - 17-032-104: Site Plan – Full and Outline Application Extents
 - 17-032-110 Revision B: Proposed Site Plan
 - 17-032-111 Revision A: Site Plan – Boundary Treatments and Fencing
 - 17-032-120: Ground Floor Plan
 - 17-032-121: First Floor Plan
 - 17-032-123: Roof Plan
 - 17-032-150: Proposed Elevations – Sheet 1
 - 17-032-151: Proposed Elevations – Sheet 2
 - 17-032-152: Proposed Elevations – Sheet 3
 - P.883.17.03: Landscape Proposals.
5. This permission provides for a maximum of 30 dwellings to be erected on the land described as "Extent of Outline Planning Application" on drawing no. 17-032-014.
6. The landscaping and layout reserved matters to be submitted pursuant to Condition 1 above shall include a scheme for an area or areas of open space and green space to be provided within the development site, along with a management plan for those areas. The scheme shall be implemented in accordance with the approved details prior to the first occupation of the dwellings and shall thereafter be managed in accordance with the approved management plan.

7. Development shall not commence until a scheme for the improvement of the Westminster Industrial Estate access road, from its junction with Mold Road to the proposed low secure unit and housing developments has been submitted to and approved in writing by the local planning authority. The scheme shall include details of drainage, construction, footway provision and double yellow line road markings. No part of the development shall be occupied until the approved scheme has been implemented in full.
8. Development shall not commence on each part of the site until a detailed Arboricultural Method Statement for that part of the site has been submitted to and approved in writing by the local planning authority. Development shall take place strictly in accordance with the approved Method Statement.

The Method Statement shall include:

- (a) a specification for tree protection fencing and ground protection measures that comply with British Standard 5837:2012;
 - (b) a Tree Protection Plan showing the location of the trees to be removed and those to be retained with their crown spreads, root protection areas or construction exclusion zones, and the location of protective fencing and ground protection measures;
 - (c) a full specification for any access, driveway, path, underground services or wall foundations within the root protection areas or construction exclusion zones of any retained trees, including any related sections and method for avoiding damage to the retained trees;
 - (d) details of general arboricultural matters, including proposed practices with regards to cement mixing, materials storage and fires;
 - (e) details of the frequency of supervisory visits and procedures for notifying the findings of such visits to the local planning authority;
 - (f) methods for the protection of retained trees during demolition works; and
 - (g) details of all proposed tree works, including felling and pruning.
9. No development shall take place on each part of the site until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development on that part of the site begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development on that part of the site begins.
 10. If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development on that part of the site is occupied.

11. Each part of the site subject to remediation measures as approved under the conditions above shall not be occupied until a Validation Report has been completed in respect of that part of the site and submitted to and approved in writing by the local planning authority.
12. Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the local planning authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met, and documenting the decision to cease monitoring, shall be submitted to and approved in writing by the local planning authority.
13. No development shall commence on the affected part of the site until a detailed method statement for the removal and long-term management of Japanese Knotweed on that part of the site has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved method statement unless otherwise approved in writing by the local planning authority.
14. No development shall take place on a part of the site until a comprehensive sustainable drainage scheme indicating how foul water, surface water and land drainage shall be dealt with for that part of the site has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter be managed and maintained in accordance with the approved details.

These details shall include:

- i) a timetable for its implementation; and
 - ii) a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.
15. No surface water run-off shall be permitted to flow from the development onto the adjoining highway. An ACO drain or similar shall be provided across the approved access to intercept any such run-off prior to first occupation of the development.
 16. No external lighting shall be provided on any part of the Low Secure Unit other than in strict accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
 17. Development shall be carried out in strict accordance with Section 6.0, Conclusions and Recommendations, of the Ascerta Bat Survey and Assessment dated 08 September 2017.
 18. Prior to their use in the development hereby permitted details or samples of all external facing and roofing materials shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details or samples.
 19. The Low Secure Unit shall not be brought into use until the boundary treatments shown on drawing no. 17-032-111 Revision A have been provided in full. The new Low Secure Unit fencing shall thereafter be retained throughout the lifetime of the development.

20. The Low Secure Unit shall not be brought into use until the vehicular parking and turning areas shown on drawing no. 17-032-110 Revision B have been fully laid out, surfaced and drained. These areas shall thereafter be permanently retained and kept free from any obstruction and shall be made available solely for the parking and turning of motor vehicles at all times.
21. Prior to the commencement of the housing development hereby permitted a scheme for the provision of affordable housing as part of the development shall be submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of Technical Advice Note 2: Planning and Affordable Housing or any future guidance that replaces it. The scheme shall include:
- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made;
 - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or for the management of the affordable housing;
 - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.