



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 26/10/22

**gan Declan K Beggan BSc (Hons) MSc
DipTP DipMan MRTPI**

**Arolygydd a benodir gan Weinidogion
Cymru**

Dyddiad: 21/11/2022

Appeal Decision

Site visit made on 26/10/22

**by Declan K Beggan BSc (Hons) MSc
DipTP DipMan MRTPI**

**an Inspector appointed by the Welsh
Ministers**

Date: 21/11/2022

Appeal Ref: CAS-02202-F7T2J8

Site address: Barnfields, Mulsford, Malpas, Wrexham, SY14 7LP

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 E Putwain against the decision of Wrexham County Borough Council.
 - The development proposed is a “two storey extension to garage to provide annexe accommodation and office space”.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I note the descriptions of the site address and proposed development vary slightly between that stated on the planning application form and the Council's decision notice; I have used the latter descriptions, as copied into the banner heading above, as they are more concise.

Main Issues

3. I consider the main issues in this case to be:
 - Whether the proposed development amounts to an independent dwelling, and if so, is it justified bearing in mind local and national planning policies which seek to strictly control development in the countryside;
 - Whether the proposed development would be detrimental to highway safety; and,
 - The impact of the proposal on the integrity of the River Dee and Bala Lake Special Area of Conservation (SAC).

Reasons

Development in the Countryside

4. The application details refer to the proposed accommodation being required for the appellant's daughter who cannot afford a separate dwelling but requires a degree of independent living. Although described by the appellant as annexe accommodation, the proposed building would be self-contained, detached by a considerable distance from the existing dwelling, and include all the facilities required for independent living i.e., bedroom, kitchen, living room, bathroom; that degree of independent living away from the main dwelling is significant. In addition, whilst I note the shared use of parking facilities/access onto the public road, nonetheless, the proposed building due to its siting to the side of the existing dwelling, offers the potential to be accessed separately by vehicular traffic off the current drive.
5. In general, annexe accommodation would be in the form of an extension to an existing dwelling with limited facilities and a physical connection between the two elements, however this is not the case with the proposed development. Whilst I appreciate there would be no subdivision of the existing curtilage, and other facilities such as utilities would be shared with the main house, nonetheless, as referred to above the degree of independent living and the amenities provided, indicate to all intent and purposes that the proposed development would be viewed both functionally and physically as a separate new two storey dwelling, located beside a single storey bungalow.
6. Bearing in mind all the above, I agree with the Council's stance that the proposal is tantamount to a new dwelling and accordingly I shall deal with it as such. The fact that part of the first floor would be used by the occupier of Barnsfields for office accommodation would not alter my view. The appellant suggests that a planning condition or legal agreement tying the development to the main dwelling would address any concerns, however, this would not be acceptable. Due to the proposed development's significant conflict with planning policy owing to its nature, layout and its relationship with the main dwelling on the overall site, it would not be appropriate to resolve the matter by way of a planning condition or legal agreement.
7. Planning Policy Wales Edition 11 (PPW) states the countryside, in line with sustainability principles should be conserved and where possible enhanced for its own sake, and that new building in the open countryside that is away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled.
8. The appeal site relates to an existing rural building located within open countryside within the adopted Wrexham Unitary Development Plan (UDP). Policy H5 of the UDP restricts new dwellings outside of defined settlement limits. Policy H5 strictly controls new dwellings unless it is for the certain types of development e.g., rural enterprise dwellings; this broadly reflects the stance taken in PPW, and advice as contained within Technical Advice Note 6: Planning for Sustainable Rural Communities (TAN 6). Adopted Local Planning Note No. 13: Housing in the Countryside refers to an extension or outbuilding (i.e., to provide 'granex' accommodation); it states, in particular two storey outbuildings, which could be easily adapted into a separate new dwelling in the countryside will not be in accordance with the development plan and will not be permitted.
9. The appellant is not arguing that the proposal would meet any of the exceptions for rural development stated in local or national planning policy, rather his case is premised on it being householder development, however I have previously addressed why I do not consider that to be the case. As a result, the proposed development would be unjustified

in its open countryside location and is therefore in clear conflict with policy H5 of the UDP, PPW and TAN 6.

10. Concluding on this first main issue, the proposed development is unjustified in a countryside location, and would run contrary to local and national planning policy and advice that collectively seek to control development in the countryside in the interests of sustainable development.

Effect on SAC

11. The Council's second refusal reason relates to drainage and states that insufficient information has been submitted to demonstrate that the proposal would not result in an increase in phosphate levels that would be harmful to the SAC, and as a result the proposal would run contrary to PPW; I agree.
12. The appeal site is within the catchment of the designated SAC. Natural Resources Wales (NRW) has set new phosphate standards for all SAC's which in short states that new development within any part of the catchment that would increase the amount or concentration of wastewater effluent or organic materials discharged directly or indirectly into the catchment's waterbodies has the potential to increase phosphate levels within those waterbodies which could lead to a damaging effect on the SAC and therefore any development proposal must be able to demonstrate phosphate neutrality or improvement.
13. The appeal documentation highlights that a new septic tank or package treatment plant would be needed and that this can be addressed via a suitably worded planning condition. NRW state that they do not consider that a potential change in the number of inhabitants of the property should in itself justify the triggering of likely significant effects on a 'European Site' such as the SAC, unless there is a material change of use connected to or arising from the change in occupancy, or if the use resulting from the change in occupancy cannot be said to be incidental to the enjoyment of the existing dwelling.
14. I have previously identified the proposed development is tantamount to a new dwelling i.e., it is not incidental to the existing enjoyment of the dwelling. Any new dwelling has the potential to increase phosphate discharges into the SAC. Apart from highlighting that a new septic tank/treatment plant would be needed, the appellant has given little in the way of detailed information in terms of either replacement as regards the potential effects on phosphate levels. Bearing in mind NRW's comments, the very limited level of information submitted by the appellant regarding foul drainage is inadequate and as a result, irrespective of the numbers of people using the overall site, it does not address the concerns raised in the Council's second reason for refusal. This matter has the potential to go to the heart of the proposal and therefore cannot be set aside to be addressed via a later planning condition.
15. In the absence of the above information, I cannot reasonably conclude that the proposal would not result in an increase in phosphate levels to the SAC, nor adversely affect its integrity. As a result, and bearing in mind the precautionary principle, I must conclude that the proposal would be likely to be detrimental to the SAC, thereby conflicting with PPW and policy EC6 which collectively seek to protect ecology, water resources and the promotion of sustainable drainage systems.

Highway Safety

16. The Council's third reason for refusal relates to highway safety and refers to the development having the potential to increase vehicular movements within the site using an inadequate access due to its lack of the required visibility splays. The proposed

development would utilise an existing access onto Mulsford Road which is a rural classified road subject to a 60mph speed limit.

17. Bearing in mind my findings on the first issue and notwithstanding how the access is currently used, the proposed use of the extended building on the site offers the potential for a likely increase in traffic generation using the current access that is severely substandard in terms of the required visibility splays of 2.4 m by 117 m in an easterly direction and 2.4 by 114 m to the west; this is not acceptable on highway safety grounds.
18. The current access has very poor visibility in both directions due to the height of the walls either side. I also note that the required visibility splay to the westerly direction crosses third party land and therefore it does not appear to be within the appellant's control. Whilst the provision of improved splays on land outside the appeal site and currently not within the control of the appellant may be achievable, and could potentially be required by condition, nonetheless, there is no evidence that such provision in perpetuity could be secured and therefore if I were minded to allow the appeal on other grounds, I am not convinced that the highway aspects could be adequately addressed via a planning condition.
19. Bearing in mind the above I therefore conclude the proposed development would be detrimental to highway safety due to the intensification in use of an access that is substandard in visibility at its junction with Mulsford Road. The proposal is therefore contrary to policy GDP1 of the UDP, as well as advice as contained within Technical Advice Note 18: Transport, which collectively seek to safeguard highway safety.

Other Matters

20. The appellant highlights that the proposed development would provide a "degree of independent living" accommodation for his daughter who currently resides at the main house but who cannot afford to acquire a place of her own. In addition, it is argued that in the future longer-term care for him and his wife may be provided by his daughter. These arguments would not justify or carry sufficient weight to outweigh the harm I have identified.
21. The appellant draws attention to the Council altering its stance during the course of their considerations in regard to highway matters. However, the latest highways response clarifies and explains the approach taken. It is not unreasonable for the Council to revise its position during the course of an application.

Conclusions

22. For the reasons given above, and having considered all other matters raised, I conclude that the appeal be dismissed.
23. In reaching my decision, I have taken account of 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 one or more of the Welsh Ministers' well-being objectives as required by section 8 of the Act.

Declan K Beggan

Inspector