

Huw Evans Planning

**Proposed erection of dwelling to
the rear of 3/4 Willow Cottages,
Glan Llyn Road, Bradley,
Wrexham, LL11 4AY**

Planning Policy Statement

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1.0 The Site

- 1.1 The site, as identified on the plans submitted with this application, lies within the residential curtilage of 3 & 4 Willow Cottage and comprises of a large rear garden area extending to the rear of properties in Heol Y Waen to the north. The site is flanked on both sides by the similarly large rear gardens of the adjoining properties. In this context the land use forms part of the built up urban area of Bradley. Open countryside separating Bradley from Gwersyllt lies to the west of the adjoining garden area.



2.0 Site History

- 2.1 There is no history of previous planning applications affecting the site.

- 2.2 Pre-application enquiries were made in 2019 reference ENQ/2019/0200 with respect to erection of a dwelling on the site. The response primarily reflected the fact that the proposed area sat partly within the settlement of Bradley and part within open countryside designated as green barrier as set out in the Wrexham UDP. The development would therefore conflict with policies PS1 and EC1 of the Plan. There were also concerns that the proposal would constitute unacceptable backland tandem development contrary to Policy DP1.
- 2.3 The pre-application response regarding the status of the green barrier was subsequently queried given that the land had the benefit of residential use by virtue of it being garden area since 1993. The planning authority's response was that the site remained within the green and that the designation was being carried forward was being carried over into the emerging LDP.
- 2.4 In order to confirm the status of the site in terms of land use an application for a certificate of lawfulness was submitted on 1st March 2022 under reference GWE P /2022 /0215. A certificate was issued on 4th April 2022 confirming the site's use as a garden. The certificate did not accurately reflect the wording of the application which actually to "a garden within its residential curtilage". Nonetheless it is perfectly clear that in terms of the legal planning status the sites constitutes residential land conveying with it the benefit of the relevant permitted development rights.

3.0 Planning Policy Context

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. Conversely, applications that are not in accordance with relevant policies in the plan should not be allowed unless material considerations justify the grant of planning permission.
- 3.2 The development plan is the Wrexham Unitary Development Plan 1996 - 2011. The relevant policies for the consideration of this proposal are PS1, GDP1 and EC1.
- 3.3 Policy PS1 is a strategic policy which directs new housing development to within defined settlement limits.
- 3.4 Policy GDP1 seeks that all development should comply with the number following criteria;
- 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.
 - b) Take account of personal and community safety and security in the design and layout of development and public / private spaces.
 - c) Make the best use of design techniques, siting and orientation in order to conserve energy and water resources.

- d) Ensure safe and convenient pedestrian and vehicular access to and from development sites, both on site and in the nearby locality.
- e) Ensure that built development is located where it has convenient access to public transport facilities, and is well related to pedestrian and cycle routes wherever possible.
- f) Ensure the safety and amenity of the public and safeguard the environment from the adverse effects of pollution of water, land or air, hazards from industry and quarrying, and associated noise, odour or vibration arising from development.
- g) Secure public services (e.g. gas, water, electricity) to development at minimum public cost.
-) Safeguard sites and areas of nature conservation and wildlife interest, and to provide new habitats where there is an unavoidable loss of existing habitats and areas of wildlife interest.
- i) Ensure that development does not result in, or is subject to, flooding, soil erosion, landslides or contamination, either on or off the site.
- j) Have regard to the need to safeguard those areas that possess a strong Welsh cultural and/or linguistic identity from development that could harm this identity.
- k) Secure the development of sustainable communities, through the promotion of the economic, social and environmental well-being of the area.

3.4 Policy EC1 refers to Green Barriers where “development will only be granted planning permission if it is for agriculture, forestry, essential facilities for outdoor sport and recreation, cemeteries and other uses of land which maintain the openness of the Green Barrier and do not conflict with the purpose of including land within it”. The reasoned justification refers to the fact that there are several instances where existing settlements come into close proximity and there is a need to maintain a belt of countryside free from development. It goes on to say that the purposes of a Green Barrier include:

- i) to prevent the coalescence of urban areas and villages with other settlements;
- ii) to assist in safeguarding the countryside from encroachment;
- iii) to protect the setting of urban areas and villages;
- iv) to assist in urban regeneration by encouraging the recycling of derelict and other urban land.

3.5 It should be noted that the UDP has now time expired for 10 years and as such its policies may carry considerably less weight in the determination of planning applications. In such instances PPW (Ed 11), represents the more up to date policy context and constitutes a significant material consideration. PPW states that proposals for green wedges/barriers must be soundly based and should only be employed where there is a demonstrable need

to protect the urban form. The policies and boundaries should be reviewed as part of the development plan review process. They differ from green belts only in respect of the greater degree of permanence that is afforded to green belts. The purpose, as stated in PPW, is to

- prevent the coalescence of large towns and cities with other settlements;
- manage urban form through controlled expansion of urban areas;
- assist in safeguarding the countryside from encroachment;
- protect the setting of an urban area; and
- assist in urban regeneration by encouraging the recycling of derelict and other urban land.

3.6 The general policies controlling development in the countryside apply in a green wedge but there is, in addition, a general presumption against development which is inappropriate in relation to the purposes of the designation. Green wedge boundaries should be chosen carefully using physical features and boundaries to include only that land which it is necessary to keep open in the longer term.

3.7 At the time of submitting this application the new LDP has not been approved and therefore carries little or no weight in the determination of this application.

4.0 The Proposal

4.1 The proposal consists of the erection of a detached dwelling to the rear of 3 & 4 Willow Cottages with access obtained from the turning head at Little Meadows located adjacent to the west of the plot. The details are set out in the drawings and specifications accompanying the application.

4.2 Whilst it is recognised that the UDP confers green barrier status on the greater part of the land contained within the application site, there is significant doubt that the green barrier boundary as drawn was based on an accurate survey of the land at the time. Had the boundary of the area been observed by access to the land then it would have been obvious that it was not open countryside but was in residential use. This has been established beyond doubt by the sale of the land by the council in 1993 for use as a domestic garden and subsequently confirmed by the issue of the certificate of lawfulness. Part of the evidence submitted with the CLUED application was a statement by the adjoining land owners 1/2 Willow Cottages that they too purchased the land at the rear of their property from the council at about the same time for use as garden area thus extending the residential curtilage. The land to the west is within the curtilage of 24 Heol Y Waen. Had this part of the green barrier boundary been surveyed by visual inspection then it is inconceivable that the established residential curtilages would have been included within it. There can be no other conclusion that an error in drafting the boundary was made at the time of preparation of the UDP.

4.3 This anomaly has been pointed out to planning officers with a request that the boundary be altered in the emerging LDP to reflect the earlier error. The officer response is that it is

too late to make changes given the advanced stage reached in LDP preparation. Their position is that the green barrier was informed by the Strategic Green Wedge Review completed in October 2017. It is highly unlikely that consultation through the LDP would have raised awareness of detail within the local community and in this context it is not surprising that no representations were received in respect of this area of the designation. Whilst it is acknowledged that, procedurally, it is too late to make detailed changes of this nature to the emerging LDP, it remains a fact that the error in the UDP is being compounded by its carry forward in the LDP. The position of officers that the detail of the green barrier in this area has been subject of a comprehensive review of boundaries does not stand up to scrutiny. No evidence has been provided that the detailed boundary has been surveyed. Had this been the case and the existing land use recognised then it would be directly contrary to the principles of defining settlement, open countryside and green barrier boundaries. Officers would recognise that established and lawful residential land in this situation should not be washed over by green barrier status but should be reflected by an amended and accurate settlement boundary.

- 4.4 Despite the view of officers it remains a matter of fact that an established lawful use will 'trump' planning policy in the determination of a planning application.
- 4.5 There are also serious doubts as to the effectiveness of the site in achieving the stated purposes of green barrier designation. It can be seen from the aerial image above that the land is not only outside of the open countryside but it has no function in the prevention of coalescence with other villages or settlements. The area is contained solely within the settlement pattern of Bradley and the 'gap' formed by the residential curtilages as perceived in the UDP does not figure in any part of the spatial relationship with other settlements. As such any development within it would not have the effect of bringing the settlement any nearer to Gwersyllt.
- 4.4 The green barrier boundary as drawn therefore fails to fulfil the first of the 3 functions of the green barrier as stated in the UDP. Similarly, it fails the second test in that it is already residential curtilage as opposed to open countryside and therefore cannot have any role in 'safeguarding the countryside'. The site and the two adjoining gardens will have the benefit of permitted development rights which allow a number of built structures to be erected without the need for planning permission so the principle of the openness of a green barrier is already compromised. Given the physical character of its setting, which is enclosed on 3 sides by built development, the proposal presents no harm to the setting of the village and thus satisfies the third purpose. The fourth purpose of the green barrier is to assist in urban regeneration by encouraging the recycling of derelict and other urban land which in this case is not relevant.

5.0 Conclusion

- 5.1 The above clearly demonstrates that the land should never have been included within the green barrier as not only was it residential land well before time that the Plan was being prepared, but it does not fulfil any of the purposes of such designation. It can only be reasonably explained that there was a drafting error in delineating the precise extent of the green barrier at this location. This does occur on occasion in plan preparation and if

not identified during the consultation process the error remains uncorrected. The fact that it is shown as green barrier in the adopted plan does not prevent the planning authority granting permission, subject of course to compliance with other requirements. The courts have held that the expression 'shall have regard to the provisions of the development plan', does not require that the plan should be slavishly adhered to. As long as the development plan is considered in the decision making process the authority is able to base its decision on other material considerations. In this case the lawful use of both the application site and the adjoining sites on both sides is, as a matter of fact, residential.

- 5.2 In terms of detail the layout and design of the development is such that it complies with space about dwellings standards and there is no detrimental impact on the amenity of existing nearby dwellings. It is located to the rear of 3 & 4 Willow Cottage but the site context is such that it does not constitute an unacceptable form of backland development. Neither can it be regarded as tandem development as it has its own independent vehicular access of Willow Meadows as opposed to sharing an access which negatively impacts on residential amenity and privacy.
- 5.3 For the reasons given above the proposal can be granted planning permission without fear of prejudicing either the policies or proposals of both the UDP and the emerging LDP.

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12 April 2022