



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 19 Gorffennaf 2022

gan Nia Jones, BA (Hons) MSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 31/08/2022

Appeal Decision

Site visit made on 19 July 2022

by Nia Jones, BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 31/08/2022

Appeal Ref: CAS-01700-LOG2D8

Site address: 6 Fox Close, Summerhill, Wrexham LL11 4QH

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 J Price against the decision of Wrexham County Borough Council.
 - The development is described as 'change of use of land to domestic and boundary fence (partly in retrospect)'.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land to domestic and boundary fence at 6 Fox Close, Summerhill, Wrexham, LL11 4QH in accordance with the terms of the application reference GWE P/2021/0699, subject to the following conditions:
 1. Within 2 months of the date of this decision, 2m high solid panel fencing to match that in place on the western boundary of the site shall be erected on its southern boundary, either side of the gate, in the positions denoted D to E as shown on drawing 511/1 and shall thereafter be retained in the approved form for as long as the use continues.

Reason: To safeguard the living conditions of neighbouring occupiers (UDP Policy GDP1).
 2. Within 2 months of the date of this decision, a scheme for biodiversity enhancement shall be submitted to and agreed in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details.

Reason: In the interests of biodiversity enhancement (UDP Policy GDP1).

Background and Procedural Matters

2. A previous appeal (APP/H6955/A/21/3270062) was dismissed due to the effects of the development on the living conditions of neighbouring occupiers. The appellant confirms that the current scheme was submitted to address that decision, and proposed fencing to overcome privacy concerns. The Council concur that a fence would prevent any overlooking impacts and I do not disagree.
3. The development was in use at the time of my site visit and the appeal seeks partly retrospective permission. The western boundary was demarcated by a solid panel fence whereas the northern and southern boundaries each contained an access gate and fencing panels surmounted by trellis detailing. There is some discrepancy between the plans as to the height of the proposed southern boundary fencing, but I am satisfied that a 2m high solid fence is the intention. I have considered the appeal on that basis.

Main Issue

4. The main issue is the effect of the development on the Moss Valley Local Wildlife Site (LWS).

Reasons

5. The appeal site comprises a modest rectangular parcel of land, elevated above the original garden area of 6 Fox Close, on its western elevation. Prior to its annexation for domestic use, the Council confirms the land was part of the Moss Valley LWS, designated in 1997. Wrexham Unitary Development Plan (UDP) Policy EC6 states that development either within or close to sites of biodiversity interest will only be permitted where it can be clearly demonstrated that the need for the development outweighs the need to safeguard the intrinsic nature conservation value of the site. Where such development is permitted, damage should be kept to a minimum, and compensatory measures should be provided. UDP Policy GDP1 sets out general requirements which all development proposals must satisfy, including that they 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.
6. The Council asserts that the development, by virtue of the loss of trees and the change of use to a domestic curtilage, has resulted in harm to the LWS. However, little quantification of the loss of trees or harm to the wider LWS is provided. In considering the loss of trees, the Inspector noted in relation to the previous appeal that only a modest encroachment of the proposal into the wooded area had occurred. In addition, he concluded that the adjacent wood contained no specimen trees of particular individual merit and that the development had not resulted in the loss of valuable trees. Given the modest size of the site on a narrow plateau above a bank which falls steeply away to the west, I agree that the loss of trees as a result of the development is modest.
7. In relation to the nature conservation value of the site, the Council's Ecologist suggests that the age and amenity value of individual trees is less important in biodiversity terms than whether a site has been continually wooded and therefore forms valuable and diverse habitat. Nevertheless, little evidence is provided of the habitat qualities of this small site or the implications of its loss to the features of the wider LWS. The appellant suggests that the site previously had little ecological value due in part to its use by dog walkers and others accessing different parts of the estate. Although some modest loss of individual trees has occurred, given its previous accessibility near the closely mown grassed verge adjacent to the estate road on the plateau, I am not persuaded from the evidence before me that the site exhibited significant nature conservation value triggering a requirement

for an assessment of the need for the development under UDP Policy EC6 or for compensatory measures.

8. I conclude that little evidence has been provided to show the intrinsic nature conservation value of the site or the harm to the wider LWS arising from the modest loss of trees to facilitate the extent of the moderate curtilage extension. Accordingly the development complies with UDP policies EC6 and GDP1.

Other Matters

9. Although included in the red line plan, the area contiguous with the neighbouring property is annotated as not being for garden use. No use was being made of that area during my visit and I am satisfied that the Council could take appropriate action should any unacceptable future use take place.

Conditions

10. I have considered the need for conditions in the light of Circular 016/2014 The Use of Planning Conditions for Development Management ('the Circular'). In order to safeguard the privacy of neighbouring residents it is necessary to secure 2m high solid fencing along the southern boundary as proposed. Given the retrospective nature of the development and the discrepancy in the plans, I have imposed a condition to this effect. I have also considered the national planning policy requirement to secure biodiversity enhancement. A landscaping scheme has been submitted with the application, but this appears to be mostly on land outside the application site and beyond the appellant's control. The appellant suggests that a landscaping scheme within the curtilage could be provided via a condition but I consider that this would be disproportionate to the small scale nature of the development and its limited impacts. Nonetheless, I am satisfied that biodiversity enhancements that are proportionate to the development could be secured by planning condition. I have therefore imposed such a condition.

Conclusions

11. For the above reasons and having regard to all other matters raised, the appeal is allowed.
12. In reaching my 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 this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Minister's wellbeing objectives as required by section 8 of the Act.

Nia Jones

Inspector