



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 15/3/22

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

**Arolygydd a benodir gan Weinidogion
Cymru**

Dyddiad: 20/06/2022

Appeal Decision

Site visit made on 15/3/22

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

**an Inspector appointed by the Welsh
Ministers**

Date: 20/06/2022

Appeal Ref: CAS-1398-N1Y0Q6

Site address: Bowling Bank Farm, Mulsford Lane, Worthenbury, LL13 0AW

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 Mr Dorian Hopkins against the decision of Wrexham County Borough Council.
 - The development proposed is the 'change of use of stable to mixed A1 and A3 (café, shop and bar)'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I note the description of the proposal and site address 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 either more precise or concise.

Main Issues

3. I consider the main issues in this case to be :
 - Whether the proposal is appropriate development in the open countryside;
 - Whether the proposed retail development is appropriate development in a rural location;
 - 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).

Development in the Countryside

4. 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.
5. The appeal site relates to an existing rural building located within open countryside and an area designated as a SLA within the adopted Wrexham Unitary Development Plan (UDP). Policy E5 of the UDP states that small-scale employment development in the countryside will only be permitted through the conversion of an existing building where, inter alia, the building is structurally sound and capable of conversion without extensive rebuilding tantamount to the erection of a new building, and the building and resulting curtilage does not constitute an undesirable intrusion into the landscape.
6. Policy E5 is complimented by Local Planning Note No. 3, Converting Rural Buildings (LPN3) which states, inter alia, that there are some buildings which are not suitable for conversion, including those which are, roofless or missing substantial sections of wall, and that planning permission would not normally be granted if the proposals involve rebuilding more than 10% of the walls if the roof structure needs to be rebuilt, or 20% of the walls if the roof structure is to be retained.
7. The building proposed to be converted is of a relatively contemporary design incorporating a steel frame clad in block and timber, with steel cladding to the roof. I note that during the Council's consideration of the proposal the planning officer's site visit revealed the entire roof had been removed and that since that visit the roof has been replaced and parts of the south elevation re-constructed. The appellant confirms in his submissions that the works carried out to the roof are a short-term measure.
8. Based on the submitted details it appears the proposal would involve the replacement of the roof via its recladding, and extensive use of new cladding to the exterior walls, in addition to new aluminium double glazed doors and windows. I note the appellant's submitted Planning, Design and Access Statement (PDAS) refers to the existing stables and barn being of a utilitarian construction, with the structure in a poor state of repair; it is clear that significant areas of the structure would need to be replaced/rebuilt.
9. Contrary to the appellant's view, based on the submitted details and my visual assessment, it appears to me that the degree of works required to enable the development to proceed would be tantamount to the erection of a new building in the open countryside without justification; such development would result in an undesirable intrusion into the landscape. In this respect the proposal would therefore run contrary to policy E5 of the UDP and LPGN No. 3 which seek, unless justified, to strictly control development permitted in the open countryside.
10. As highlighted in the submitted PDAS, whilst PPW does support the rural economy nonetheless, it is quite clear 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, notwithstanding any wider sustainability goals related to the provision of a local service. The proposed development would result in an undesirable intrusion into the countryside, and to my mind has not been justified in its rural location, consequently it is also in conflict with national planning policy.
11. In addition, whilst not cited by the parties Technical Advice Note 23: Economic Development (TAN 23) encourages the re-use and adaptation of existing rural buildings, however this is on the basis that such buildings are suitable for the specific use, and that

if the building is in open countryside that it is capable of conversion without major or complete reconstruction. The existing building is clearly not suitable for the proposed use due to the major reconstruction works that would have to be undertaken. Consequently, the proposed development would also conflict with TAN 23, and therefore is unjustified in terms of national planning guidance.

12. The appellant has referred to the UDP as being out of date, nonetheless, in terms of the proposed development the UDP still broadly reflects updated national planning and guidance. In this regard I note that the Council have confirmed that the appeal site would remain outside the settlement limit for the adjacent settlement of Worthenbury in the yet to be adopted Wrexham Local Development Plan (LDP). Whilst I appreciate the site may currently be outside any settlement limit in the forthcoming LDP, nonetheless, the LDP is still subject to the binding report of the appointed Inspector and as a result limited weight should be attached to its designation in that plan.
13. In support of the proposal the appellant draws attention to the fact that the appeal building was previously granted planning permission for a change of use in 2012 and at that time was deemed to be generally structurally sound with limited external alterations. In addition, the appellant argues that he has taken advice from a structural engineer who informed him that the requirements for a new thermal non drip roof does not mean the structure needs rebuilding. In terms of the previously granted permission, a significant period has elapsed and notwithstanding the appellant's views, no detailed information has been submitted with the current application to confirm that the building is capable of conversion without structural alterations that would be tantamount to the erection of a new building in the open countryside.
14. 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.

Retail Outlet in the Countryside

15. The Council's second reason for refusal states the proposal would not involve the conversion or use of a suitable building required for its purpose as a retail outlet in the countryside and that no information has been submitted to demonstrate that the proposal would primarily sell goods or produce predominately made or grown on the premises. As a result, the proposal would conflict with policy S7 of the UDP.
16. Policy S7 of the UDP is supportive of rural shops and states this preferably is to be achieved by the *conversion and/or use of suitable buildings* (my emphasis). PPW states at paragraph 4.3.41 that "in rural areas, planning authorities should adopt a positive approach to applications for *conversion* (my emphasis) of suitable village properties to shops". As identified above the proposal would not constitute the conversion of a building or be 'suitable' due to the level of reconstruction required and therefore it does not align itself with the identified preferences of policy S7 of the UDP, nor PPW.
17. In addition, whilst the appellant has referred to selling goods or produce made or grown on the site, I saw little in the way of evidence of such activities during my site visit, nor has the appellant provided any substantive evidence to corroborate such claims. In the absence of substantive evidence to indicate otherwise, the proposed retail element of the scheme would run contrary to criteria 1 of policy S7 which states retail outlets should primarily sell goods or produce predominately made or grown on the premises.
18. I appreciate the proposed retail element of the scheme has the potential to bring about socio and economic benefits, and would operate in conjunction with the other activities

proposed for the site, however, bearing in mind all the above, the proposal is neither justified or appropriate in its rural location, and as a result, overall, the proposal would run contrary to policy S7 of the UDP and also national planning policy which collectively seek to control development in such areas in the interests of sustainable development.

Highways

19. The Council's third reason for refusal refers to the absence of sufficient information relating to traffic generation and anticipated vehicular movements associated with the proposal, and as a result it has not been demonstrated it would not result in vehicular conflict and harm to highway safety along Mulsford Lane; I agree.
20. The appellant has supplied limited information in terms of potential traffic flows associated with the proposed development. During the Council's consideration of the scheme, the Council's highways section stated that they were awaiting an updated highway technical report from the appellant in regard to future trip generations from the site, however I am not aware such information was ever provided.
21. Information supplied by the appellant appears to relate to a previous application for development on the site. In terms of traffic generation, the previous scheme is highly likely to be materially different in nature to the appeal proposal and is also out of date and therefore cannot be relied upon by the appellant in terms of this appeal process; the same applies to any historical use of the site.
22. Notwithstanding the historical use of the site for stabling/agriculture, or any other previously submitted scheme, or the appellant's contention that the proposal would be principally used by local traffic, in the absence of sufficient information to assess traffic flows from the proposed development I cannot reasonably conclude that the proposal would not be detrimental to highway safety. In the absence of such information, I must conclude that the proposal would be detrimental to highway safety and as a result conflict with policy GDP1 (d) of the UDP.

Effect on the SAC

23. The Council's fourth 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 to the SAC, and as a result the proposal would run contrary to PPW; I agree.
24. The appeal site is within the catchment of the designated SAC whose listed features include water courses, rivers, Sea Lamprey, River Lamprey, Atlantic Salmon, and Otter. 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.
25. The appeal documentation and site plan indicate that a package treatment plant forms part of the development, although in terms of foul drainage the appellant now appears to be relying on an 'updated septic tank' as confirmed in his appeal statement.

26. NRW in their letter responding to this appeal refer to the need for further details relating to either any new package treatment plant such as an updated foul drainage site plan, planned flows and loads and discharge arrangements, or further details for any existing foul drainage system arrangements. The appellant has given little in the way of detailed information in terms of either any potential new treatment plant, or for that matter his proposed 'updated septic tank' save to say that the tank has been updated to 'current standards'. Bearing in mind NRW's comments, the limited level of information submitted by the appellant regarding foul drainage is inadequate and as a result it does not address the concerns raised by NRW, nor the Council's fourth reason for refusal.
27. 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 which seeks to protect ecology, water resources and the promotion of sustainable drainage systems.

Other Matters

28. I note the letters of support for the proposed development, however such support would not outweigh the conflict with local and national planning policies.

Conclusions

29. After taking account of all the evidence before me, for the reasons given above, I conclude that the appeal should be dismissed.
30. 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