

**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 APPEAL AT
6 FOX CLOSE SUMMERHILL WREXHAM**

COUNCIL'S STATEMENT OF CASE

**PLANNING REF: P/2021/0699
PEDW REF: CAS-01700-LOG2D8**

1.0 THE SITE

- 1.1 The appeal property is a detached dwelling located at the southern end of Fox Close, a cul-de-sac situated on the western edge of the settlement Summerhill.

2.0 PROPOSAL

- 2.1 Planning permission is sought for the change of use of land to domestic curtilage together with the erection of a fence.

3.0 DEVELOPMENT PLAN

- 3.1 Policies GDP1 and EC6 of the Wrexham Unitary Development Plan are considered directly relevant to the appeal.

4.0 COUNCIL'S CASE

- 4.1 See Officer Delegated Report which can be found at **Appendix 1**.

5.0 PLANNING CONDITIONS

- 5.1 Permission is sought in retrospect therefore the Council does not propose to suggest any conditions being imposed in the event of planning permission being granted.

6.0 CONCLUSION

- 6.1 For the reason set out in the Officer Delegated Report the Council respectfully requests the appeal be dismissed.

APPENDIX 1: OFFICER DELEGATED REPORT**P/2021/0699 Delegated Report****MARED REES-JONES**

CONSULTATION RESPONSES	Supports	Objects	No objection or no comments	Comments	No reply
Community Council		x			
Local member(s)					x
Highways			x		
Public Protection			x		
Natural Resources Wales					
Welsh Water			x		
Other					
Neighbours	x				

RELEVANT HISTORY	P/2020/0587 – Change of use of land to domestic and boundary fence (partly in retrospect). Refused 15/12/2020. Appeal dismissed.
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PLANNING POLICY/CONSTRAINTS	YES	ACCEPTABLE	NOT ACCEPTABLE
Outside settlement			
Inside settlement	x		x
Conservation Area			
Listed Building/ setting			
Green Barrier			
Special Landscape Area			
Flood Risk			
Within Buffer Zone or affecting SAC*			
World Heritage Site			
AONB			
Other			

LOCAL PLANNING GUIDANCE	ACCEPTABLE	NOT ACCEPTABLE

KEY ISSUES	Acceptable	Not Acceptable	Observations below	N/A
Residential Amenity	x			
Design	x			
Highway safety				x
Parking				x
Conservation/LB				x

Ecology		x		
Trees				x
Other				

OBSERVATIONS:

Background: Application originally submitted under P/2020/0587 for change of use of the land to residential curtilage and erection of fence, made partly in retrospect.

Application was refused on the basis that no boundary treatment was proposed at the rear of the site, resulting in direct overlooking impacts into the rear amenity area of the property to the south.

Further reason for refusal was on the basis of the adverse impact of the proposal on the character of the site, given the height of the fence and the loss of the trees. Ecology reason for refusal not cited and ecology policies not referred to.

The appeal was dismissed on the overlooking impacts reason for refusal, but the impact to the character of the site was upheld.

The application has been re-submitted, with the difference being that fencing is proposed at the rear of the site, along the rear of the boundary to the property to the south.

Principle of development: The application site lies within settlement limit and forms part of Moss Valley Local Wildlife Site.

Trees that were previously present on the site have been removed.

The Council's Ecologist objects to the application.

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.'

'Measures to improve biodiversity value of sites will be supported.'

The Council's Ecologist states that the proposal does not provide any biodiversity net benefit, the removal of the trees therefore means that it is a substantial loss.

A Landscaping Plan was submitted by the applicant during the course of the application, to show a scheme for native tree planting which was stated as being in a greater number than prior to when trees were on the site, as well as a scheme for a mixed native hedgerow.

However, a landscaping scheme within the residential curtilage of the applicant is not something that the LPA could control by condition. The Council's Ecologist continues to object on this basis.

For the reasons set out above, the application is recommended refusal accordingly.

Residential Amenity: The proposal includes the erection of a fence at the rear boundary, to prevent overlooking impacts into the neighbouring property.

The plans are unclear in that one of the plans submitted outlines that the fence proposed would be 1.2m high whilst another plan submitted outlines that the fence would be 6ft (approx. 2m).

Nevertheless, I am of the view that a fence could be positioned in this location to screen any overlooking impacts into the rear amenity area of the property directly to the south and on this basis, this will not form a reason for refusal.

Other Matters: It should be noted that the very southern part of the site is labelled on the plans as being not part of the change of use application. However, the Location Plan shows this part of the site is edged in red, therefore forming part of the application site. This part of the site requires removing from the red edge if it is not intended to form part of the application site, however, given the application is recommended refusal, it is not considered necessary to obtain a revised plan from the applicant at this stage showing the change.

Conclusion: The proposal, by virtue of the removal of trees and proposed change of use of this land to residential curtilage, has resulted in harm to the Local Wildlife Site. The need for the development does not outweigh the need to safeguard the intrinsic nature conservation value of this Local Wildlife Site. The proposal conflicts with UDP Policy EC6.

RECOMMENDATION	
GRANT	
REFUSE	x
S106	