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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 7/11/18

**gan Iwan Lloyd BA BTP MRTPI**

**Arolygydd a benodir gan Weinidogion Cymru**

**Dyddiad: 06/12/2018**

## Appeal Decision

Site visit made on 7/11/18

**by Iwan Lloyd BA BTP MRTPI**

**an Inspector appointed by the Welsh Ministers**

**Date: 06/12/2018**

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**Appeal Ref: APP/H6955/A/18/3208722**

**Site address: 14 Epsom Way, Wrexham LL13 0LZ**

**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 Oliver Smith against the decision of Wrexham County Borough Council.
  - The application Ref ABE P/2018/0360, dated 24/04/2018, was refused by notice dated 6/07/2018.
  - The development proposed is change of use of strip of common land down side of property to garden area.
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## Decision

1. The appeal is allowed and planning permission is granted for change of use of strip of common land down side of property to garden area at 14 Epsom Way, Wrexham LL13 0LZ in accordance with the terms of the application, Ref ABE P/2018/0360, dated 24/04/2018, and the plans submitted with it, subject to the following conditions:
    - 1) The development shall begin not later than five years from the date of this decision.
    - 2) The development shall be carried out in accordance with the following approved plans and documents: [1:500 block plan and plan dated stamped by Wrexham County Borough Council on 30/04/2018].
    - 3) Prior to commencement of development, full details of the hard landscaping and surfacing, together with a plan indicating the positions, design and materials and type of boundary treatment and timescale for implementation of the works shall be submitted to, and approved in writing by the local planning authority.
    - 4) The landscaping scheme submitted and approved in connection with condition no. 3 shall be fully implemented in all respect within the agreed timescale and in strict accordance with the approved scheme.
    - 5) No part of the development shall commence until a detailed Arboricultural Method Statement has been submitted to, and approved in writing by the local planning authority. No development or other operations shall take place except in strict accordance with the approved Method Statement. The Method Statement shall include the following:
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- a) A specification for tree protection fencing and ground protection measures that comply with British Standard 5837:2012;
- b) A Tree Protection Plan showing the location of the trees to be removed and retained with their crown spreads, Root Protection Areas, Construction Exclusion Zones, and location of protective fencing and ground protection measures accurately plotted;
- c) A full specification for any access, driveway, path, underground services or wall foundations within retained tree Root Protection Areas or Construction Exclusion Zone, including any related sections and method for avoiding damage to retained trees;
- d) Details of general arboricultural matters including proposed practices with regards to cement mixing, material storage and fires;
- e) Details of the frequency of supervisory visits and procedures for notifying the findings of such visits to the local planning authority;
- f) Method for protecting retained trees during any demolition works;
- g) Details of all proposed tree works, including felling and pruning.

### **Procedural matter**

- 2. Although the description of the development refers to common land it is not formally registered as common land.

### **Main Issue**

- 3. The main issue is the effect of the proposal on the provision of open space in the area.

### **Reasons**

- 4. The appeal site comprises a strip of land adjacent to No. 14 Epsom Way which forms part of an area of open space between residential estates. This is public land within the settlement that has not been formally adopted by the Council.
- 5. Policy CLF4 of the Wrexham Unitary Development Plan (UDP) indicates that the redevelopment of sports grounds, playing fields, children's play areas and informal open spaces and allotment gardens for uses other than sport and recreation will not be permitted unless it involves the redevelopment of only a small part of the site and would allow the retention and enhancement of that existing facility. Other circumstances where redevelopment is permitted is when the long term requirement for the facility has ceased and it would not lead to, or increase an existing shortfall of that facility in the immediate locality; or the loss can be replaced with an equivalent or greater provision in the immediate locality.
- 6. The appeal site proposal involves a very small part of the overall area of open space and it would be immediately adjacent to the existing property and so the loss would in my opinion allow the retention of that existing facility. Whilst the development could not be regarded as an enhancement of the facility since it is owned privately and the proposal cannot influence how the wider area is managed, it is sufficient for the consideration of the appeal that the development retains in large measure the existing facility. I therefore consider that the proposal would not conflict with UDP Policy CLF4.
- 7. The Council indicates that the loss would adversely impact on the existing recreational use of the space and quality of life of residents in the locality. However, this has not

been qualified or quantified in its submissions. Reference is made to Policy GDP1 but not to any of its criteria to determine how the proposal conflicts with the policy.

8. The development would not be in line with the fence on the opposite side at No. 19, nevertheless, I do not regard the extension of the garden discordant if appropriate boundary treatments and the protection of natural features are implemented. These matters could be appropriately addressed through the imposition of planning conditions.
9. I note the concern about precedent because similar proposals would be difficult to resist should this development go ahead to the detriment of the cumulative loss of public land and open space. However, each case must be considered on its individual merits and the Council will have good reason to defend such cases where evidence is presented that the loss of open space would undermine the provision of open space throughout the area in accordance with the minimum provision expressed in policy or where there is evidence of a shortfall of provision. In this case these matters have not been addressed.
10. The Council say that the amount of open space was provided in relation to the residential development and the loss of land would compromise the amount accepted at application stage. However, the evidence on this has not been provided.
11. I consider that the proposal would not conflict with UDP Policies GDP1 and CLF4. I conclude that the proposal would not harm the provision of open space in the area.
12. I have considered the suggested conditions in the light of Circular WGC 016/2014 'The Use of Planning Conditions for Development Management'. No comment has been made by the appellant in relation these suggested conditions. Conditions 3, 4 and 5 are needed in the interests of the visual appearance of the area and to safeguard trees to ensure that the work is carried out to accepted arboriculture practices. The first two conditions are the implementation of the permission and the approved plans. I shall impose these accordingly in the interests of defining the scope of the development and its limits, in line with paragraphs 5.14 and 5.30-5.31 of Circular WGC 016/2014.
13. I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching my decision, I have taken into account the ways of working set out at section 5 of the WBFG Act and I consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.
14. I conclude that the appeal should succeed.

*Iwan Lloyd*

INSPECTOR