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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 18/08/21

gan Clive Sproule BSc MSc MSc  
MRTPI MEnvSci CEnv

Arolygydd a benodir gan Weinidogion  
Cymru

Dyddiad: 19/01/2022

## Appeal Decision

Site visit made on 18/08/21

by Clive Sproule BSc MSc MSc  
MRTPI MEnvSci CEnv

an Inspector appointed by the Welsh  
Ministers

Date: 19/01/2022

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**Appeal Ref: APP/H6955/A/21/3277038**

**Site address: Central Buildings and adjacent land, Brook Street, Wrexham LL13 7LH**

**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 Lingar Holdings (Chester) Limited against the decision of Wrexham County Borough Council.
  - The development proposed is residential development comprising conversion of first and second floors of Central Buildings to provide 10 no. apartments (with related external alterations at ground floor level), and the construction of 28 no. apartments and associated parking etc. on the adjacent vacant land.
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### Decision

1. For the reasons that follow, the appeal is dismissed.

### Procedural matter

2. The appellant company has made a unilateral undertaking, dated 03/08/21, to Wrexham County Borough Council in relation to an open space contribution.

### Main Issue

3. I consider the main issue in this case to be the effect of the development proposed on the risk of flooding.

### Reasons

#### *Flood risk*

4. The appeal site lies at the junction of Brook Street and Bridge Street. Part of the appeal site, including its Brook Street frontage, lies within Natural Resources Wales's (NRW) Flood Risk Map / Development Advice Map ("DAM") zone C2. Figure 1 of Technical Advice Note 15 – *Development and Flood Risk* ("TAN15") confirms DAM zone C2 to be areas of the floodplain without significant flood defence infrastructure. Consequently, flooding can be expected to occur.

5. The site's Bridge Street frontage is largely within DAM zone B, where sedimentary deposits indicate that it has flooded in the past.
6. Land in the southwest of the appeal site, and that is mostly set back from Bridge Street, is shown to include the site's vehicle access, turning and parking areas. It mostly lies within DAM zone A, which is considered to be at little or no risk of flooding.
7. The County Council's reason for refusal states that the proposed development would lie partially in flood zone C2 that would cause there to be an unacceptable risk of flooding. Policy EC12 of the Wrexham Unitary Development Plan ("UDP") is only permissive of development within defined flood plains if it: would not be subject to an unacceptable risk of flooding; would not result in an unacceptable risk of flooding; and/or, would not adversely affect flood management or maintenance schemes.
8. It is apparent that the appeal site partially lies within DAM zone C2. NRW has considered the application and appeal documentation and notes "...the proposal would introduce highly vulnerable development (residential) within Zone C2...".

#### Modelling flood risk

9. Paragraph A2.3 of Appendix 2 to TAN15 addresses factors that can affect the impact of flooding, and notes these to include matters that can lead to channel blockage. NRW's Guidance Note GN43 – *Modelling blockage and breach scenarios* confirms that a flood consequence assessment should consider the likelihood and consequences of flooding from a blocked culvert. In doing so, it notes this consideration to often rely on local knowledge and the use of pragmatic judgement to identify the appropriate proportion of blockage.
10. An obstructed culvert is one of the ways in which the extent of flooding could be increased. Culvert blockage is identified as a "residual risk" in the application's modelling. While a culvert blockage may have a low probability of occurring, and perhaps more so given the dimensions of the Island Green culvert, if the relevant circumstances were to happen to cause such a blockage, the resulting effects on the extent of flooding could be significant.
11. Modelling within the application's Flood Consequences Assessment, which makes allowance for the effects of climate change and a culvert blockage, shows predicted flooding across part of the area that is intended for vehicle parking and other activities. NRW maintains its objection to the proposal in relation to this flooding.

#### The nature of the existing and proposed development / land use

12. The appellant refers to paragraph A1.14 of Appendix 1 to TAN15. Appendix 1 is entitled "Assessing Flooding Consequences", and its paragraph A1.14 addresses "...particular flooding consequences which may not be considered acceptable for particular types of development...". It refers to (Environment Agency now) NRW advice, and provides a table that it notes "...should not be regarded as prescriptive, provides indicative guidance as to what that frequency threshold could be for different types of development described in terms of annual probability of occurrence...".
13. The application form, dated 30/10/2018, notes the current use of the appeal site to be vacant upper floors in Central Buildings and vacant land; with the last use of Central Buildings to have been as a nightclub in 2008, and retail and residential on the adjacent land. The appeal statement, dated 11/06/2021, indicates the ground floor of Central Buildings to be occupied by uses falling within Class A3, with vacant floors above.

14. While the appellant does not accept NRW's view that a nightclub is a "less vulnerable" type of land use than a "highly vulnerable" residential use, people do not live/stay and sleep independently in a nightclub as they would do in a dwelling or hotel room. Residential activity would occur in, and to a certain extent around, the "residential premises" included in Figure 2 of TAN15. Paragraph A1.14 of Appendix 1 to TAN15 also highlights the traumatic effect that flooding has on peoples' lives when residential development is flooded, but it makes no such statement about commercial / retail or nightclub uses.
15. People attending a nightclub are in a "commercial" environment where the ability to evacuate quickly can be reasonably expected to have been addressed. Figure 2 of TAN15 places "...*commercial and retail development...*", and the nature of their occupation, in a group with other development types that are categorised as "less vulnerable". Therefore, I see no reason to disagree with NRW's conclusion that a nightclub is a form of "less vulnerable development".
16. In addition, I accept NRW's reasons for why a leisure centre or other public building would be considered "highly vulnerable" due to their potential use as evacuation centres during flooding (or other emergency situations).
17. Consequently, I agree with NRW's assessment of the flooding vulnerability of the existing nightclub land use as "less vulnerable" on the part of the appeal site that lies within DAM zone C2.
18. Now turning to the development proposed. The final sentence of TAN15 paragraph 5.2 states that "...*The vulnerability attributed to a mixed use proposal will be defined by the most vulnerable use...*". Figure 2 of TAN15 confirms that highly vulnerable development includes all residential premises. The residential premises in this case include the buildings and the remainder of the land within the application area. Paragraph 6.2 of TAN15 states that "...*In zone C the tests outlined in sections 6 and 7 will be applied, recognising, however, that highly vulnerable development and Emergency Services in zone C2 should not be permitted...*".
19. The proposed dwellings in Central Buildings would be at first and second floor levels, which would place them above the predicted flood levels. Likewise, the proposed new apartment block would have a finished floor level that would provide 300mm freeboard above the design flood level. NRW has no concerns about either of these matters, and neither do I in relation to the dwellings being potentially inundated by flood water.
20. However, the proposed dwellings would form part of the residential premises that would include onsite car parking, some of which would be subject to flooding. That flooding would extend across locations shown to be used for refuse storage and cycle racks, and that would provide pedestrian routes between these facilities and the existing and proposed buildings. All of these form part of the proposed residential premises that would be highly vulnerable development, and that the appeal scheme would introduce onto this site in DAM zone C2.
21. A precautionary approach to positive avoidance of development in areas of flooding is clearly set out in Planning Policy Wales - Edition 11 ("PPW") (PPW paragraphs including 6.6.22 to 6.6.26) and TAN15. Given the evidence in this case, including the results of the flood modelling for the proposal, and relevant planning policy within PPW and TAN15, it is apparent that the proposed development would be subject to an unacceptable risk of flooding.

22. As such, the proposed development conflicts with UDP Policy EC12, PPW and TAN15.

*Other matters*

23. The appeal site is within a central urban location that includes a mixture of land uses and associated development that varies in age and architectural style. Existing development includes a Grade II listed building that stands to the rear of the appeal site and the buildings on its Brook Street frontage. The listing description refers to the Grade II structure as the “Burton Buildings” at nos. 26-30 Bridge Street, and includes a photograph of it taken in 2006, which shows the building in a terrace with other lower buildings. This terrace had buildings on the appeal site that have since been demolished. Given the nature of development and open spaces in the locality, which comprises the setting for this listed building and includes the appeal site, the proposed development would preserve the setting of the Grade II listed building as a central urban location with a mixture of land uses and architectural styles.
24. The proposed development would bring an underused building and vacant land back into use, and it would make a valuable contribution toward housing supply which provides significant weight in favour of the appeal scheme.

**Conclusion**

25. However, the appeal scheme would be highly vulnerable development that would be subject to an unacceptable risk of flooding that conflicts with UDP Policy EC12, PPW and TAN15.
26. All representations in this case have been taken into account and no matters have been found to outweigh the appeal proposal’s policy conflict and the resulting unacceptable harm in relation to flood risk. Accordingly, and for the reasons set out above, the proposal would not be a form of sustainable development and the appeal should be dismissed.
27. 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 that this decision is in accordance with the Future Generations (Wales) Act’s sustainable development principle through its contribution towards the Welsh Ministers’ well-being goals of: making our cities, towns and villages even better places in which to live and work; and, embedding our response to the climate and nature emergency in everything we do.

*Clive Sproule*

INSPECTOR