

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 22/05/18

gan Kay Sheffield BA(Hons) DipTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 12/06/18

Appeal Decision

Site visit made on 22/05/18

by Kay Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 12/06/18

Appeal Ref: APP/H6955/A/18/3195522

Site address: Engedi Chapel, High Street, Brymbo, Wrexham, LL11 5BL

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 Steggles Property Limited against the decision of Wrexham County Borough Council.
- The application Ref P/2017/0319, dated 19/04/2017, was refused by notice dated 05/02/2018.
- The development proposed is the demolition of existing structure and erection of nine affordable homes apartments with associated parking and access.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing structure and erection of nine affordable homes apartments with associated parking and access at Engedi Chapel, High Street, Brymbo, Wrexham, LL11 5BL in accordance with the terms of the application, Ref P/2017/0319, dated 19/04/2017, and the plans submitted with it, subject to the conditions set out in the annex to the decision.

Preliminary Matters

2. The English Methodist Chapel, named in the planning application and the Council's decision notice, is located to the south of the site. The correct name of the appeal site is the Engedi Chapel and it is this name which has been used in the appeal. I am satisfied that the correct parcel of land was identified in the application and considered by the Council in reaching its decision on the application.
 3. Whilst the proposal is described in the planning application as being for affordable homes, it has been confirmed that the development is for open market units and their occupation would not be subject to control by the Council.
 4. In October 2017 the Council resolved to grant planning permission for the proposed development subject to the preparation and signing of a planning obligation under Section 106 of the Town and Country Planning Act 1990. The obligation was required to secure contributions towards a shortfall in education infrastructure provision in the locality. The Appellant subsequently advised the Council that it was concerned the requirement for a financial contribution would render the scheme unviable and a Financial Viability Appraisal was submitted to the Council for its consideration. Whilst officers of the Council accepted the contents of the Appraisal, the Council concluded that the need to address the shortfall in education provision via a financial contribution
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was not outweighed by any material benefits which would result from the scheme. In the absence of a signed obligation the Council resolved to refuse permission.

Application for costs

5. An application for costs was made by the Appellant against the Council. This application is the subject of a separate Decision.

Main Issue

6. Given the Council's resolution to grant planning permission, the main issue is whether a financial contribution towards a shortfall in education infrastructure provision in the locality is necessary and reasonable.

Reasons

7. Policy GDP2 of the Wrexham Unitary Development Plan 1996 – 2011 (UDP), adopted in 2005, states that *"where the capacity of infrastructure, including community facilities, is likely to be deficient as a consequence of new development, a planning agreement/obligation will be negotiated whereby the developer provides the additional capacity either on or off-site, and/or provides funding for the Council to provide the additional capacity itself. Requirements will be fairly and reasonably related in scale and kind to the proposed development"*. The Council has confirmed that there is a shortfall in primary and secondary education provision in the locality. Therefore, in accordance with Policy GDP2 of the UDP, a planning obligation is needed in order to offset the impact of the proposal against the identified shortfall in education places.
8. The methodology, assumptions and findings of the Appraisal were independently corroborated and accepted by officers and not disputed by the Council. It indicates a profit margin of 7% which would be reduced to 3% if the financial contribution is made. These are both significantly below the generally accepted profit margin developers can expect. The Appellant contends that a 7% return does not adequately reflect the risk involved with developing a difficult and challenging site and the payment of the financial contribution would make the scheme unfeasible.
9. From my examination of the figures I have no reason to dispute these findings. I am satisfied that the additional cost the planning obligation would impose would make the scheme unviable and the development would be unlikely to go ahead. Furthermore the Council as Education Authority has confirmed that the level of contribution the obligation would provide would not make a significant contribution to its strategic aims in respect of education and it would be content to waive the contribution in full on this occasion.
10. I am aware that local residents have raised objections to the development with regard primarily to its scale and parking. However, the Council found the development itself to be acceptable and the evidence before me does not justify a different conclusion. Furthermore, it is previously developed land within a settlement and would be a highly sustainable development. It would also contribute to housing land supply which, as the Council is unable to demonstrate a five year supply, carries significant weight in support of the appeal.
11. On balance I consider that the material considerations are significant and outweigh the need for a financial contribution to offset the impact of the proposal against the identified shortfall in education places as required by Policy GDP2 of the UDP.
12. I have had regard to the guidance in Circular 016/2014 on The Use of Planning Conditions for Development Management in assessing the list of suggested conditions

submitted by the Council. I consider the conditions to be reasonable and necessary in order to safeguard residential amenity, the historic and natural environments and highway safety. However, I have amended some of the wording to ensure consistency with the Circular and omitted suggested conditions 13 and 15 as the works required are covered by other conditions.

13. For the reasons given above, and having had regard to all other matters raised, the appeal is allowed.
14. 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 Act's sustainable development principle, through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

Kay Sheffield

INSPECTOR

Annex - Schedule of 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: Drawing numbers 16-08-101 P6; 16-08-102 P8; 16-08-103 P7; 16-08-104 P7; 16-08-106 P11; 16-08-107 P10 and Phase 2 Surveys for Bats (Ref 1649 002R) dated March 2017 by Greenscape Environmental Limited.
- 3) Prior to the commencement of the development samples of the materials to be used in the construction of the external surfaces of the building and a specification of all window frames and external doors shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development, including any demolition works, shall commence until detailed bat avoidance, mitigation and compensation measures, including those measures described in the approved Phase 2 Surveys for Bats have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) Prior to the first occupation of the development, a compliance audit shall be carried out by a qualified ecologist, independently of the appointed principal ecologist, in accordance with details which have been submitted to and approved in writing by the local planning authority. A copy of the completed audit report shall be submitted to and approved in writing by the local planning in accordance with the approved details.
- 6) No works in relation to the implementation of this permission, including deliveries to and leaving the site, shall take place outside the hours of 07:30 to 18:00 Mondays to Fridays, 08:00 to 14:00 on Saturdays and at no time on Sundays or Public Holidays.
- 7) No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by

the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) measures to control the emission of dust and dirt during demolition and construction; and
 - vi) a scheme for recycling/disposing of waste resulting from demolition and construction works.
- 8) No development shall commence until an appropriate photographic survey of the existing buildings has been carried out in accordance with details which have been submitted to and approved in writing by the local planning authority. The completed survey shall be submitted to the local planning authority and the Clwyd-Powys Archaeological Trust for inclusion in the Regional Historic Environment Record.
 - 9) The parking and vehicular turning areas shown on approved Drawing No. 16-08-101 P6 shall be laid out, surfaced and drained and all of the parking spaces marked out prior to the first occupation of the development. Thereafter these areas shall be retained for the purposes for which they are provided and kept free of any obstruction at all times for as long as the development exists.
 - 10) Prior to the first occupation of the development, a footway shall be provided across the site frontage in accordance with approved drawing number 16-08-101 P6.
 - 11) Prior to the first occupation of the development, visibility splays of 2.4 metres by 33 metres to the south measured along the nearside edge of the adjoining highway and visibility splays of 2.4 metres by 33 metres to the north measured along the centreline of the adjoining highway shall be provided. These splays shall be maintained free of any obstruction exceeding one metre in height for as long as the development exists.
 - 12) No development shall commence until details of a scheme for the disposal of foul and surface water and land drainage have been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and in accordance with a timescale to be agreed as part of the submitted details and maintained thereafter.
 - 13) Notwithstanding the detail contained in the approved plans, all windows at first and second floor level in any elevation that faces north shall be glazed or re-glazed using obscure glass and shall remain permanently fixed shut at all times.
 - 14) Prior to the first occupation of the development a scheme detailing the means of enclosure shall be erected along the site frontage in accordance with details which have been submitted to and approved in writing by the local planning authority. The enclosure shall be retained as built for as long as the development exists.