

**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 APEAL AT
SOUTHSEA STABLES, SOUTHSEA, WREXHAM**

COUNCILS STATEMENT OF CASE

**PLANNING REF: P/2015/0773
PINS REF: H6955/A/16;3144761**

1.0 INTRODUCTION

- 1.1 This appeal is made under Section 78 of the Town and Country Planning Act 1990 against Wrexham County Borough Council's decision to refuse planning permission for replacement of existing stable building and shed with one mobile home, one mobile utility structure and two no touring caravans together with associated parking (partly in retrospect)
- 1.2 The decision was made under delegated powers and the reason for refusal is set out below

REASON

1. *The proposed development is considered unacceptable and undesirable having regard to its impact upon the Green Barrier designation of the land. The introduction of a substantial chalet structure on the land together with caravans and other ancillary and associated items on the land would have an adverse impact upon the openness of the site. Likewise the development will not accord with the character of the site or make a positive contribution to the appearance of the nearby locality. To allow the development would be contrary to Policies EC1, PS2 and GDP1 a) of the Wrexham Unitary Development Plan.*

2.0 THE SITE

- 2.1 The site is located on the east of Southsea Road located just below an elevated section of the classified Brymbo Link road. There is a public footpath along the southern edge and the site is near to Southsea. It is occupied with some stables and another building. It is currently occupied with a large chalet, some mobile caravans and other structures, and thus the area is being used as an unauthorised gypsy and traveller site. A access lies almost opposite the access to the buildings at Tri Plan / Glanrafon.

3.0 SITE HISTORY

3.1 The site history is an important material consideration given that there have been no changes in circumstances since the first refusal of planning permission in 2012. For completion purposes earlier site history is included below.

6/22749	Erection of building containing two stables. Granted 3.10.1994.
P/2000/0230	Stationing of caravan for residential purposes (in retrospect) for a temporary period. Refused 8.5.2000 and appeal against the refusal of planning permission dismissed on 26.3.2001. [The caravan was being used as overspill accommodation for a family living in a dwelling in Southsea. At the same time the site contained a stable block, a large shed, a smaller shed, two kennels, poultry houses and two van bodies. Authority to take formal enforcement action in respect of the above was obtained but the land was vacated before an Enforcement Notice was served]
P/2011/0670	Use of site as a travellers chalet and caravan park for one plot (one chalet and two caravans), plus the erection of ancillary amenity building. Refused 6.2.12, and appeal dismissed on 13.8.12. [The application was initially submitted for 4 pitches, but this was subsequently amended to form a single pitch]
PG/2011/00011	Enforcement Notice served on 11.6.12 in respect of unauthorised use of the site for the provision of gypsy/traveller residential caravan accommodation. Enforcement Notice withdrawn.
PG/2011/20036	Enforcement Notice served on 11.11.13 Subsequent appeal on grounds a) and g) dismissed on 22.7.14, with a variation to notice to allow a longer time period for

compliance (e.g. 18 months). To date the notice has not been complied, and the applicant and occupants are open to prosecution

4.0 POLICY

- 4.1 The development plan for the area is the Wrexham Unitary Development Plan 1996 – 2011, Adopted 14 February 2005 (UDP). Despite being out of date this continues to be used for decision making purposes and was considered relevant at previous appeals.
- 4.2 Within the UDP the site lies outside settlements and within a green barrier. Policies PS1, PS2, GDP1, H9 apply.
- 4.3 The Council also refer to Welsh Assembly Government Circular 30/2007 'Planning for Gypsy and Traveller Caravan Sites' (WAG C30/2007); The Good Practice Guide in Designing Gypsy Traveller Sites in Wales and Planning Policy Wales (PPW).
- 4.4 Planning Policy Wales (PPW) explains (paragraph 4.8.1) that around towns and cities there is often a need to protect open land and local planning authorities need to consider establishing Green Belts and making local designations, such as green wedges. In this case the term "Green Barrier" applied in the UDP is the Council's local designation for, and is synonymous with, the term green wedge used in PPW. PPW indicates that green wedge policies should be reviewed as part of the development plan review process but until that time should serve the same purpose as a Green Belt (paragraph 4.8.1 and 4.8.3)

5.0 COUNCIL'S CASE

5.1 Site History

5.2.1 The previous planning history for the site remains relevant. A previous application P/2011/0670 was refused planning permission in 2011 and this was upheld on appeal. An enforcement notice to secure the removal of the use over a large area was served, and an appeal re-examined the planning issues again which was subsequently dismissed in 2014. The latest appeal allowed the occupants to have 18 months to move from the site and that period of compliance has expired.

5.2 Comparison with previous application P/2011/0670

5.2.1 In comparison with the earlier decision for P/2011/0670, the proposal differs in so far as this involves the removal of an existing stable building and shed from the site. The use of the land for a gypsy / traveller site as one family pitch is still intended and this latest application will involve a use that includes the siting of a mobile chalet home (14m x 8.5m deep), plus the retention of a mobile utility and shed structure and the siting of 2 No. touring caravans. The site will have enough room for the parking of 3 cars, a pick-up, a turning area and a grassed play area. The area subject to this change of use is virtually the same as the site area of the previous application P/2011/0670. Only a small reduction to the site area is proposed, involving a very small adjustment near to existing trees and the public footpath.

5.2.2 The chalet building as indicated for P/2011/0670 was much smaller than the chalet now proposed by this application and this is more consistent with the size of the current chalet structure which is being used by the continued un-authorised occupation of the site. It is proposed to remove the existing stable building (measured 8m long x 4m wide), replacing it with a much larger chalet building, which is nearly 4 times the size of the stable in terms of floor area. The chalet will also have a more residential appearance than the stables.

In addition the appellants do not now intend to build the amenity block shown on the earlier application, but to replace it with a smaller mobile utility structure. The general scale and appearance of these buildings will be virtually the same as those that were previously considered through recent appeals. However the presence of the proposed chalet fronting the road will result in a greater visual impact given the mass of the new building and its proximity and relationship with Southsea Road.

5.3 Impact on Green Barrier

5.3.1 In view of the direct similarities between this and the previous application, then the conclusions drawn by two previous Planning Inspectors in relation to the impact on the Green Barrier are significant material considerations.

5.3.2 In summary, both Inspectors concluded that the proposal is 'inappropriate development in the Green Barrier.' One of the purposes of the Green Barrier is to assist in safeguarding the countryside from encroachment. From their assessment the proposal would conflict with this purpose because it would result in encroachment into the open countryside between Southsea Road and the Brymbo Link Road.

5.3.3 Accordingly, the current application, given the similarities with P/2011/0670 and the absence of any significant change in policy circumstances would remain contrary to UDP Policy EC1 and advice in PPW. PPW explains that there is a presumption against inappropriate development in the Green Barrier and substantial weight should be given to any harmful impact which development has on the Green Barrier.

5.3.4 PPW also explains that one of the most important attributes of the Green Barrier is its openness. It was previously concluded that 'the proposed amenity block and chalet would seriously erode the openness of this part of the Green Barrier' and further concluded that 'the associated stationing of two touring caravans and the parking of vehicles by the occupiers of the site and their visitors will further erode the openness of the Green Barrier.'

5.3.5 It was therefore concluded that the proposal would materially harm the openness of this part of the Green Barrier. The Council contend that given the similarities between the two applications, one can only draw the same conclusion in terms of the current situation and its impact on the Green Barrier.

5.4 Effect on Character and appearance

5.4.1 The introduction of a substantial chalet structure on the land together with caravans and other ancillary and associated items would not accord with the character of the site or make a positive contribution to the appearance of the nearby locality.

5.4.2 The UDP explains that:

- a) Development must not materially detrimentally affect the country character and
- b) Built development should accord with the character of the site and make a positive contribution to the appearance to the locality.

5.4.3 The appellant through previous appeals has argued that the proposal tidies up an untidy site and the use is well screened by established boundary features.

5.4.4 In both previous appeals, the Inspectors considered that the proposal would detrimentally affect the countryside character of the appeal site and would fail to make a positive contribution to the appearance of the locality. Both Inspectors considered that the site was an attractive area of open countryside and that the residential use had introduced a significant change in the local landscape character. In addition, the enclosure of the site with fences has led to greater fragmentation of the landscape in this area.

5.4.5 As with the previous application, the introduction of the proposed development would materially harm the character and appearance of the area. Accordingly, the current proposal would be contrary to GDP1(a).

6.0 OTHER CONSIDERATIONS

6.1 Access and Highway Safety

6.1.1 The issue of highway safety was examined as part of both the planning and enforcement appeals. Although the Inspector raised concerns in connection with the planning appeal, further information was submitted as part of the Ground A enforcement appeal, and the Inspector did not consider the use to be materially harmful to highway safety. The Inspector noted that splays of 2m x 50m would be achieved in both directions and the splay to the south could be measured to the centreline of the highway. This would accord with TAN 18 and Manual for Streets. Consequently, no highway safety issues form part of the Council's decision on this occasion.

6.2 Need for gypsy and traveller sites

6.2.1. It is not disputed that there is a shortage of sites for gypsies and travellers in the Wrexham area. This is presently being addressed through the preparation of the Local Development plan. A Deposit Plan will go out for consultation next year and this will identify sites which are suitable for meeting the socially rented need for Gypsy and Traveller community, a stopping place as well as the inclusion of a criteria based policy to determine planning applications for new sites. Given the anticipated timescales with adoption not expected until spring 2018, there is a current need for additional pitches which is unlikely to be met in the short term by planned deliverable sites.

6.2.2 For both the first and second appeals the appellant's personal circumstances were taken into account but in both cases it was acknowledged that these were not considered to be material. It should also be noted that since the previous decision the Council is not aware of any substantive attempts taken by the appellant to re-locate elsewhere.

- 6.2.3 However as part of both planning and enforcement appeals for the use, both Inspectors examined whether there were any other matters that may weigh in favour of the proposal, as an exception to adopted green barrier and development control policies.
- 6.2.4 Despite the lack of adequate provision and taking into account the accommodation needs and personal circumstances of the appellant, both previous Inspectors concluded that all other matters that weigh in favour of the proposal do not amount to very exceptional circumstances sufficient to outweigh the serious harm resulting from the proposal by way of inappropriate development and the other planning harm. No very exceptional circumstances prevail to warrant the granting of permanent planning permission.
- 6.2.5 The personal circumstances/matters for staying at the site are obviously relevant for the family, but these do not justify an alternative planning view in this instance. Whilst a settled base might be advantageous for the family, this does not overcome the significant harm the proposal has on the Green Barrier and the character and appearance of the area.
- 6.2.6 Welsh Office Circular 35/95 (WOC 35/95) states that a temporary permission may be justified when it is expected that planning circumstances will change in a particular way at the end of temporary period. Again however this was considered previously and dismissed as being inappropriate as there was no evidence this would happen in this case. In addition the protection of the Green Barrier in this area can only be safeguarded by the dismissal of the appeal. Besides that the applicant has already had a period of over 18 months since the enforcement appeal and there has been no change. New policies to be contained within the emerging Local Development Plan are still some time away and no decisions regarding the continuing Green Barrier designation for this location has been decided upon.
- 6.2.7 Finally, despite the appellant being served with an enforcement notice and the appeal decision which gave a substantial time period for compliance, a recent

site inspection confirmed that the site contained 5 mobile caravans, and an additional building (next to the chalet structure). This, in fact exceeds the scale of development as requested by this application, despite reminders from the Council about the need to comply with the notice.

7.0 CONCLUSION

- 7.1 In summary the proposal given the similarities with the previous application remains contrary to national and local planning policies which seek to protect and safeguard the Green Barrier from inappropriate development. This position is reinforced by two recent appeal decisions where the issues relating to the impact upon the openness and purposes of including land within the Green Barrier were fully examined.
- 7.2 In addition the proposed development harms the character and appearance of the surrounding area and does not make a positive contribution to the appearance of the locality, contrary to UDP Policy GDP 1 (a) . Again, this issue was fully examined as part of the previous appeals. Whilst there are material considerations which weigh in favour of the proposal in particular the current shortage and need for additional pitches in the County Borough this does not outweigh the substantial harm this proposal would have on the Green Barrier. Additionally the fact that there is a need does not mean that this site should necessarily be approved.

As there have been no fundamental changes in circumstances the Council therefore request this appeal be dismissed.