
Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 13/07/16

Ymweliad â safle a wnaed ar 13/07/16

gan Iwan Lloyd BA BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 03/08/2016

Appeal Decision

Hearing held on 13/07/16

Site visit made on 13/07/16

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 03/08/2016

Appeal Ref: APP/H6955/A/16/3146367

Site address: Land at Y Ddol, Bersham, Wrexham LL14 4HN

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 D J Roberts against the decision of Wrexham County Borough Council.
 - The application Ref ESC P/2016/0056, dated 26/01/2016, was refused by notice dated 29/02/2016.
 - The development proposed is erection of a three bedroom detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are; the effect of the proposal on the character or appearance of the Bersham Conservation Area, and the effect of the proposal on the living conditions of occupants of nearby dwellings in relation to daylight, outlook and privacy.

Reasons

Conservation area

3. The appeal site is located to the rear of Nos. 16 and 16a Ddol and Nos. 1 and 2 Yew Tree Villas. Fronting the site is Ddol terrace and to the side is Woodbank Cottage. The site is an irregular shaped piece of land adjacent to the road. There is an existing gated access to the site adjacent to an established turning head. The site is generally overgrown with grass, weeds and brambles. The land rises to the rear of the site to Nos. 1 and 2 Yew Tree Villas.
 4. The buildings in the area are clustered around the appeal site following the circular pattern of the road which descends from Bersham Road. Buildings generally follow the local street pattern and are either front facing or are perpendicular to the road. The fall in land levels also generally dictate the alignment of buildings in combination with the street pattern from Bersham Road down to River Clywedog. As a result there is a cohesive and intimate scale of buildings and spaces resulting in a sense of enclosure. Buildings are characteristic of C19 and C20 industrial cottages in the form
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of terrace housing built of Ruabon red engineering bricks, terracotta ridge tiles and slate roofs. The distinctive character area of the Ddol and Bunker Hill is described in the Bersham Conservation Area Assessment and Management Plan as urban with high density building layout mostly Victorian and Edwardian in style. It refers to the topography dictating the settlement pattern with buildings located on two stepped levels and a feeling of enclosure created by landscape form. The Ddol terrace has specific mention formed in two groups with one more ornate than the other but providing visual continuity and design cohesiveness.

5. Whilst the Conservation Area is much larger than the Ddol and Bunker Hill sub-area, this area is particularly distinctive and borne out of its industrial roots associated with the ironworks. All character areas of the Conservation Area have developed as a consequence of its industrial past and the appeal site character sub-area is indicative of buildings and layout of this era dictated by the local topography and proximity to the river and the ironworks.
6. The proposed development is largely a conventional suburban design with horizontal windows, porch lean-to and mock dormer. The layout is a set-back dwelling in alignment with No. 16a but within 2m from its rear elevation. This set-back position is at odds with the building pattern which is front facing close to the road or perpendicular to the street as in Nos. 16 and 16a. The layout therefore fails to preserve the appearance of the conservation area. The proposed dwelling lacks the finesse of the Ddol terrace in terms of window pattern, architectural detailing and material finishes. These matters as well as layout cannot be rectified latterly by revisions to the application or can be appropriately conditioned.
7. The appellant refers to outline planning permission granted for a dwelling on the site in 1996. However, this permission has lapsed and is no longer extant and therefore there is no fall-back position which alters my conclusion on the issue on the effect of the proposal on the conservation area.
8. I therefore conclude that the proposal fails to preserve the appearance of the Bersham Conservation Area. The proposal therefore conflicts with policy EC7 of the Wrexham Unitary Development Plan (UDP). Special attention is paid to the desirability of preserving or enhancing the character or appearance of the conservation area under section 72(1) of the Act 1990. For the reasons I have outlined this proposal fails the statutory test of section 72(1).

Living conditions

9. The proposed dwelling would be situated within 2m of the rear elevation of No. 16a. The ground floor dining room and first floor bedroom windows would face the side wall of the proposed development at this short distance. These windows face south-west and there are no other windows of any note serving these rooms. There is one ground floor window facing north serving the dining room but this looks out through a porch/conservatory structure. I found the dining room to be already dark by the plant growth on the appeal site including a hedge which had been planted in front of this window. The proposed dwelling positioned so close to the windows of No. 16a would significantly diminish daylight, sunlight and outlook for the occupants of this dwelling making it a less enjoyable place to live. The position of the proposed dwelling would be significantly below the spatial standards of separation specified by the Council. This is set out in Local Planning Guidance Note No. 21 Space around dwellings (LPG 21).

10. The appellant refers to the conveyancing document which permitted the sale of the land to the occupants of No. 16a which had restricted their rights to light or air should the undeveloped piece of land be built upon. Subsequent to the transfer of the land the occupants of No. 16a built an extension to the property which was granted permission in 1996. A hedge has also been planted in front of the dining room window and the appellant maintains that he could build a wall in front of the window which in turn would diminish light to this room.
11. The private legal agreement does not alter my conclusion on living conditions. The planning system does not exist to protect the private interests of one person against the activities of another. Proposals should be considered in terms of their effect on the amenity and existing use of land and buildings in the public interest. The Courts have ruled that the individual interests is an aspect of the public interest, and it is therefore valid to consider the effect of a proposal on the amenity of neighbouring properties. This is set out in Planning Policy Wales Edition 8 paragraph 3.1.7. Notwithstanding the private sale agreement this does not prevent me from considering the wider public interests of ensuring that development would be appropriately laid out in terms of separation distances and would not harm living conditions. The fall-back position of a hedge or wall in front of one window does not alter my assessment on living conditions in relation to the whole development.
12. Turning to matters of privacy. The front elevation of the proposal would be some 16m to the front elevation of No. 10 Y Ddol. Properties to the rear of the appeal site are higher-up the slope but are just as near as those fronting the site. From the front and to the rear the appeal development would be overlooked and there would be limited privacy for the future occupants of the appeal site and nearby residents. Whilst there is a degree of mutual overlooking already taking place between properties the proposal would make the situation worse and would be below accepted minimum separation distances as set out in LPG 21.
13. I therefore conclude that proposal would harm the living conditions of occupants of nearby dwellings in relation to daylight, outlook and privacy. It would also harm the living conditions of future occupants of the appeal development. The proposal would conflict with UDP policies GDP1 and H2 and LPG 21 guidance.

Conclusions

14. I have concluded that the proposal would harm living conditions and the conservation area. I note the residents' concerns about highway safety and air quality but there is no technical evidence to support these objections and would not outweigh my consideration on the main determining issues.
15. Whilst there is a recognised shortfall in housing land supply this factor is not given considerable weight where the development would otherwise conflict with the development plan. The proposal conflicts with the development plan and national policies and the planning balance is against allowing the development.
16. For these reasons, the appeal should be dismissed.

Iwan Lloyd

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr D J Roberts	Appellant
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FOR THE LOCAL PLANNING AUTHORITY:

Ms Holman LLB LPC MCD	Planning Officer
Mrs Goring BSc PGDip	Conservation Officer

INTERESTED PERSONS:

Mr Cargius	Community Councillor
Mrs Davies	Resident
Mrs Goddard	Resident
Mr Cunningham	Resident
Mr Andrew	Resident
Ms Edwards	Resident
Mr Williams	Resident present at the site visit

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Council's notification letter and list of those notified
- 2 Copy of the submitted plans