

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 11/09/15

gan Iwan Lloyd BA BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 01/10/2015

Appeal Decision

Site visit made on 11/09/15

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 01/10/2015

Appeal Ref: APP/H6955/A/15/3062043

Site address: Land south west of The Homestead, Gegin Lane, Llay, Wrexham

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 Barry Jones against the decision of Wrexham County Borough Council.
- The application Ref LLA P/2014/0719, dated 19 September 2014, was refused by notice dated 12 December 2014.
- The development proposed is 4 bedroomed detached dwelling with associated double garage.

Decision

1. The appeal is dismissed.

Main Issues

2. These are; the effect of the proposal on the character and appearance of the countryside having regard to local and national planning policies, and the effect of the proposal on ecology.
3. The Wrexham Unitary Development Plan (UDP) 1996-2011, adopted in 2005 is outside its plan period and as a result cannot demonstrate a 5-year housing land supply as set out in paragraphs 8.1, 8.2 and 6.2 of TAN1¹. Where the UDP is outside its plan period the local planning authority has been unable to undertake a current study of its housing supply. As a result, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with the development plan and national planning policies. The lack of a 5-year housing land supply is a factor to be weighed in the overall planning balance.

Reasons

Character and appearance

4. The appeal site is situated adjacent to Gegin Lane north-west of Llay and situated outside the settlement boundary of the UDP. The field contains the remnants of a

¹ Technical Advice Note 1 – Joint Housing Land Availability Studies

former building and the appellant maintains that it is previously developed land. It is reported to have been a former farmhouse and the appellant maintains it was therefore part of the commercial operation as opposed to have been grazing or planting land.

5. Figure 4.3 of Planning Policy Wales (PPW) Edition 7 defines previously developed land (PDL) as that 'which is or was occupied by a permanent structure (excluding agricultural or forestry buildings) and associated fixed surface infrastructure'. Excluded from the definition amongst other things are 'land where the remains of any structure or activity have blended into the landscape over time so that they can reasonably be considered part of the natural surroundings'. As a former farmhouse this would have been attached to a farm which would have a use in association with the use of the land for cultivation and pasturage. It would therefore be in probability an agricultural building excluded from the definition of PDL.
6. In any event, what remains of the building is a length of brick wall and a stone wall. It is evident that several trees had grown amongst these ruins, but only their stumps are left. These were not young samplings and had a reasonable girth suggesting that before they were cut the appearance of the remains would have blended into the landscape. Nevertheless, whilst the remnants are now visible they have in my view blended into the landscape and form part of the natural surroundings by virtue of the trees and hedgerow around these structures and the verdant appearance of the appeal site.
7. I therefore consider that the appeal site is not PDL and is excluded by virtue of these factors. Even if this interpretation is incorrect PPW paragraph 4.9.1 indicates that not all PDL is suitable for development, amongst other reasons due to location and the presence of protected species.
8. The site is located in open countryside it is situated a considerable distance from the nearby settlement and would therefore fail to promote a sustainable pattern of development and would not minimise the demand for travel in particular by private car. These objectives underpin sustainable development and a plan-led approach to development. Protection of the countryside against new building away from existing settlements is strictly controlled.
9. The protection of the countryside is necessary for its intrinsic sake, and in this case development of the site would harm the leafy and verdant appearance of the site which has a strong affinity with the countryside that surrounds it. There is no justification for the development of the site at this location, and it would not meet any of the policy exceptions for new building in the countryside. The development would fail to comply with the strategic policies of the UDP for location development within settlements, PS1, PS2, PS3, and PS4. No listed exception for development outside settlement limits are met having regard to UDP Policy H5, and the development would fail to harmonise with the character of the site and the surrounding area, in relation to UDP Policy GDP1.
10. I therefore conclude that the proposal would harm the character and appearance of the countryside having regard to local and national planning policies.

Ecology

11. The Council maintain that the site is a potential habitat for bats and great crested newts and reptiles and that at present there is a lack of information that the development would not harm protected species which may be found on the site. The

appellant has not provided the information because of the fundamental objection to the development on policy and sustainability grounds. The appellant would seek that a planning condition be imposed to ensure that any adverse effects on ecology are mitigated. However, the advice in TAN5² paragraph 6.2.2 is that a condition requiring protected species surveys be carried out should not be imposed as this is an important material consideration before planning permission is granted. National Resources Wales indicates that the views of the County Ecologist should be sought, who in turn require a survey to be undertaken prior to determination.

12. I consider that the site lies close to the Chwarel Singret Site of Special Scientific Interest and there are several trees and hedgerows on the site which could provide a suitable habitat for protected species.
13. I therefore conclude that there is a reasonable likelihood of protected species being present on the site and the requirement for developers to undertake surveys is low in line with paragraph 6.2.2 of TAN 5. I consider there is insufficient information to determine whether there would be any harmful impact on protected species contrary to UDP Policies EC6 and PS2.

Conclusions

14. The proposal would harm the character and appearance of the area and there is an absence of information to confirm that no harm would arise in regard to the ecology of the site. Adding to these concerns is that the site is within a sand and gravel mineral protection buffer zone and UDP Policy MW9 requires justification that developing the site would not have a detriment on those reserves. The development would therefore fail to comply with the development plan and national planning policies.
15. The lack of a 5-year housing supply is given considerable weight in favour of the development where it otherwise complies with the development plan and national policies. In this case the development does not comply and therefore less weight would be attributed to the contribution this dwelling would make to housing land supply.
16. I note the representations that the development of the site would stop fly-tipping on the site, but this factor does not outweigh the significant policy and landscape objections to the development. I therefore conclude that this appeal should be dismissed.

Iwan Lloyd

INSPECTOR

² Technical Advice Note 5: Nature Conservation and Planning 2009