
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 18/01/16

**gan Declan Beggan BSc (Hons) DipTP
DipMan MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 09/02/16

Appeal Decision

Site visit made on 18/01/16

**by Declan Beggan BSc (Hons) DipTP
DipMan MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 09/02/16

Appeal Ref: APP/H6955/A/15/3134973

Site address: Glenwood, Station Avenue, Chirk, Wrexham, LL14 5LS

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 (the Act) against a refusal to grant planning permission under section 73 of the Act for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mrs Judith Clark against the decision of Wrexham County Borough Council.
- The application Ref CHI P/2015/0216, dated 26 March 2015, was refused by notice dated 17 July 2015.
- The application sought planning permission for the erection of an attached dwelling by varying condition 1 attached to planning permission Ref CHI P/2009/0900, dated 19 April 2010.
- The condition in dispute is No. 1 which states that: "The development hereby permitted shall be begun before the expiry of five years from the date of this permission".
- The reason given for the condition is: 'To comply with Section 91(3) of the Town and Country Planning Act, 1990'.

Decision

1. The appeal is allowed and planning permission is granted for the erection of an attached dwelling in accordance with the application Ref CHI P/2015/0216 dated 26 March 2015, by varying condition number 1 previously imposed on planning permission Ref CHI P/2009/0900, dated 19 April 2010, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and subject to the following new condition:

- (1) The development shall begin not later than five years from the date of this decision.

Background

2. Planning permission was granted subject to conditions on 19 April 2010 for the erection of an attached dwelling. Condition 1, the subject of this appeal, requires the development to begin before the expiry of five years from the date of the permission. The appellant seeks to vary condition 1 to extend the expiry time for another five
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years. The application was submitted to the Council on 26 March 2015 prior to the expiry of the original permission. The development has not commenced.

3. Planning permission can be renewed before the time limit for the commencement of development has expired under section 73 of the Act. It is thus appropriate to apply the advice in Welsh Government Circular 16/14: *The Use of Planning Conditions for Development Management*, which states that as a general rule, such applications should only be refused where there has been some material change in planning circumstances since the original permission was granted.

Main Issue

4. I consider the main issue to be whether it would be reasonable to vary condition 1 having regard to whether or not there has been a material change in planning circumstances since the original planning permission which would instead merit a refusal of permission, with particular regard to the character and appearance of the Chirk Conservation Area (CA).

Reasons

Material Change in Planning Circumstances

5. The appeal site forms part of an end terrace property located off Station Avenue, within the village of Chirk. The property, which lies within the CA, is used as a guest house.
6. The Council argue that since the original planning permission was granted there has been a material change of circumstances which warrant the refusal of the proposal as it would now detract from the host property, the terrace to which it belongs, and in turn the character of the CA. It is maintained the material change in circumstances relate to national and local planning guidance that were not in force at the time of the original decision. Local guidance in the form of a revised Conservation Assessment and Management Plan (CAMP) for Chirk was adopted in 2014, which identifies Glenwood and the terrace to which it belongs as having historical or architectural interest. It is also argued local planning guidance has changed in the form of the adoption in 2012 of the Council's Local Planning Guidance Note 33 - Pontcysyllte Aqueduct and Canal World Heritage Site (LPGN33), which relates to the designation of Pontcysyllte Aqueduct and Canal as a World Heritage Site (WHS), and which the appeal site lies within a 'buffer zone', where buildings and views form a distinctive character and sense of place which complement the WHS. In terms of national guidance it is argued the updated 2014 Technical Advice Note 12: Design (TAN12), highlights and reinforces the principles of good design.
7. In regards to the proposed development, the Council's previous assessment of the permitted application, referred to the Conservation Area Assessment (CAA) and the fact that the terrace to which the appeal site belongs was identified in the CAA as a building of visual interest; at that time the Council were of the opinion that the proposal was in keeping with the CA, and concluded the scheme would enhance the appearance of the CA. Whilst I appreciate the CAA has been updated via the CAMP, which provides a degree of further detail, nonetheless, to my mind that guidance as applied to the appeal site has not materially altered the assessment of the proposal, and therefore is not considered to constitute a significant material change in planning circumstances that would merit a refusal of permission. The Council argues the symmetrical design of the terrace, with its 'bookend' properties, is a balanced composition that would be destroyed by the proposal. However, the impact on the

balanced nature of the terrace was an attribute that was considered when the proposal was originally granted permission.

8. Policy GDP1 of the adopted Wrexham Unitary Development Plan (UDP) is a general development management policy that states, amongst other criteria, that the scale and design of all new development should accord with the character of the site, and make a positive contribution to the appearance of the locality. Policy EC7 of the UDP relates to conservation areas, and states that new development must reflect the *design and character of the area as a whole* (my emphasis), and the form, scale detailing and materials of existing buildings. These UDP policies were considered relevant when the proposal was previously permitted. The Council's statement refers to TAN12 as a material change in circumstances; however, they have not drawn my attention to any particular part, except to state that it promotes good design. In regards to world heritage sites and conservation areas, the updated TAN12 states the objective of sustaining character is particularly important; this is broadly similar to the advice in the former TAN12 that was applicable when the proposal was previously considered acceptable.
9. The proposed dwelling in broad terms would replicate the appearance of Glenwood with its use of a gable feature, windows, and hipped roof. Thus the front elevation onto Station Avenue would have a satisfactory composition in relation to the terrace to which it would attach. Contrary to the Council's view, I do not consider the proposal would destroy the unity and symmetry of the terrace. Whilst there would be some effect on the symmetry of the terrace, however the effect would not be unduly detrimental as the essential massing and character of the row would be preserved due to the new dwelling being more visually muted owing to its set back from the bookend gable feature of Glenwood, its use of a hipped roof feature to the front gable, in addition to it having a lower ridge height than the main terrace. Bearing in mind these considerations, I conclude that the proposed dwelling would not detract from the appearance of Glenwood or the terrace to which it belongs, and would preserve the character and appearance of the CA. In addition, in my view, it also meets the stated objective of sustaining the character of the CA as referred to in TAN12, which as related to the appeal scheme, would not constitute a significant material change in circumstances since the last application was permitted that would merit a refusal of permission.
10. The Council maintain the designation of the WHS and the protection of the approaches to it has resulted in applications being more critically assessed in terms of their impact, however, the WHS was designated prior to the previous application being determined. The previous scheme was permitted in light of the fact that the proposed development lay within the 'buffer zone' to the WHS, with no objections at that time raised in regards to any detrimental impacts. LPGN33 sets out the importance of the WHS and aims to ensure that new development does not adversely impact upon it.
11. The Council argue the proposed development would be prominent on a key approach to the WHS, which when combined with its detrimental impact on the character of the terrace would result in a negative impact upon the visitor experience and the sense of arrival. The appellant disputes that Station Avenue is a key approach to the WHS and maintains that the brown tourist signs from both the north and south of Chirk do not direct visitors along Station Avenue. Irrespective of whether or not Station Avenue is a key approach to the WHS, as I have found the proposal would not detract from the character and appearance of the terrace to which it would link into, and would preserve and sustain the character of the CA, it follows that it would, contrary to the

Council's opinion, not result in a negative impact on any visitor experience and sense of arrival at the WHS for those who choose to travel along Station Avenue. I do not consider the guidance as detailed in LPGN33, as related to the appeal proposal, would constitute a significant material change in circumstances since the last application was permitted to justify a refusal of permission.

Conclusions

12. For the reasons given, I find that there has not been any material changes in planning circumstances in respect of the proposed development since the original planning permission was granted, that would merit a refusal, and therefore it is reasonable to vary condition 1 attached to the previous permission to allow for a further 5 years for the commencement of development. In addition, the proposed development would not detract from the appearance of the host property, the terrace to which it belongs, or the character of the CA, nor from the buffer zone to the WHS. Consequently the proposed development would not be in conflict with the relevant policies of the UDP, nor advice contained within LPGN33 or TAN12.
13. The Council have requested that in the event that the appeal is allowed, that the conditions as imposed on the original permission be re-imposed. I therefore consider it is necessary to grant a new planning permission with condition 1 varied to allow for an additional five years to commence development, and subject to the other conditions imposed on the previous planning permission, so far as the same are still subsisting and capable of taking effect.
14. After taking account of all the evidence before me, and for reasons given above, I therefore conclude that the appeal should be allowed.

Declan Beggan

INSPECTOR