

**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 APPEAL AT
LAND TO THE REAR OF 16 AND 16A DDOL, BERSHAM, WREXHAM**

COUNCILS STATEMENT OF CASE

**PLANNING REF: P/2016/0056
PINS REF: H6955/A/16/3146367**

1.0 THE SITE

- 1.1 The appeal site is located on land to the rear of Nos. 16 and 16a Ddol, Bersham, Wrexham, LL14 4HN. The site is located within a defined settlement limit and the Bersham Conservation Area.

2.0 PROPOSAL

- 2.1 The proposal (ref: P/2016/0096) is for full planning permission for the erection of a two storey, three bedroom dwelling.
- 2.2 Planning permission was refused on 23.02.2016 for the following reason:

By virtue of its scale, design and layout, the dwelling would have a significant detrimental impact upon residential amenity in terms of loss of light and overlooking. The development would neither preserve nor enhance the character of the Bersham Conservation Area and would fail to make a positive contribution to the appearance of the locality. To allow the development would therefore conflict with Policies PS2, GDP1, EC7 and H2 of the Wrexham Unitary Development Plan, the adopted Conservation Area Character Assessment and Management Plan, Local Planning Guidance Note No 20 'House Extensions' and Local Planning Guidance Note No 21 'Space around Dwellings'.

3.0 PLANNING HISTORY

- 3.1 P/2015/0191 Application for full planning permission for the erection of a two storey, three bedroom dwelling.
Permission refused on 24/04/2015 (Please see Appendix 1).
Appeal submitted to PINs which was turned away because it was out of time.
- 3.2 ESC CB00217 Outline application for the erection of a detached dwelling and garage.
Permission Granted on 29/07/1996 (Please see Appendix 2).
- 3.3 ESC 6/23940 Erection of a 2 storey dwelling.
Permission granted 11/01/1996 (Please see Appendix 3).

4.0 NATIONAL AND LOCAL PLANNING POLICY

- 4.1 Welsh Office Circular 61/96 Planning and the Historic Environment: Historic Buildings and Conservation Areas is relevant.
- 4.2 The site lies inside a settlement limit and the Bersham Conservation Area as defined in the current development plan for the area, which is the Wrexham Unitary Development Plan (UDP) 2005. Though now out

of date, the UDP is still considered to be the most up-to-date policy framework for Wrexham. Policies PS2, GDP1, H2, and EC7 of that document are relevant. Copies of the relevant UDP policies are contained in the submitted questionnaire bundle and a summary of each relevant policy is detailed below:

- **PS2 Development and the Environment**
Policy PS2 is a strategic policy stating that development must not materially detrimentally affect countryside, landscape/townscape character, open space, or the quality of the natural environment.
- **GDP1 Development objectives**
Policy GDP1 is a detailed policy that seeks to secure a satisfactory standard of development. In respect of this appeal the Council makes specific reference to part a):
 - a) Ensure that built development in its scale, design and layout and in its use of materials and landscaping, accords with the character of the site and makes a positive contribution to the appearance of the nearby locality.

Within the written text following this policy, paragraph 4.1 states "...The Council will, from time to time, issue Supplementary Planning Guidance with the aim of encouraging high standards of development and design".

Accordingly Local Planning Guidance Note No. 21 – Space around Dwellings (adopted by the Council in approximately 1996/7 and revised in January 2007) and No. 20 House Extensions (as adopted in 2004 and updated in March 2010) are applicable (please see Appendix 4 and 4a).

- **H2 Residential Development within Settlements**
Policy H2 states that "Residential Development on unannotated land within settlement limits will be permitted subject to compliance with Policy GDP1.
- **Policy EC7 Conservation Areas**
Policy EC7 states "Within and in close proximity to Conservation Areas, the priority will be to preserve and/or enhance those buildings, structures, streets, trees, open spaces, archaeological remains, views and other elements which contribute to the unique character of the area. New buildings and alterations or additions to existing buildings within Conservation Areas, whether listed as of special architectural or historic interest or not, must reflect the design and character of the area as a whole and the form, scale, detailing and materials of existing buildings".

- 4.3 The Bersham Conservation Area was designated in August 1975 and its boundary amended in 2003. As part of the Conservation Area designation the Local Authority is also required to prepare and publish proposals for the preservation and enhancement of the area. Following approval by Council Executive Board and public consultation on the content undertaken during October and November 2009, the first Bersham Conservation Area Character Assessment was adopted in December 2009 (please see Appendix 5).

5.0 THE COUNCIL'S CASE

5.1 Background

- 5.1.1 In 1996 (ref: 6/23940) planning permission was granted for a two storey side extension with 2 No. habitable room windows facing into the Appeal site. This development is now complete and occupied. Outline planning permission was granted later that same year (Ref: CB00217) for the erection of a dwelling. A Reserved Matters application was never received and the permission expired on 28/07/2001.
- 5.1.2 An application for full planning permission was submitted in 2015 (ref: P/2015/0191) for the erection of a two storey, three bedroom dwelling. Planning permission was refused because of the detrimental impact it would have upon local residential amenity (loss of privacy, light and outlook) and upon the character and appearance of the Bersham Conservation Area.
- 5.1.3 On 12 October 2015, the Council received an email from the Appellant with a picture attached (See Appendix 6 and 6a) requesting that the Council reconsider its position given that he had now planted a hedge up against the ground floor window of the adjacent dwelling thus restricting light and outlook to the room. The email also advised that a tree was soon to be planted with the intention, as is the Council's understanding, to block the light to the first floor window of the same property. The Council responded to that email to confirm that its position was unchanged by these actions.
- 5.1.4 A further application, identical in nature to the 2015 application was submitted in 2016 (ref: P/2016/0056) and permission was subsequently refused for the same reasons given in 2015. It is this decision which is now the subject of this Appeal.

5.2 Residential Amenity

- 5.2.1 Due to the scale and proximity of the proposed dwelling with the adjacent property (less than 2 metres), the development would

significantly reduce the amount of daylight available to the habitable rooms (dining room and bedroom) which have their openings (windows) facing the Appeal site. Local Planning Guidance Notes Nos. 20 and 21, which amplifies UDP Policy GDP1, recommend that a minimum separation distance of at least 13 metres should be achieved between a wall exceeding the height of the top of windows lighting these habitable rooms. The proposed dwelling would be less than 2 metres away from the affected windows and as such users of these rooms would suffer from a restriction of natural daylight and outlook leaving the spaces feeling dark and claustrophobic. The development as proposed would therefore be contrary to Local Planning Guidance Notes Nos. 20 and 21.

- 5.2.2 Planning permission was granted for both outline planning permission for the erection of a dwelling and for the two storey extension in 1996, prior to the adoption of this guidance. This guidance was adopted to respond to instances such as these where separation distances are inadequate resulting in the creation of substandard internal areas.
- 5.2.3 The Council notes the presence of a hedge having been planted by the Appellant against the ground floor window of the adjacent dwelling, in an attempt to reduce light levels and restrict outlook from this room with the intention that this guidance becomes irrelevant. The Council does not accept that this guidance should be disregarded as planting/vegetation does not have the same degree of permanency as built development and, given the land conditions, the hedge is likely to have a short life span.
- 5.2.4 Local Planning Guidance Notes Nos. 20 and 21 also recommends that a minimum separation distance of 22 metres should be achieved between habitable windows which face each other, in order to safeguard against overlooking. This distance should also be increased where there is a difference in land levels. This distance has not been achieved in respect of the windows on the front and rear elevations of the proposed dwelling, being 18 metres and 17.5 metres respectively. The development would therefore lead to a loss of the privacy currently enjoyed by the occupants of the existing dwellings and will not provide sufficient privacy for the future occupiers of the proposed development. The development therefore conflict with UDP Policies GDP1 a) and H2.

5.3 Bersham Conservation Area and Street scene

- 5.3.1 The Bersham Conservation Area was designated in August 1975 and its boundary amended in 2003. The first Bersham Conservation Area Character Assessment was adopted in December 2009. The Bersham Conservation Area Character

Assessment and Management Plan seeks to amplify Policy EC7 of the UDP and aims to promote and support developments that are in keeping with, or enhance, the character of Bersham Conservation Area by:

- providing a clear definition of the area's special architectural or historic interest;
- Identifying ways in which their unique characteristics can be preserved and enhanced through the Enhancement Plan;
- strengthening the justification for designation;
- creating a clear context for future development in accordance with conservation area policies in the development plan;
- providing a vehicle for engagement and awareness raising.

5.3.2 Section 6.1 of the adopted Character Assessment and Management details that new development “must respect the scale, design, proportions and materials of the surrounding architecture to strengthen the cohesion of the street”. In addition, Section 7.0 of the adopted document contains detailed design guidance and makes specific reference to building line under paragraph 7.4 stating “Development will be required to conform to the historic street pattern”.

5.3.3 The above guidance is particularly relevant when considering the proposed new dwelling subject to the Appeal and makes clear that new developments should be take account of the definite building line within this section of the Conservation Area, and the external decoration and form should reflect the surrounding buildings to ensure the character of the street is strengthened. This is to ensure that new buildings take account of the historic character and positively integrate into the Conservation Area.

5.3.4 The appeal site is prominently located within this section of Bersham Conservation Area which is more compact with higher density building pattern. Ddol Terrace is particularly significant within this area contributing to the sense of place through a strong building line and consistent materials and design continuity. Building positions within this section of the Conservation Area either directly front the highway or are positioned perpendicular to the highway. The proposed dwelling fails to recognise the typical building line being positioned set back within the site and directly in front of the rear of elevation of 16a. The Council maintains that the new dwelling would not preserve or enhance the existing street pattern and is contrary to Policy EC7 and the detailed design guidance contained within the adopted Character Assessment and Management Plan. The dwelling would be materially detrimental to the townscape character and street scene contrary to UDP Policy PS2 and

would fail to accord with the character of the site or make a positive contribution to the appearance of the nearby locality contrary to UDP Policy GDP1a).

- 5.3.5 The external design of the proposed dwelling is considered to be a weak reflection of the existing buildings. The identity of the area is gained in part from the strong design cohesiveness of Ddol Terrace, opposite the appeal site. These properties have stone cills and heads to windows and decorative terracotta banding adding detail to their facades. Windows on the terrace have a strong vertical emphasis which is continued through tall, corbelled chimney stacks. The Council considers the proposed dwelling to be bland having little architectural detail. Fenestration is generally poor also with windows having a horizontal rather than vertical emphasis. The proposed dwelling therefore fails to preserve to enhance the existing architectural character of this section of the Conservation Area and is contrary to both policy EC7 of the UDP and the detailed design guidance contained within the adopted Character Assessment and Management Plan.

6.0 SUMMARY

- 6.1 The main issues to consider are whether the development represents inappropriate development within the Bersham Conservation Area and whether the development would have a negative impact upon the residential amenities of the existing and future occupiers. The development would not accord with the character of the site or make a positive contribution to the appearance of the locality, and a satisfactory level of amenity for occupiers has not been met. The development would be detrimental to the appearance of the street scene and would fail to preserve or enhance the character of the Bersham Conservation Area. The development therefore conflicts with UDP Policies PS2, GDP1, EC7 and H2.

7.0 CONCLUSION

- 7.1 The Council is of the opinion that the development is not justified for this location, and therefore respectfully requests that the appeal is dismissed. Should the appeal be allowed, the following planning conditions are suggested:

7.1.1. The development hereby approved shall be commenced before the expiry of five years from the date of this
Reason - To comply with the provisions of the Town and Country Planning (Development Management Procedure) (Wales) Order 2016

7.1.2 The development shall only be carried out in strict accordance with the details shown on the approved drawing(s) numbered

448/1 Rev B, 448/1 Rev C and 448/2 Rev C and contained within the application documentation.

Reason - To ensure that the development fully complies with the appropriate policies and standards.

- 7.1.3 Prior to their use on the development samples of all external facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in strict accordance with such details as are approved.

Reason - To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.

- 7.1.4 No part of the development shall commence until a scheme for the comprehensive and integrated drainage of the site indicating how foul water, surface water and land drainage will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented in accordance with a timescale to be agreed as part of the submitted details and maintained thereafter.

Reason – To ensure that effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system.

- 7.1.5 No works shall commence until drawings to scale 1:5 and 1:20 fully detailing all new or replacement windows and doors have been submitted to and approved in writing by the Local Planning Authority. The details shall fully describe the proposed materials, decorative/protective finishes, method of opening and glazing type and include cross sections for glazing bars, sills and heads etc. The works shall only be carried out in strict accordance with such details as are approved.

Reason - To ensure the works reflect the character and appearance of the building.

- 7.1.6 Prior to first use of the development, all external joinery shall receive a painted finish in accordance with a colour which has been submitted to and approved in writing by the Local Planning Authority. The colour of the painted finish shall not thereafter be changed without the prior written consent of the Local Planning Authority.

Reason - To ensure the works reflect the character and appearance of the building.

- 7.1.7 All new and replacement rainwater goods shall be cast iron only.

Reason - To ensure the works reflect the character and appearance of the building.

7.1.8 All works in relation to the implementation of this permission, including deliveries to and / or leaving the site, shall be undertaken only between the hours of 7.30 and 18.00 Monday to Friday, and 08.00 to 14.00 on a Saturday, and at no time on a Sunday or a Bank Holiday.

Reason - To protect the amenities of the occupiers of nearby properties.

7.1.9 Prior to first use of the vehicular access hereby approved, the access shall be surfaced with hard bound materials (e.g. bituminous macadam) for a minimum distance of 5 metres behind the adjoining highway.

Reason - To ensure that no deleterious material is carried onto the highway, in the interests of highway safety.

7.1.10 The vehicular access hereby approved shall be a minimum width of 5 metres.

Reason - To ensure the formation of a safe and satisfactory access.

7.1.11 Prior to first use of the development hereby approved the vehicular access shall provide visibility splays of 2 metres x 17 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction above the level of the adjoining carriageway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.

Reason - To ensure that adequate visibility is provided at the proposed point of access to the highway.

7.1.12 The vehicular parking and turning areas as shown on approved drawing No. 448/1 Rev B shall be fully laid out, surfaced and drained prior to first use of the development. These areas shall thereafter be permanently retained and kept free of any obstruction, and made available solely for the parking and turning of motor vehicles at all times.

Reason - To provide for the parking and turning of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.

7.1.13

No private surface water run off shall be permitted to flow from the development site onto the adjoining highway. An Aco drain or similar shall be provided across the approved access to intercept any such run off prior to first use of the development.

Reason - In the interests of highway safety.

