



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 01/10/13
Ymweliad â safle a wnaed ar 01/10/13

**gan Robert Gardener BSc (TownPlan)
MRTPI**

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 06/11/13

Appeal Decision

Hearing held on 01/10/13
Site visit made on 01/10/13

**by Robert Gardener BSc (TownPlan)
MRTPI**

an Inspector appointed by the Welsh Ministers
Date: 06/11/13

Appeal Ref: APP/H6955/A/13/2198924

Site address: Land at Oakstream, Bowers Road, Acrefair, Wrexham LL14 3TN

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 William Evans against the decision of Wrexham County Borough Council.
 - The application Ref CEF P/2012/0719, dated 10/09/12, was refused by notice dated 14/12/12.
 - The development proposed is a 2-bedroom bungalow with parking area for a mobile trailer and 2 no. parking bays.
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Decision

1. The appeal is dismissed.

Procedural matters

2. A variety of site, block and location plans were submitted with the application. At the hearing I also had sight of the Land Registry entry for the parcel of land registered in the appellant's name in December 2011. None of the outlined areas accurately coincide. At the hearing it was agreed that the appeal site should be treated as that shown on Drawing No. 0:900/WE, which I have done.
3. Although the appeal land was only registered in 2011, it seems that it was part of a larger area which has been owned by the Evans family for some 70 years or so. The other part of that larger area is now the site of The Clans, which lies to the south of Oakstream but shares the same access onto Bowers Road. The Clans appears to be a twin-unit mobile home, owned and occupied by the appellant's son, Mr Richard Evans and his family. The 2011 land registration was occasioned by the appellant subdividing his land holding at that time and passing The Clans to his son.
4. The Council accepts that the appellant and his wife are gypsies as defined for purposes of Circular 30/2007¹. They currently live on the land in a single unit mobile home and the bungalow is intended for their own occupation. The reference to the parking of a trailer is in fact for a tourer should they wish to continue to travel. It is not intended that it would provide further accommodation. As with the proposed parking bays,

¹ WAG Circular 30/2007 Planning for Gypsy and Traveller Caravan Sites

these activities would be incidental to the residential use of the bungalow and not additional uses of the land. I have approached the proposal on that basis.

Main Issues

5. These are whether the proposal is appropriate development in the Green Barrier and acceptable development in the countryside and, if not, whether there are very exceptional circumstances which would outweigh any harm it would cause such as to justify a grant of planning permission contrary to the strong policy objection which would otherwise apply.

Reasons

6. Bowers Road is a rural lane serving only sporadic development, including the appeal site and The Clans. As I have mentioned, the site is currently occupied by a mobile home in residential use but is otherwise given over to an area of garden, extensive hardstanding and the remnants of an earlier building, to which I shall return. Both the mobile home and The Clans are in an elevated position above the road and, while there are trees and hedgerows around the land both are clearly open to view.
7. The appeal site is located to the north of and, despite the sporadic development along the lane, is considerably beyond the settlement limits of Acrefair (the Council estimates 250m.). As such, it is in the countryside for purposes of the Wrexham UDP², the operative development plan when considering new development proposals. As part of UDP provisions, it is also within a Green Barrier, which is of equivalent status to the Green Wedges designation set out in Planning Policy Wales (PPW).
8. The proposed bungalow is for none of the purposes normally accepted as appropriate in Green Barriers, as set out in either PPW, or UDP Policy EC1. Consequently, very exceptional circumstances need to exist by way of other considerations which clearly outweigh the harm which the proposal would cause.
9. Nor does the proposal fall within any of the categories of housing defined as being acceptable in the countryside by way of UDP Policy H5(a)-(c). For H5(c), the bungalow is not for an agricultural or forestry worker. For H5(b), the proposal cannot reasonably be treated as infill development as the UDP defines since it is not within a well-developed frontage. Accordingly, whether or not it would satisfy the general development principles set out in Policy GDP1, as H5(b) further requires, is irrelevant. H5(a) cross references other possible exceptions which could derive from other UDP housing policies.
10. Of those, the appellant contends Policy H8, concerning Affordable Housing, should be applied. However, his assessment of the bungalow as being 'affordable' falls considerably short of and outside that anticipated by the UDP. I return to the appellant's particular personal circumstances in due course but in my view the 'proven need' test for this proposal is not met nor, in any event, is the site on the edge of a settlement as the policy requires.
11. The appellant, because of his gypsy status, also sees support from Policy H9 which exceptionally allows for gypsy caravan sites outside settlement limits. It is the case that the policy, and Circular 30/2007, provides qualified exceptions for gypsy caravan accommodation in locations not otherwise considered suitable for other forms of

² Wrexham Unitary Development Plan 1996-2011 adopted February 2005

housing. However, I share the Council's view that the concessions provided there do not extend to proposals such as this. Other than drawing on the general need to facilitate the gypsy way of life, the appellant was not able to provide anything to support his view that proposals for permanent dwellings for gypsies are to be treated any differently to those for general housing.

12. Finally on the housing policies, UDP Policy H10 permits replacement dwellings in the countryside. I accept that there was previously a dwelling on the site. That is shown by both the ground floor platform which is still in place, by a remaining small washroom building and by the photographic evidence provided. However, the previous dwelling was demolished a considerable number of years ago, perhaps 30 or so, following a fire. It is clear that the circumstances here, where the dwelling has not existed for such a long time, do not comply with the fundamental requirement of Policy H10 that there must still be a habitable dwelling, or one capable of being made habitable, in place.
13. As I say, contrary to what is claimed, the site is clearly open to view. I accept that the site is already developed to a degree but, other than the mobile home, it is essentially open. The proposed bungalow, which would be both exposed to the road and in an elevated position, would considerably reduce the openness of the Green Barrier at this point and result in new development encroaching into the countryside, not the least because of consolidation of sporadic development along Bowers Road. This would be harmful to the rural character and appearance of the area and contrary to the planning objectives which apply here.
14. Consequently, I do not see any policy at national or local level with which the proposal complies and significant policies with which it conflicts. I note that similar views were expressed by the Inspector who determined a previous appeal for much the same development in 2007³.
15. There are a number of other considerations which the appellant claims in favour of the proposal. Planning permission was granted previously for a dwelling here. That was in 1970 not only when the planning policies which applied are unlikely to be the same as those now in place but also when the previous dwelling still existed. As I have explained, any possibility that the proposed bungalow should now be treated as a replacement dwelling under Policy H10 has gone.
16. Even so, the site is previously developed – or brownfield – land as defined in PPW. Consequently there is a preference for its re-use over greenfield land. I give this factor some weight but I have no evidence, for instance, that a shortage of available housing land would lead to pressure to develop greenfield land elsewhere were the appeal to fail.
17. The appellant claims that there is a shortage of suitable sites for his needs but I am not persuaded that there has been any realistic attempt to find one. That may be because he already owns the appeal site which he considers suitable for the purpose.
18. I have taken into consideration also the fact that the appellant and his wife wish to live the settled and more comfortable life that a permanent bungalow would provide. It is understandable that they wish to stay on land which has been owned and apparently lived on by the family for a long time, close to where their son and his

³ Appeal ref: APP/H6955/A/07/2043180

family still live and to friends they have made in the area. Such wishes are not unusual and, if accepted as sufficient to overcome properly formulated planning policies, could be repeated too often with consequent harm to the countryside and the purposes of the green barrier. While there are indications that the appellant and his wife have health problems, there is nothing from any medical source to substantiate a need to live locally, let alone on this site.

19. As I have indicated, I do not accept that policies which have evolved to safeguard the gypsy way of life extend to proposals for permanent dwellings in such locations. Any weight which might have been given had the site either had an established lawful use as a gypsy caravan site, as contended, or would be likely to receive planning permission for such a use is considerably reduced since the Council contests both possibilities. The former from its own enforcement involvement with the site and on the basis that the appellant and his wife had until fairly recently resided at The Clans, and the latter both on policy grounds and partly from a history of refused applications and dismissed appeals for residential caravans and bungalows on either or both Oakstream and The Clans.
20. These are not matters which are the subject of this appeal or on which I am able to decide. In the absence of a Certificate of Lawful Existing Use or Development⁴, or a planning permission in place, I am able to attach little weight to either possible fallback. Nor, with those possibilities yet untried and untested, and since the Council has not taken enforcement action against the mobile home, can it be assumed that the appellant would be made homeless were the appeal to fail. As such I do not consider that such a decision would result in an identifiable breach any of his Human Rights.
21. In summary, there are strong policy objections to what is proposed and, in the absence of other considerations, singly or collectively amounting to the very exceptional circumstances required, I have concluded that the appeal should fail.

RG Gardener

Inspector

⁴ S191 of the 1990 Act

Appearances

For the appellant:

Mr T R Mennell	Planning and Architectural Consultant
Mr W Evans	Appellant
Mr R Evans	Appellant's son

For the Local Planning Authority:

Mr M Phillips MSc MRTPI	Planning Officer
Mr S Griffiths	Planning Enforcement Officer

Documents Submitted at the Hearing

- 1 Letter of notification of the hearing and list of those notified (Council)
- 2 Extract, Wrexham Unitary Development Plan, Policy H8 Affordable Housing (Council)
- 3 Extract, Wrexham Unitary Development Plan, plan showing settlement limit of Acrefair (Council)
- 4 Planning Permission WRDC/3727 dated 17/12/1970, erection of a new bungalow etc (Council)
- 5 Refusal of Planning Permission CEF22871 dated 18/11/1994 (Council)
- 6 Appeal Decision APP/P6030/A/95/508419 dated 19/10/1995 in respect of Refusal of Planning Permission CEF22871, appeal dismissed (Council)
- 7 Refusal of Planning Permission CEF 23462 dated 31/07/1995, change of use to a gypsy caravan site (Council)
- 8 Refusal of Planning Permission CEF P/2000 1157 dated 12/03/2001, siting of a caravan for residential purposes with application details (Council)
- 9 Appeal Decision APP/H6955/A/01/1071469 dated 17/10/2001 in respect of Refusal of Planning Permission CEF P/2000 1157, appeal dismissed (Council)
- 10 Refusal of Planning Permission CEF P/2006/0363 dated 04/09/2006, replacement of mobile home with a bungalow (Council)
- 11 Refusal of Planning Permission CEF P/2007/0141 dated 12/03/2007, erection of a two-bedroomed bungalow, with application details (Council)
- 12 Appeal Decision APP/H6955/A/07/2043180 dated 24/07/2001 in respect of Refusal of Planning Permission CEF P/2007/0141, appeal dismissed (Council)