



## Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 20/12/11  
Ymweliad â safle a wnaed ar 20/12/11

**gan Alwyn B Nixon BSc(Hons) MRTPI**  
**Arolygydd a benodir gan Weinidogion Cymru**  
**Dyddiad: 18/01/12**

## Appeal Decision

Hearing held on 20/12/11  
Site visit made on 20/12/11

**by Alwyn B Nixon BSc(Hons) MRTPI**  
**an Inspector appointed by the Welsh Ministers**  
**Date: 18/01/12**

**Appeal Ref: APP/H6955/A/11/2159246**

**Site address: Chirk Court Care Home, Maes y Waun, Chirk, Wrexham LL14 5ND**

**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 Clwyd Alyn Housing Association against the decision of Wrexham County Borough Council.
- The application Ref P/2011/0199, dated 18 February 2011, was refused by notice dated 25 July 2011.
- The development proposed is phased demolition of existing single storey 30 bedroom residential care home and phased construction of a new two storey 72 bedroom EMI nursing facility.

### Decision

1. The appeal is allowed and planning permission is granted for phased demolition of existing single storey 30 bedroom residential care home and phased construction of a new two storey 72 bedroom EMI nursing facility at Chirk Court Care Home, Maes y Waun, Chirk, Wrexham LL14 5ND in accordance with the terms of the application, Ref P/2011/0199, dated 18 February 2011, and the plans submitted with it, subject to the conditions set out in the attached Schedule of Conditions.

### Procedural Matters

2. At the Hearing it was confirmed that the application drawings on which the Council based its decision, and which define the proposal to which this appeal relates, are as follows:  
  
Munro Associates Project No 244 Drg Nos 1000; 1001; 1002 rev G; 1003 rev G; 1004 rev G; 1010; 1015 rev C; 1016 rev C; 1020; 1021 rev G; 1022 rev C; 1030 rev A; 1031 rev A  
  
Lingard Styles Tree Protection Plan – Drg No 2696 03 11 09 2 E  
  
Bob Johnson Tree Root Protection Foundation Arrangement Drg No 11062/03 rev B.
3. At the Hearing an application for costs was made by Clwyd Alyn Housing Association against Wrexham County Borough Council. This application is the subject of a separate Decision.

## Main Issues

4. The main issues are: first, the implications of the development for the living conditions of residents of Maes y Waun, arising from the parking requirements of the proposed facility; and second, the effect of the development on local amenity arising from the loss of a protected tree.

## Reasons

### *Parking*

5. The site of the proposed development is an existing care home for the elderly, occupying a level site fronting the B5070 through Chirk and taking vehicular access via a short residential cul-de-sac forming part of Maes y Waun. The new nursing facility, which would be built in phases in conjunction with the phased demolition of the existing care home, would be served by a new vehicular access directly from the B5070. The existing access via Maes y Waun would be closed off by means of a locked gate and used only in event of an emergency.
6. The proposed development layout makes provision for an overall total of 24 parking spaces within the site for use by staff and visitors. There would also be a service yard area.
7. The development plan for the area is the Wrexham Unitary Development Plan (UDP), adopted in February 2005. UDP policy T8 deals with parking and requires that spaces are provided either on site or nearby, in accordance with the Council's current parking standards. At the time of the decision to refuse permission the Council's parking standards applicable to the development were contained in Local Planning Guidance Note (LPGN) No. 16 (revised April 2005). This document stipulates a maximum requirement of 1 car space per 3 bed spaces for residential institutions falling within Class C2 of the Use Classes Order. The proposed provision of 24 spaces therefore meets the maximum standard for C2 residential institution uses indicated by the Council's policies at the time the application was considered. Although section 2 (i) of the guidance note states that additional provision will be required where implementation of the standards would cause road safety or congestion problems, there is no evidence that such problems would be caused by this particular proposal. Neither the Council's planning officers nor its highways officers found cause for concern in this respect.
8. At the Hearing the Council pointed out that a revision to LPGN No. 16 was adopted by the Council in November 2011. The revision includes a new formula for calculating parking provision for C2 residential institutions, including care/nursing homes and hospitals, based on 1 car space per 2 bed spaces. Applied to the appeal proposal, this ratio would work out at 36 parking spaces. However, this new standard is again a maximum standard for the land use category concerned, as required by national policy. It is also considerably higher than the standard adopted by the County Surveyors' Society Wales in 2008, which equates to 26.3 spaces for the new facility even before adjustment for shift patterns. Moreover, the new LPGN No. 16 makes clear that development proposing an amount of parking below the maximum standard will be assessed having regard to the specific circumstances of the case.
9. In this instance the appellant has made a detailed assessment of the likely level of demand for parking, based on analysis of the parking demand arising from the existing care home facility and of the staffing levels planned for the new larger development at the site. The existing care home (which the evidence states actually

has a capacity of 35 bedrooms) is staffed by a largely part-time workforce equating to a full-time equivalent of 20.5 persons operating on a shift basis around the clock. Parking surveys, including at times when a shift changeover is occurring, indicate that no more than around 9 parking spaces are in use simultaneously at any time. Typically, parking levels are significantly lower than this. Visitor records indicate a low frequency of visitors, with no more than two visitors using a parking space at any given time. The Council confirmed that it has no knowledge of any obstruction or nuisance issues arising from parking in association with the existing care home facility.

10. The proposed EMI nursing facility, whilst having double the number of bedrooms, would have only a 25% increase in staffing requirement (25 full-time equivalent persons). At the Hearing it was explained that this would be achieved by creating a modern, more efficiently scaled and organised facility, based on 12 bedroom integrated modules where residents and carers have a much more direct communal relationship and residents are encouraged to participate in domestic activities within their individual abilities. Many of the existing staff, who would continue to be employed, live locally and do not use a car to get to the site. It is anticipated that the increased staffing requirement would be met, at least in part, by existing part-time staff increasing their hours of employment. Plainly a larger number of residents could be expected to generate an increase in the numbers of visitors. A larger facility may also draw residents from a wider catchment population, increasing the likelihood that such visitors will have to travel by car. However, it seems to me likely that a significant proportion of visitors from the Wrexham area would in any event travel by car; moreover, those with less distance to travel are likely to visit more frequently. In response to the larger scale of the new facility, the number of designated parking spaces within the site would increase from 14 to 24 spaces.
11. The evidence in this regard on behalf of those who operate the existing care home and would be responsible for operating the proposed EMI nursing facility is not countered by any substantive contrary evidence from the Council. Moreover, even should all of the designated parking spaces become full at a particular point in time, the submitted internal road layout would provide scope for additional overspill parking within the site. Overall, I find no reason to doubt that the proposed layout represents an adequate level of on-site parking provision. In the unlikely event that a persistent shortage of on-site parking were to become apparent, there would be ample scope for the ready provision of additional spaces, and I see no reason why a responsible operator would not make further provision in such circumstances.
12. In the light of the foregoing I conclude that the proposed on-site parking arrangements associated with the proposed development represent an adequate level of parking provision, and that accordingly the development would not have adverse implications for the living conditions of residents of Maes y Waun in this regard. As such I conclude that the proposal accords with UDP policy T8, and also would not offend the wider objectives contained in UDP strategic policy PS2 and general development principles policy GDP1 in terms of this matter.

#### *Loss of Protected Tree*

13. The site currently accommodates a range of trees of varying species, age, size and condition, principally distributed around the northern, western and southern site periphery. All existing trees on the site are protected by an area tree preservation order, put in place in 2010 as an interim protection measure.

14. The proposed development would entail the removal of a mature beech tree (identified as T12 on the submitted arboricultural survey and evaluation) forming part of a group of mature specimens on the north-western site perimeter. Tree T12 is the only category A specimen within the group, reflecting its good form and health and a long safe useful life expectancy. In this respect it is an important tree within the group, since the others in varying degrees show less good form and have a shorter safe useful life expectancy. However, because of the presence of other mature trees around it, the public perception of T12 in the street scene is as part of a group, rather than as a separate single specimen forming a notable feature by itself. The prominence of T12 within the street scene in key public views from the north is reduced by the presence of trees T10 and T13, which are closer to the northern site boundary and whose canopies partially screen that of T12 from this direction. Overall, I consider that the removal of T12 would result in a moderately significant loss to amenity in terms of its immediate and direct effect.
15. In reaching this view I have noted that trees T10 and T13 are both surveyed as grade C, with expected safe useful lives of ten years or less. This renders the effect on amenity of removal of T12 as potentially more significant in the short to medium term. However, it appears that it would be possible to plant a replacement specimen for T12 of at least 4.5m initial height (if not of the somewhat greater size suggested by the appellant). Such a replacement would be likely to have gained increased height and canopy spread by the time T10 and T13 are removed, and in the longer term would compensate for the loss of the beech tree T12 at this stage.
16. I understand the Council's concern about the loss of this category A tree. Such trees should be prioritised for retention within development sites wherever possible, and the form of new development planned and designed accordingly. However, there are particular factors which bear on the form and scale of the proposed development in this case. The proposed 72 bed EMI nursing home is designed on the basis of a series of separate 12 bedroom modules, each functioning as a separate residential unit. Moreover, the footprint of the proposed development is configured so as to enable a phased successive replacement of the existing accommodation blocks on the site, so as to allow continuity of accommodation and service provision. These factors, coupled with the physical limits of the site and the constraints imposed by surrounding development and infrastructure, militate against an alternative layout for the development which might enable tree T12 to be retained.
17. Having regard to all of the foregoing I consider that the removal of tree T12 as part of the development is justified. Consequently I do not find, in the particular circumstances of this case, the provisions of UDP policy EC4 concerning the loss of valuable trees to represent an overriding reason why permission should be withheld.

### **Conditions**

18. I have considered the conditions suggested by the Council in the event that planning permission is granted in the light of the discussion of these at the hearing and the tests for conditions contained in Circular WO 35/95. Conditions relating to external materials, restriction of additional window openings, regulation of construction works on site, protection of existing trees and appropriate replanting and landscaping (including an appropriate replacement for tree T12) are needed in the interests of maintaining local amenity. Conditions concerning access details and car parking are needed in the interests of highway safety and to maintain residential amenity. Conditions concerning sustainable buildings construction standards and drainage arrangement are necessary for reasons of ensuring sustainable development.

## Overall conclusion

19. In the light of the foregoing I conclude that the proposed development would incorporate satisfactory arrangements for the parking of vehicles within the site, and so would not have harmful implications for residents of Maes y Waun in these terms. The removal of tree T12 would not result in unacceptable harm to amenity. Overall, I conclude that the merits of the proposed development, in terms of the provision of an enhanced residential care facility on the site, are such as to outweigh the harm identified in terms of the removal of tree T12. Having considered all matters raised, I allow the appeal.

*Alwyn B Nixon*

**Inspector**

## Decision APP/H6955/A/11/2159246 – Schedule of Conditions

- 1) The development hereby permitted shall begin not later than five years from the date of this decision.
- 2) 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. Development shall be carried out in accordance with the approved details.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no windows or other openings other than those expressly authorised by this permission shall be inserted in the elevations of the buildings hereby permitted.
- 4) Each new non-residential building within the phased development hereby permitted shall be constructed to achieve a minimum Building Research Establishment Environmental Assessment Method (BREEAM) "Very Good" standard overall and achieve the mandatory credits for "Excellent" under issue Ene1 - Reduction of CO<sub>2</sub> Emissions (or subsequent equivalent quality assured scheme). The development shall be carried out entirely in accordance with the approved assessment and certification. The construction of each building hereby permitted shall not begin until an "Interim Certificate" certifying achievement of the above requirements has been submitted to the local planning authority; and a "Final Certificate" certifying the same shall be submitted to and confirmed in writing by the local planning authority before each building is occupied.
- 5) The demolition of the existing building shall be carried out in a precautionary manner, including that any weatherboarding, hanging tiles, soffits, fascia and barge boarding shall be removed by hand. In the event that any bats are discovered all works on the building shall cease and the Countryside Council for Wales contacted for advice before work is resumed.
- 6) The premises shall be used for elderly residential care and EMI nursing purposes only and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any

- provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 7) No part of the development shall commence until a scheme for the comprehensive and integrated drainage of the site showing how foul and surface water and land drainage will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include measures across the proposed access to intercept surface water run-off and prevent it flowing onto the adjoining highway. The site drainage scheme shall be carried out as approved in accordance with a timescale to be agreed as part of the submitted details and shall thereafter be retained.
  - 8) Development shall not commence until a construction traffic management plan has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved construction traffic management plan.
  - 9) All works relating to the implementation of this permission, including deliveries to and departures from the site, shall take place only between 0730 and 1800 Mondays to Fridays, between 0800 and 1400 on Saturdays and at no time on Sundays or Bank Holidays.
  - 10) No development shall commence until an appropriate dust management scheme has been submitted to and approved in writing by the local planning authority. The dust mitigation measures so approved shall be adhered to in full for the whole duration of the construction stage.
  - 11) The vehicular parking and turning areas as shown on approved drawing No. 244 1002 rev G shall be fully laid out, surfaced and drained prior to first use of the development. The areas shall thereafter be retained and kept free of any obstruction and available solely for the parking and turning of vehicles at all times.
  - 12) Development shall not commence until a scheme detailing the layout, design, drainage and construction of proposed new access has been submitted to and approved in writing by the local planning authority. The submitted scheme shall provide visibility splays of 2.4m x 43m in both directions measured to the nearside edge of the adjoining carriageway. The scheme as approved shall be fully implemented prior to first use of the development. Thereafter the visibility splays shall be maintained free of all obstruction to visibility, and no structure shall be placed in this area.
  - 13) No gates or other means of enclosure shall be placed across the vehicular access within 5 metres of the highway.
  - 14) The vehicular access hereby approved shall be surfaced with hard bound materials (e.g. bituminous macadam) for a minimum of 10m back from the adjoining highway prior to its first use.
  - 15) The existing vehicular access to the site shall be closed up by means of a locked gate prior to first use of Phase 2 of the development hereby approved. Thereafter the access shall be used only in the case of an emergency. No pedestrian access shall be permitted via this southern boundary of the site.
  - 16) No equipment, machinery, plant or materials of any kind in connection with the development shall be brought onto the site until tree protection fencing and ground protection measures have been implemented in accordance with details which have first been submitted to and approved in writing by the local planning

authority. The details shall include the location and specification of all protective fencing. Nothing shall be placed or stored within any area fenced in accordance with this condition and the ground levels shall not be altered within these areas, nor any excavations made. The approved tree and ground protection measures shall be kept in place until all external site works have been completed and the removal of the fencing approved in writing by the local planning authority.

- 17) The development hereby permitted shall not commence until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the local planning authority. Development shall take place in strict accordance with the Method Statement as approved. The Method Statement shall define all Root Protection Areas and Construction Exclusion Zones and shall include:

- 1) A full specification for any access, driveway, path, underground services or wall foundations within retained tree root protection areas or construction exclusion zones and construction method so as to avoid damage to retained trees;
- 2) Details of arboricultural protection in relation to development matters including proposed practice in relation to cement mixing, materials storage and burning;
- 3) Details of supervision arrangements and procedures for notifying the findings of supervisory visits to the local planning authority;
- 4) Method for protecting retained trees during demolition works;
- 5) Details of all proposed tree works, including felling and pruning (including the extent of any root pruning);
- 6) Arrangements for written details of any proposed works to retained trees to be provided to the local planning authority a minimum of 10 working days before any such works are carried out, and for a prior meeting to be held on site to enable the local planning authority to review and confirm all work details and procedures and tree protection measures.

The following activities shall not be carried out under any circumstances:

- 1) No fire shall be lit within 10m of the nearest point of the canopy of any retained tree;
- 2) No works (with the exception of the approved tree protection works), including earth works and the bringing onto site of machinery or materials, shall proceed until the approved tree protection measures are in place;
- 3) No equipment, signage, fencing, tree protection barriers, materials, components, vehicles or structures shall be attached to or supported by a retained tree;
- 4) No mixing of cement or use of other materials shall take place within tree root protection areas or construction exclusion zones, or close enough to these that seepage or displacement of those materials or substances could cause them to enter any such area.

The contractor shall give 10 working days written notice to the local planning authority prior to the commencement of any works to the trees on site.

- 18) Within three months of commencement of development full details of a hard and soft landscaping scheme together with a timescale for the implementation of the works shall be submitted to and approved in writing by the local planning authority. The scheme so approved shall include details of a suitable

replacement specimen for the removed tree T12. The approved scheme shall be carried out in full accordance with the approved details and timescale.

- 19) Any trees or shrubs removed, dying, or becoming seriously diseased or damaged within 5 years of the completion of the development shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 20) Development within root protection zones shall only be carried out in accordance with the non-invasive foundation arrangements detailed on approved drawing No. 11062/03 rev B. No part of Phase 2 of the development shall commence until investigation by air-spade has been undertaken to fully determine the extent of roots present in the ground within the footprint of the proposed development. The investigation shall be carried out by a qualified arboriculturalist and the results of this examination together with any necessary methods for minimising the effect of development upon the trees shall be submitted to and approved in writing by the local planning authority. Development shall be carried out strictly in accordance with the approved methods and details.
- 21) The removal of the hedgerow in order to form the new access to the site shall only be carried out outside of the bird nesting season. It shall be replaced by a new hedgerow behind a low stone wall in accordance with the details shown on the approved drawing No 244 1031 rev A within the first available planting season (September to March) following its removal. The detailed planting specification for the new lengths of hedgerow shall be submitted to and approved in writing by the local planning authority before planting is undertaken, and carried out as so approved. Any hedging plants removed, dying, or becoming seriously diseased or damaged within 5 years of planting shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

## **APPEARANCES**

### **FOR THE APPELLANT:**

|                                       |                                            |
|---------------------------------------|--------------------------------------------|
| Mr Matthew Gilbert BSc(Hons)<br>MRTPI | The Planning Consultancy, Malpas, Cheshire |
| Mr Arwyn Evans                        | Pennaf Housing Group                       |

### **FOR THE LOCAL PLANNING AUTHORITY:**

|                                     |                                                                   |
|-------------------------------------|-------------------------------------------------------------------|
| Mr David Williams BA(Hons)<br>MRTPI | Planning Control Manager, Wrexham County<br>Borough Council       |
| Mr Moray Simpson HND<br>MArborA     | Arboricultural Officer, Wrexham County Borough<br>Council         |
| Cllr Mark Pritchard                 | Lead Member Housing & Planning, Wrexham<br>County Borough Council |
| Cllr Terry Evans                    | Chirk South Ward Member, Wrexham County<br>Borough Council        |
| Cllr Ian Roberts                    | Chirk North Ward Member, Wrexham County<br>Borough Council        |

## **DOCUMENTS**

- 1 Copy of Chirk Court, Chirk, Wrexham Tree Preservation Order No. 170, 2010
- 2 Copy of revised LPGN No. 16 Parking Standards (updated November 2011)