



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 16/08/11
Ymweliad â safle a wnaed ar 16/08/11

**gan Gareth A. Rennie BSc (Hons)
DipTP**

**Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 31/10/11**

Appeal Decision

Hearing held on 16/08/11
Site visit made on 16/08/11

by Gareth A. Rennie BSc (Hons) DipTP

**an Inspector appointed by the Welsh Ministers
Date: 31/10/11**

Appeal Ref: APP/H6955/A/11/2152446

**Site address: Shrewds Lair Farm, Ty Broughton Hall Lane, Tallarn Green,
Threapwood, Malpas**

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 failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Time & Leisure Ltd against Wrexham County Borough Council.
 - The application Ref P/2011/0082, is dated 21 January 2011.
 - The development proposed is the erection of an agricultural worker's dwelling
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Decision

1. The appeal is allowed and planning permission is granted for the erection of an agricultural worker's dwelling at Shrewds Lair Farm, Ty Broughton Hall Lane, Tallarn Green, Threapwood, Malpas in accordance with the terms of the application, Ref P/2011/0082, dated 21 January 2011, and the plans submitted with it, subject to the conditions in the schedule at the end of this decision:

Application for costs

2. At the Hearing an application for costs was made by Time & Leisure Ltd against Wrexham County Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application is for outline permission with all matters except for access reserved and I have proceeded on that basis.
 4. The appeal is against the failure of the Local Planning Authority (LPA) to determine an application for planning permission within the statutory period. However the LPA have indicated the grounds on which they would have refused the application.
 5. These are, that the LPA considers that the appellant has not demonstrated that the enterprise has been planned on a sound financial basis with prospects of remaining economically sustainable. I have, therefore, proceeded on that basis.
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Main Issue

6. Whether the arguments in support of the proposed dwelling are sufficient in this case to justify an exception to policies designed to control the provision of housing and protect the countryside.

Reasons

7. National planning guidance in Technical Advice Note 6 – *Planning for Sustainable Rural Communities* (TAN 6) says that new dwellings should only be allowed to support established rural enterprises provided there is a clearly established functional need for a full time worker to reside on site; that the enterprise has been established for at least three years, profitable for at least one of them and both the enterprise and the business need for the job is currently financially sound, and has a clear prospect of remaining so.
8. In this case the LPA has accepted that there is a functional need for one full time worker to be on the holding, and during the hearing and my site visit there was no evidence that this was not the case. Indeed, on that basis planning permission was granted on appeal in 2006 for the siting of a temporary agricultural worker's dwelling on the site (ref: APP/H6955/A/06/1198124). A variation to a condition to that permission allowed the caravan to remain on site until 31 December 2010. I have no reason to take a contrary view.
9. A subsequent planning application for a permanent dwelling (ref: 2010/0338) was refused by the LPA for the reason that the long term financial viability of the holding had not been established because of an over reliance on short terms agricultural lets.
10. The appellant has provided evidence in this case that the holding has been established for at least three years and has been profitable for at least one of them. The Council is concerned that the recent disposal of stock has shown an inflated level of profitability and that the depletion of the suckler herd that arose from this disposal has undermined the future viability of the holding. The appellant has shown that there has been a change of emphasis within the herd to the breeding of pedigree stock. I consider that whilst a good deal of change has occurred that the direction and future viability of the herd continues to be established on a firm basis. The stock on a farm should not be considered as part of the permanent assets of the farm but the herd in itself represents an annual level of profit and that the disposal of stock could be realistically carried out at any time subject to market demands. In this case there have been replacements of pedigree stock and although the herd remains depleted I consider that this is only a temporary fluctuation in numbers.
11. The use of short term lets, often informal, is accepted practice within agricultural enterprises. Nevertheless, the appellant has also succeeded in transferring previously informal tenancy agreements into 7 year agricultural tenancies with about 2.4 hectares of the total 42 hectares remaining on short term lets. This would strengthen the long term viability of the enterprise.
12. Overall, the appellants have provided evidence that the farm business is well established, has a substantial capital base and that has operated at a profit. The farm is currently expanding and employs one person on a full-time basis. I am satisfied that there is sufficient security of tenure within the overall landholding to maintain this.
13. The future viability of the holding should also consider the ability of the business to absorb the cost of the new dwelling. The average profit level of would seem to indicate

that this is the case and I conclude, therefore, that in this the financial tests, contained within TAN 6 are satisfied.

14. TAN 6 also says that other tests should still apply, most notably the 'other dwelling' test and 'other normal planning requirements' test. Shrewds Lair lies close to the settlements of Tallarn Green and Threapwood and I consider that the suitability of other dwellings nearby to fulfil the role of a second dwelling has not been fully explored. Nevertheless, the settlements do lie some distance away from the farm and I consider that houses within it would be too distant to fulfil the functional requirement of a key worker at the farm.
15. The proposal would introduce a new built element into the site. However, I consider that it would be sufficiently close to and functionally connected to the farmstead as to be seen as part of the existing cluster of buildings. I would conclude that the proposals would not, in principle, harm the character and appearance of the area and that there could be sufficient control through conditions to control the effect of the reserved matters, and to ensure that the visual amenity of the area is not damaged. Overall the proposal satisfies the requirements of TAN 6 and policy H5 of the Wrexham Unitary Development Plan.
16. Consequently for the reasons given above and having considered all other matters raised I conclude that the appeal should be allowed.

Conditions

17. In addition to the appropriate time limit conditions, I agree with the LPA that it is appropriate to limit the occupancy of the dwelling in accordance with national planning policy to ensure that it is kept available for meeting such need. I also agree it is necessary to impose conditions limiting the size of the dwelling and removing relevant permitted development rights to ensure it is appropriate to the enterprise it serves.
18. I have also imposed conditions requiring a scheme for the landscaping of the site and appropriate boundary treatment, and details of external materials in order to protect the character and appearance of the area. Conditions have also been included to secure an appropriate level under the Code for Sustainable Homes and an appropriate Dwelling Emission Rate in accordance with current Welsh Government advice. I also agree with the LPA that it is appropriate to require an updated ecological assessment of the site.
19. I do not agree with the Council that there needs to be amendments to the access. There is reasonable visibility at the junction and speeds along the road at this point are generally low. In addition the access is already in use as a farm access and there is sufficient space for vehicles to pull off the road before the gate. Moreover, any alterations to the access could have damaging impact on the hedgerows and trees at this point which are not warranted by the level of risk to road safety.

Gareth A. Rennie

Inspector

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) Development shall not begin until details of vehicle parking and turning areas have been submitted and approved in writing by the local planning authority; the dwelling hereby permitted shall be occupied until space has been laid out within the site in accordance with that scheme for and for vehicles to turn so that they may enter and leave the site in forward gear.
- 5) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and an implementation and maintenance programme.
- 7) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building is occupied or in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) The dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 3 and achieve 1 credit under category Ene 1 in accordance with the requirements of Code for Sustainable Homes: Technical Guide November 2010.
- 9) No development shall begin until details of a 'Design Stage' assessment and related certification have been submitted to and approved in writing by the Local Planning Authority to demonstrate that each dwelling hereby permitted will achieve a minimum Code for Sustainable Homes Level 3 and achieve 1 credit under category Ene 1 in accordance with the requirements of Code for Sustainable Homes: *Technical Guide November 2010*. The development shall be carried out entirely in accordance with the approved assessment and certification unless the local planning authority shall otherwise consent in writing.
- 10) The dwellings hereby permitted shall not be occupied until a Code for Sustainable Homes 'Post Construction Stage' assessment has been carried out in relation to

it, a Final Code Certificate' has been issued for it certifying that Code Level 3 and 1 Credit under Ene 1 have been achieved and the certificate has been submitted to and approved in writing by the local planning authority.

- 11) 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 development within Classes A, B and E of Part 1 of Schedule 2 shall be carried out to the building hereby approved.
- 12) The occupation of the dwelling shall be limited to:
 - a. a person solely or mainly working, or last working, on a rural enterprise in the locality or a widow, widower or surviving civil partner of such a person, and to any resident dependants;or if it can be demonstrated that there are no such eligible occupiers,
 - b. a person or persons who would be eligible for consideration for affordable housing under the local authority's housing policies: or a widow or widower or civil partner of such a person and any resident dependants.
- 13) No part of the development shall commence until an updated Ecological Assessment (Great Crested Newt) as carried out by a qualified ecologist has been submitted to and approved by the Local Planning Authority. The report shall include an Ecological Method Statement demonstrating/identifying any measures of protection/compensation/mitigation and demonstrate management in the short or long term. The recommendation as approved shall be implemented in strict accordance with timescales to be agreed before any part of the development commences on site.

APPEARANCES

FOR THE APPELLANT:

Stephen Goodwin BA (hons) Appellant's Agent
MCD MRTPI

Chris Harvey BSc (hons) MEIAC Harvey Hughes Ltd, Blackmoss Court, Blackmoss
Road, Dunham Massey, Cheshire, WA14 5RG

Mr Alan Fitton Time & Leisure Ltd, Appellants

FOR THE LOCAL PLANNING AUTHORITY:

Kevin Hughes Senior Planning Officer

Alun Jones Development surveyor

DOCUMENTS

- 1 Letter of Notification
- 2 Email exchange re Delegated Powers

PLANS

- A Bundle of application plans