



APPEARANCES

FOR THE APPELLANT:

J Williams BSc Dip EP MRTPI
A S Booth Assoc RICS

FOR THE LOCAL PLANNING AUTHORITY:

S Holman
J Plant BEng(Hons) CEng MICE
P Palmer MIEHIE (Eng Tech)

Documents submitted to the hearing

- 1 E mail from A Minson
- 2 Letter from J Humberstone

Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 1/02/11
Ymweliad â safle a wnaed ar 1/02/11

**gan Mr A Thickett BA(Hons) BTP
MRTPI DipRSA**

Appeal Decision

Hearing held on 1/02/11
Site visit made on 1/02/11

**by Mr A Thickett BA(Hons) BTP
DipRSA**

Arolygydd a benodir gan Weinidogion Cymru an Inspector appointed by the Welsh Ministers
Dyddiad: 18/02/11 Date: 18/02/11

Appeal Ref: APP/H6955/A/10/2139180
Site address: 81 Benjamin Road, Smithfield, Wrexham, LL13 8EG

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 Dr John Marek against the decision of Wrexham County Borough Council.
- The application Ref WRC P/2010/0712, dated 14 August 2010, was refused by notice dated 13 October 2010.
- The development proposed is the construction of two, one bed apartments.

Decision

1. I dismiss the appeal.

Main Issues

2. The main issues are:

- the impact of the proposal on highway safety
- whether the proposed garden space would provide satisfactory living conditions for prospective residents
- the impact of the proposal on the living conditions of neighbouring residents with regard to privacy

Reasons

Highway safety

3. The appellant proposes to construct a two storey extension to the side of No. 81 Benjamin Road to accommodate two flats. The appeal site was formerly part of the garden to No. 81 but is now in separate ownership. Two parking spaces would be provided for the flats and No. 81 would be served by at least two parking spaces on a drive between the appeal site and No. 83 Benjamin Road.
4. The Council's parking standards require a maximum of 3 spaces to serve the flats and a maximum of 4 spaces to serve No. 81. Policy T8 of the Wrexham Unitary Development Plan 1996-2011 (UDP) relates to car parking and states that regard

should be had to, amongst other things, amenity considerations arising from on street parking and the proximity of local services and facilities. The site is a short walk from Wrexham town centre and the Council accepted at the Hearing that this is a location where less than the maximum number of spaces may be acceptable. The Highway Authority has no objections in this regard and I consider provision to be adequate in light of the proximity of the site to the town centre. I consider that the number of on street spaces lost by the construction of the proposed access would be compensated by the provision of the off street spaces created to serve No. 81. I conclude, therefore, that the proposal complies with Policy T8 of the UDP.

5. Part of the wall enclosing the site has been removed to allow access to the 'drive' to serve No. 81 and a rough hardstanding has been laid. No access crossing has been formed and I saw that two brick copings were placed adjacent to the kerb to enable a vehicle to mount the kerb and gain access to the site. The access is sandwiched between two high walls and a driver leaving the site would have little or no warning of approaching vehicles or pedestrians on the footpath.
6. The Council accept that the access and hardstanding benefit from permitted development rights but argue that it is not bound to accede to a request made under Section 184 of the Highways Act 1980 to construct an access crossing. However, the Council conceded that, concerns regarding visibility apart, it would be technically possible to construct an access crossing. It would not be appropriate for me to comment regarding an application that may be made under the Highways Act. I have confined myself to the likely impact of the appeal proposal on the use of the existing access.
7. The Council accepted at the Hearing that reducing the height of the existing wall to create a visibility splay to serve the proposed development would improve visibility to the south of the existing access. The appellant indicated at the Hearing that visibility could be improved still further by reducing the height of the whole of the wall, limiting the height of any fence on the northern boundary of the appeal site and relocating one of the proposed parking spaces. The appeal proposals would have no impact on visibility to the north. However, I consider that, subject to the appellant's suggestion being implemented, the proposal would improve visibility to the existing access to the benefit of highway safety.
8. In order to achieve adequate visibility to the south of the proposed access, part of the wall to the front of No. 81 would have to be removed and, depending on finished levels, part of the front garden may need to be excavated. A letter from the occupier of No. 81 states that he would be prepared to 'add a covenant to the property deeds that would reduce and limit the height of both structures and planting in the front garden area of No. 81 Benjamin Road'. The appellant accepted at the Hearing that this statement was not sufficient to guarantee that the proposed visibility splay would be provided. The proposed access lies on the inside of a sharp bend and the wall to the front of No. 81 would obstruct the view a driver would have of vehicles approaching from the south. Further, drivers approaching from the south would not have sufficient warning of a vehicle emerging from the appeal site.
9. I am aware that few, if any, of the parking areas and drives in the area satisfy current standards. Also a large number of residents do not have the benefit of off street parking and drivers have to negotiate carefully around parked cars. However, this does not justify the acceptance of a substandard access the use of which could be potentially hazardous and my conclusions in this regard outweigh my other findings

regarding this main issue. I conclude that the proposal would have a detrimental impact on highway safety and that it conflicts with Policy GDP1(d) of the UDP.

Living conditions

10. A consequence of lowering the wall to the front of the site would be that anyone walking by would be able to overlook all the amenity space serving the flats. However, many occupiers of small flats and particularly young, single people living in towns feel no need for a garden and I am not persuaded that it is necessary for prospective residents to be provided with private outdoor amenity space. Although the rear of the flats would be readily accessible, the Council accepted at the Hearing that there would be good natural surveillance from the road.
11. The rear bedroom window to the first floor flat would only be 11m from the kitchen window to No. 83 Benjamin Road. Anyone looking out of that window would be able to look over the intervening walls directly into the kitchen to No. 81. They would also be able to observe the residents of that property in their rear yard. Overlooking is inevitable in tight knit urban areas but I consider that the relationship between the existing and proposed properties would lead to an unacceptable loss of privacy to the occupiers of No. 83.
12. The appellant suggested that the lower half of the bedroom window could be obscure glazed in common with the windows to the living/dining/kitchen. The submitted plans show no sections through the building but it is likely an adult would be able to see over the obscure glazing. Further, I agree with the Council that to have all windows part obscure glazed would provide unsatisfactory living conditions for prospective residents.
13. Notwithstanding my findings with regard to amenity space, I consider that the detrimental impact of the proposal on the privacy of the occupiers of No. 83 Benjamin Road provides compelling grounds to dismiss this appeal. I conclude that the proposal would have an unacceptable impact on the living conditions of neighbouring residents and that it conflicts with Policy GDP1(f) of the UDP.

Conclusions

14. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be dismissed.

Anthony Thickett

Inspector