



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 29/06/10
Ymweliad â safle a wnaed ar 29/06/10

Appeal Decision

Hearing held on 29/06/10
Site visit made on 29/06/10

gan/by Iwan Lloyd BA BTP MRTPI

**Arolygydd a benodir gan Weinidogion
Cymru**

**an Inspector appointed by the Welsh
Ministers**

Dyddiad/Date 26/08/10

Appeal Ref: APP/H6955/A/10/2125072

Site address: Oakmead, Golly, Burton Green, Rossett LL12 0AL

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 R J Cliffe against the decision of Wrexham County Borough Council.
- The application Ref ROS P/2009/0586, dated 2 July 2009, was refused by notice dated 18 September 2009.
- The development proposed is the demolition of a dwelling and erection of a replacement dwelling.

Decision

1. I allow the appeal, and grant planning permission for the demolition of a dwelling and erection of a replacement dwelling at Oakmead, Golly, Burton Green, Rossett LL12 0AL in accordance with the terms of the application, Ref ROS P/2009/0586, dated 2 July 2009, and the plans submitted with it, subject to the conditions in the schedule below.

Preliminary Matters

2. During the course of the appeal, the Appellant has submitted an alternative proposal to exclude part of the land to the rear of the existing dwelling and to withdraw the proposal for the garage. However, at the hearing it was clarified that this alternative proposal should only be considered an option if the original submitted scheme was dismissed. I have therefore considered this appeal on the basis of the original submission, which includes the garage and rear parcel of land. The Appellant has submitted a number of signed statutory declarations that the disputed parcel of land had been used as garden land in connection with the dwelling. This matter cannot be determined under a Section 78 appeal and the issue of the lawfulness of the land can only be considered under an application for a Certificate of Lawful Use under Section 191/192 of the Act as amended. I have therefore considered the matter of the garden land on its planning merits.
3. The Council has withdrawn the reason for refusal on protected species following the Appellant's submission of an ecological survey. This matter is no longer in dispute.

4. Planning permission has been granted for a replacement dwelling in April 2010 under reference P/2010/0111. This proposal differs to the appeal submission in that the front east wing is single storey as opposed to a two storey wing. Similarly, a two storey rear wing and a single storey utility room have been added where this is not included in the approved scheme. Furthermore, no garage is shown in the previous scheme and the garden land excludes the rear parcel. The approved proposal under reference P/2010/0111 is a material consideration when comparing it against the appeal proposal, as there is a real prospect that it would be implemented, should this appeal fail.
5. There is also planning permission for the conversion of a two storey outbuilding to 2 no. holiday units which is currently being adapted. This building is situated between the existing dwelling and the rear parcel of land. To the northern end of the rear parcel is a building which is now used for stabling. A manage adjoins the stable block but this is located outside of the appeal site.

Main issue

6. This is the effect of the proposal on the character and appearance of the area.

Reasons

7. The appeal site is located in the countryside whereby policies of rural restraint seek to protect it against unjustified development. One exception to this is the replacement of an existing dwelling in the countryside under Policy H10 of the Wrexham Unitary Development Plan (UDP). Planning permission has already been granted for a replacement dwelling on the site, and so the principle of replacement has been established, but the Council's concern relates to the proposed dwelling's size and scale in comparison to the existing dwelling, and the size of the extended garden and garage. UDP Policy H10 seeks to ensure that the proposed dwelling reflects the floor area, form, bulk, and character of the original dwelling. There is no empirical limitation to the permitted size of the proposed dwelling in the policy. The explanation for the policy also indicates that as well as reflecting the existing dwelling the replacement proposal should lead to an improvement in the rural area.
8. UDP Policy H10 also refers to Policy GDP1, which is a generic policy seeking amongst other things, that all new development accords with the character of the area in terms of scale, design and materials and makes a positive contribution to the appearance of the locality. The policy explanation refers to the Council issuing supplementary planning guidance on design, but no indication as to what these might cover. However, I have been referred to Local Planning Guidance Notes (LPGNs), No.13 Housing in the Countryside, and LPGN No. 14 Garden Extensions in the Countryside.
9. LPGN No.13 seeks to ensure that the volume of a replacement dwelling should not be more than one third larger than the existing dwelling. However, it appears that the approved development significantly exceeds this limitation. The Council conceded at the hearing that it does not wholly rely on LPGN No.13 in assessing the size increase of the proposal over and above the existing dwelling, because it could not indicate what the consultation arrangements were for the guidance or to produce a statement setting out the steps that led to its adoption. In my view, this undermines the weight which could be given to the guidance in this particular case. As a consequence, the Council relies on policy, which provides no quantifiable limitation to the increase permitted. In any event, the previous approved dwelling would have been considered against UDP Policy H10, and this was significantly larger than the one third volume increase limitation expressed in the guidance.

10. The existing dwelling is a modest scaled building similar in massing and composition to the cluster of houses to the west, but in this case, the appeal property is detached, located on the edge of the group and set in extensive landscaped grounds. The appeal proposal is a different style of building. It is an oak frame building, utilising brick and render. Its composition provides variable stepped rooflines and set-back side wings, providing an intricate and proportionate design. In my view, the proposed front east wing which is set marginally lower than the main ridge line of the house provides a balance to the dwelling. It is not a disproportionate addition over and above that which was previously approved, and does not add significantly to the bulk of the dwelling. Due to the proposed orientation of the dwelling, and its set-back front east wing results in a successful visual transition to the existing position and scale of the converted outbuilding to the north-east, than would be the case if the previously approved scheme was built.
11. The proposed rear addition over and above that which was previously approved would not be perceptible from public vantage points. The footpath in the fields to the rear is a considerable distance away, and the rear boundary is densely landscaped. The proposed dwelling would not be a disproportionate size in relation to its visual effect on the character and appearance of the area over that which was previously approved. The previously approved scheme is a fallback position of considerable weight in determining the acceptability of this proposal since it was considered an acceptable development in relation to UDP planning policies.
12. I note the concern that the proposed garage adds to the volume calculation of the house, but the garage would be some distance away and would be visually separated from the house by the converted outbuilding. The proposed garage would be located in the parcel of land forming part of the extended curtilage. In my view, its size, design and position is sympathetic to the character and appearance of the area, and is reasonably well screened. Similarly, the area of land which also includes a former agricultural building but now provides stabling has limited resemblance to an agricultural field. Instead it relates functionally and visually to the house. The presence of a landscape feature on the boundary, its aspect and location and its limited contribution to productive agricultural use, convinces me that the extended garden area does conflict with the requirements of LPGN No.14 and UDP Policy GDP1.
13. I therefore conclude that the proposal would not harm the character and appearance of the area, and would not undermine UDP Policies H10, GDP1 and EC5, which deals with development in the Special Landscape Area. This is principally due to what has previously been granted planning permission on the site and the comparison between this and the appeal proposal. For the reasons given above I conclude that the appeal should be allowed.

Schedule of conditions

14. I have considered the Council's suggested conditions and the response from the Appellant. I note the concern about restricting permitted development rights in relation to the dwelling and the extended garden, but the condition serves a planning purpose, as allowing the development is a justified exception to the policies of rural restraint in accordance with UDP Policy H10. Further building in this location, without control, could erode the intrinsic quality of the area. The policy itself specifies that such a condition is needed and is therefore imposed in the interests of the visual appearance of the area, in accordance with the advice contained in paragraph 87 of Circular 35/95. The Appellant indicates that the dwelling would achieve level 3 Code for Sustainable Homes and is content on the imposition of such conditions to ensure compliance. This is in accord with the

aspiration of national policy and the proposal's design and layout has taken account of this in its design and access statement. Conditions 2 and 4 are needed to ensure a satisfactory standard of development and to protect wildlife interests.

- 1) The development hereby permitted shall begin not later than five years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings 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.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions, additions to the dwelling as built or buildings in the curtilage shall be erected under Classes A, B, C and E of Schedule 2 Part 1.
- 4) The development shall be carried out in strict accordance with Section 8 of the Protected Species Survey carried out by Clwydian Ecology dated 15 December 2009.
- 5) The construction of the dwelling hereby permitted shall not begin until an 'Interim Certificate' has been submitted to the local planning authority, certifying that a minimum Code for Sustainable Homes Level 3 and minimum of 6 credits under 'Ene1 – Dwelling Emission Rate', has been achieved for the dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide May 2009.
- 6) Prior to the occupation of the dwelling hereby permitted, a Code for Sustainable Homes 'Final Certificate' shall be submitted to the local planning authority certifying that a minimum Code for Sustainable Homes Level 3 and minimum of 6 credits under 'Ene1 – Dwelling Emission Rate', has been achieved for the dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide May 2009.

Iwan Lloyd

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr P Lloyd BA Hons MRTPI	Appellant's agent
Dr and Mrs Cliffe	Appellants

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Phillips MSc MRTPI	Wrexham County Borough Council
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DOCUMENTS SUBMITTED AT THE HEARING

- 1 Council's notification letter and list of those notified
- 2 Copies of plans P/2010/0111
- 3 Scaled copy of site plan P/2009/0586
- 4 Copy of planning permission ROS P/2002/1081
- 5 Plan of footpaths in the area