



Penderfyniad ar Apêl

Ymweliad safle a wnaed ar 19/08/10

Appeal Decision

Site visit made on 19/08/10

gan/by Emyr Jones BSc(Hons) CEng MICE MCMI

**Arolygydd a benodir gan Weinidogion
Cymru**

**an Inspector appointed by the Welsh
Ministers**

Dyddiad/Date 07/09/10

Appeal Ref: APP/H6955/A/10/2129383

Site address: Oak Lodge, Holt Road, Cross Lanes, Wrexham LL13 0TU

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 Stuart Rigby against the decision of Wrexham County Borough Council.
- The application Ref P/2010/0077, dated 8 March 2010, was refused by notice dated 16 April 2010.
- The development proposed is a change of use from a residential dwelling to a children's day nursery and alterations to the existing vehicular access.

Decision

1. I allow the appeal, and grant planning permission for a change of use from a residential dwelling to a children's day nursery and alterations to the existing vehicular access at Oak Lodge, Holt Road, Cross Lanes, Wrexham in accordance with the terms of the application, Ref P/2010/0077, dated 8 March 2010, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than five years from the date of this decision.
 - 2) The children's day nursery hereby permitted shall be operated in accordance with the details described in the letter to the local planning authority's Chief Planning Officer dated 8 March 2010.
 - 3) Notwithstanding the provisions of the Town and Country Planning (Use Classes Order), the premises shall only be used as a children's day nursery.
 - 4) The children's day nursery hereby permitted shall not accommodate more than 45 children (including babies and toddlers) at any time.
 - 5) Prior to the children's day nursery being brought into beneficial use, the first floor doorway to the balcony/terrace shall be permanently blocked up in as shown on approved floor plan Drawing No 3A dated November 2009. No other access to, or use of, this area shall be permitted.
 - 6) The vehicular access shall be provided with visibility splays of 2.4m by 120m in both directions, measured to the nearside edge of the adjoining carriageway as indicated on the approved proposed visibility splays plan

- Drawing No. 2A dated November 2009, within which there shall be no obstruction in excess of 1m in height, prior to the children's day nursery being brought into beneficial use.
- 7) The vehicular access shall be provided with pedestrian visibility splays of 2.4m by 3.3m in both directions, measured from the back of the footway, in which there shall be no obstruction in excess of 0.6m in height, as indicated on the approved access plan drawing No 2A/3 dated November 2009, prior to the children's day nursery being brought into beneficial use.
 - 8) The vehicular access shall be widened to a minimum of 4.8m in accordance with approved access plan drawing No 2A/3 dated November 2009 prior to the children's day nursery being brought into beneficial use and thereafter retained as approved.
 - 9) The access shall be surfaced with hard bound materials for a minimum distance of 5m behind the highway boundary prior to the children's day nursery being brought into beneficial use.
 - 10) No gates shall be erected across the access within 5m of the highway boundary.
 - 11) Prior to the children's day nursery being brought into beneficial use, the existing footway fronting the site shall be widened to 2m in accordance with construction details previously submitted to and approved in writing by the local planning authority.
 - 12) The proposed parking, drop off/pick up, and turning areas shall be surfaced using hard bound materials in accordance with the approved landscape scheme at Appendix 6 of the Arboricultural Impact Assessment (Phase 2) Ref. No. 10/AIA/P2/WXM/35 –Rev A dated 10 March 2010 prior to the children's day nursery being brought into beneficial use. These facilities shall thereafter be permanently retained free of all obstruction and available for the parking and turning of vehicles at all times.
 - 13) Prior to the children's day nursery being brought into beneficial use, the existing telegraph pole fronting the site shall be relocated to the back of the footway provided pursuant to condition 11 above and behind the visibility splay required by condition 6 above.
 - 14) The children's day nursery hereby approved shall not operate outside the hours of 0800 to 1800 Monday to Friday and shall not operate at all on weekends and bank holidays.
 - 15) Development shall be carried out in accordance with the details contained in Arboricultural Impact Assessment (Phase 2) Ref. No. 10/AIA/P2/WXM/35 – Rev A dated 10 March 2010 unless otherwise agreed in writing by the local planning authority.
 - 16) Any trees or shrubs forming part of the approved landscape scheme at Appendix 6 of the Arboricultural Impact Assessment (Phase 2) Ref. No. 10/AIA/P2/WXM/35 –Rev A dated 10 March 2010 shall be planted in the first planting season following the completion of development or the children's day nursery being brought into beneficial use, whichever is the sooner. Any trees or shrubs which are removed, die, become severely damaged or seriously diseased within 5 years of planting, shall be replaced

- by trees or shrubs of similar size and species to those originally required to be planted unless otherwise approved in writing by the local planning authority.
- 17) A schedule of landscape maintenance for a minimum period of 5 years shall be submitted to and approved in writing by the local planning authority prior to the children's day nursery being brought into beneficial use. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.
 - 18) All hardsurfacing works, including excavations and the removal of existing surfacing, to be carried out within the tree root protection areas of retained trees as detailed in Arboricultural Impact Assessment (Phase 2) Ref. No. 10/AIA/P2/WXM/35 –Rev A dated 10 March 2010 shall be supervised by a qualified arboriculturist at all times. The supervising arboriculturist shall give the local planning authority 14 days notice in writing of the intended start date of the works to be supervised.
 - 19) Prior to their use on site, full details of the proposed hard standing wearing course 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.
 - 20) Before the use as a children's day nursery begins, a scheme for the installation of equipment to control the emission of fumes and smell from the premises shall be implemented in accordance with details previously submitted to and approved in writing by the local planning authority. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.
 - 21) Prior to the commencement of any of the works hereby approved, an ecological method statement shall be submitted to and approved in writing by the local planning authority detailing any reasonable avoidance measures necessary in connection with habitats on the site. Development shall be carried out in accordance with the approved method statement.

Main issue

2. I consider the main issue in this case to be whether the proposal would be likely to result in uncontrolled and indiscriminate parking that would be detrimental to highway safety on Holt Road.

Reasons

Parking

3. The appellant's current nursery at Borrás Park is registered for 61 children with 8 parking spaces and this does not appear to cause any parking problems. In this case more (12 plus a further 6 for staff) parking spaces would be provided with the proposed nursery intended to take less (45) children. The Council's Operational Manager Traffic & Transportation is of the view that the proposed level of provision would be adequate. Having regard to anticipated numbers of children and staff, I have no reason to disagree.

4. Notwithstanding that it is subject to the national speed limit, given the geometry of the road, the Operational Manager Traffic & Transportation estimates typical vehicle speeds on Holt Road (B5130) outside the site to be around 40mph. This is supported by the 85th percentile value of 44mph from a speed survey outside School House which is further from the traffic signal controlled junction to the south west of the appeal site. Nonetheless, Holt Road is quite busy at certain times of the day and I agree with the Council that indiscriminate parking of vehicles on the highway would be detrimental to highway safety.
5. However, subject to the provision of a safe means of egress through the widening and visibility improvements proposed, I have no reason to believe that parents of children attending the nursery, whose prime concern would be the safety of their own children, would park on the highway when sufficient off road provision would be available nearer to the nursery's main door. I conclude that the proposal would not be likely to result in uncontrolled and indiscriminate parking on Holt Road.
6. Drop off and collection times at a nursery cannot be compared to a school which has set times for the start and end of the school day. At nurseries there are no set times with drop off times being typically spread over a period extending from 0800 to 1000 and collection times also being spread across an extended period between 1600 and 1800. As a result, vehicular movements associated with drop off and collection would be well spread out and would not be sufficient to materially increase the likelihood of danger to other road users.
7. The proposal does not, therefore, conflict with criterion d) of policy GDP1 to the *Wrexham Unitary Development Plan*.

Other considerations

8. The proposal would result in the loss of some trees. However, an Arboricultural Assessment has confirmed that the trees to be removed are of no significant amenity value and past their best. Furthermore, compensatory planting would be provided and trees of a high amenity value are to be retained.
9. The proposal includes for the blocking off of an existing first floor doorway giving access to the flat roof on the boundary with the adjoining property at Whispering Pines which could be used as a terrace/balcony. This could be secured by condition, which could also prohibit use of the flat roof area, and would be sufficient to prevent overlooking of the neighbouring property from the flat roof area. The concerns relating to fumes and odours from extraction systems could be addressed by requiring the Council's prior approval of the systems to be used.
10. The high brick wall separating the rear garden to Oak Lodge from Whispering Pines would assist in mitigating any noise resulting from children playing in the designated play area which would be located away from the boundary. Furthermore, the number of children able to use the play area at any time would be constrained by its size. As a result, the proposal would not be likely to result in levels of noise and disturbance that would significantly harm the living conditions of the occupiers of Whispering Pines.
11. Whilst land in the ownership of the occupiers of Drewton House extends to the rear of both Whispering Pines and Oak Lodge, it is extensive in nature with a line

of trees and scrub located adjacent to the boundary with Oak House. In these circumstances, I am satisfied that the proposal would not impact on the living conditions of the occupiers of Drewton House.

12. As noted in the relevant committee report, potential competition is not a relevant consideration and there is no requirement for the appellant to justify a need for the nursery. A refuse storage area would be provided in the corner furthest from neighbouring dwellings. Access for maintenance purposes is a private matter between the parties concerned. The other matters raised by interested parties are not sufficient reasons to dismiss the appeal.

Conditions

13. The Council submitted a list of suggested conditions with reasons. Subject to minor modification in the interests of clarity and precision, and the following specific matter, I am satisfied that these should be imposed for the reasons given. The specific matter is that Circular 35/95 on *The Use of Conditions in Planning Permissions* notes that conditions requiring development to be carried out in complete accordance with the approved plans often fail the test of need by requiring more than is needed to deal with the problem they are designed to solve. In the absence of any specific justification, I see no need for such a condition in this case.
14. In my reasoning, I have also referred to the need for prior approval of extraction systems to protect residential living conditions and will impose an appropriate condition. The Addendum to the relevant committee report recommends an additional condition to safeguard any features of ecological interest on site and this should also be imposed.

Overall conclusion

15. For the reasons given above I conclude that the appeal should be allowed.

E Jones

Inspector