

**Town and Country Planning Act 1990
Section 78 Appeal**

Appeal at 6 Fox Close, Summerhill, Wrexham, LL11 4QH.

COUNCIL'S STATEMENT OF CASE

PINS Ref: 3270062

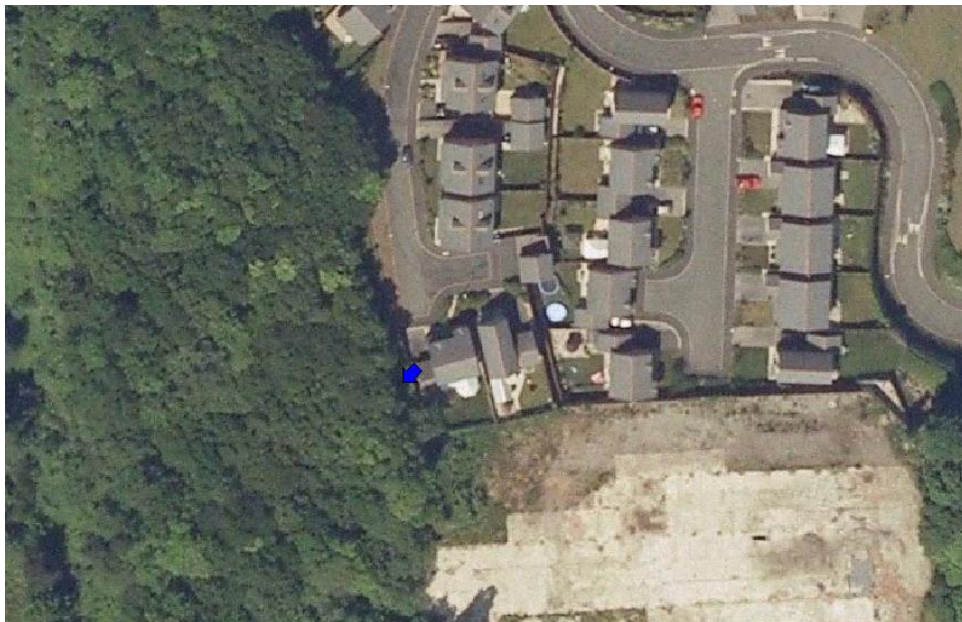
LPA Ref: P/2020/0587

1 INTRODUCTION

- 1.1 The Council request that the appeal be dismissed for the reasons set out on the planning decision notice.
- 1.2 Please note, the Officer Report indicates that the application site is located outside the settlement limit and within Green Barrier. This is an error, the application site lies within the settlement limit of Gwersyllt.

2 THE SITE

- 2.1 The application site lies within the settlement limit of Gwersyllt, as identified on UDP Policy Map 3 INSET 5.
- 2.2 The site comprises a strip of land, running alongside the western boundary of the existing dwelling and its associated residential curtilage.
- 2.3 The land is raised and set at a higher level than the existing dwelling and its curtilage.
- 2.4 Aerial Mapping from the Council's Mapping System in 2009 shows the site was previously occupied by dense tree cover. Please see the image below showing this and the blue arrow indicating the approximate location of the application site.



- 2.5 Google Maps, taken at a later date than 2009 given this now shows residential development to the south of the site, also indicates that this piece of land was subject to tree cover. Please see the image below with the red arrow indicating the approximate location of the appeal site.



2.6 The trees have since been removed.

2.7 A fence, measuring in excess of 2m in height has been erected at the front of the site (north) and runs along part of the eastern boundary of the appeal site.

3 THE PROPOSAL

3.1 The proposal seeks planning permission to change the use of the site to residential curtilage as well as to retain the fence.

3.2 The proposal is made partly in retrospect, with the fence already having been erected and the land subject of the change of use being cleared of any trees which were present.

4 RELEVANT PLANNING POLICIES

4.1 The relevant plan in force in the area is the Wrexham Unitary Development Plan (1996 – 2011).

4.2 Relevant local planning policies are GDP1 and EC4.

4.3 The Council's Questionnaire includes the above mentioned policies in full.

5 CASE FOR THE LOCAL PLANNING AUTHORITY

Reason for Refusal 1

- 5.1 The appeal site is set at a higher land level than the neighbouring property to the south.
- 5.2 Based on the submitted Location Plan, the site extends beyond the existing rear boundary line of No 6 Fox Close, protruding towards the property to the south, No 24 Celtic Road, Summerhill.
- 5.3 Please see the photograph below showing the proposed rear (southern) boundary of the site in relation to the property at No 24 Celtic Road.



- 5.4 The proposal would result in an increase in overlooking into the neighbouring property and its associated residential curtilage, resulting in a loss of privacy to its occupiers.
- 5.5 There is currently a boundary fence and planting across the rear boundaries between No 6 Fox Close and No 24 Celtic Road, which provides a substantial amount of screening between both properties. Please see photos below.



- 5.6 The proposal would introduce additional overlooking impacts into the neighbouring property, over and above the existing situation, to the detriment of the occupiers of the neighbouring property.
- 5.7 UDP Policy GDP1 requires that all new development proposals safeguard the amenity of the public. This proposal would result in increased overlooking into the neighbouring property and its associated residential curtilage, adversely impacting residential amenities of its occupiers. The proposal is in conflict with UDP Policy GDP1.

Reason for Refusal 2

5.9 Erection of fence

- 5.10 The fence is sited at the front of the application site (northern boundary) and runs along part of the eastern boundary.
- 5.11 The height of the fence is considered to be excessive, particularly when viewed along the street scene.
- 5.12 The overall appearance of the fence, by virtue of its entire timber clad design and when coupled with its height and prominence within the street scene, would have the effect of appearing as a dominant and discordant addition in relation to the surrounding locality.
- 5.13 On this basis, the fence is not considered to accord with the character of the site and does make a positive contribution to the appearance of the locality, conflicting with UDP Policy GDP1.

5.14 Change of use of land

- 5.15 UDP Policy EC4 states that development proposals should provide for the conservation of trees and that development which results in the loss of valuable trees, will not be permitted.
- 5.16 The application site appeared to previously form part of an existing woodland corridor, running along the western boundary of the existing dwelling and its curtilage.
- 5.17 Numerous trees have been removed to facilitate the proposed change of use of this strip of land. The image below shows the front of the site at street scene level, taken from google maps. The date of the image is unknown, however it has been taken prior to the trees being removed and fence being erected.



- 5.18 The next image below was taken during the officer site visit as part of the planning application (October 2020).
- 5.19 The google maps image above shows a clear boundary line between the dwelling and its curtilage and the woodland beyond.
- 5.20 The loss of trees to facilitate use of this piece of land as residential curtilage is considered changes the character of the site and this part of the overall residential development as a whole.



- 5.21 In particular, during the Winter months when tree cover is reduced, the prominence of the fence, as well as the loss of trees, is considered would appear stark and incongruous, particularly when compared to the appearance of the site, prior to the works being undertaken.
- 5.22 It should be noted that the boundary treatment along the western part of the site currently remains open. No indication has been made as to whether a boundary treatment is proposed, and if so, its design, scale and appearance.
- 5.23 Given the appeal site itself is set at a higher land level than the existing garden area and roadside, any proposed boundary treatment along the western perimeter of the site may very well be visible from the street scene.
- 5.24 The appeal site does not form a logical extension to the appellants' residential curtilage, being set at a higher land level, and it does not lend itself well to the proposed change of use to residential curtilage.

- 5.25 The photographs below show the site and its entire western boundary to be open.



- 5.26 Having regard to the above, the loss of trees and change of use of land, would not accord with the character of the site and would not be considered to

make a positive contribution to the locality, conflicting with UDP Policies GDP1 and EC4.

6 RESPONSE TO THE APPELLANTS APPEAL STATEMENT

- 6.1 Page 2 of the Appellants Appeal Statement indicates that part of the boundary to the west of the property previously comprised a retaining wall with garden fence on top. The Appeal Statement states that the retaining wall is still visible on the site and forms the basis of the current proposed fencing adjacent to the dwelling. The google maps image below shows the extent of retaining wall with existing fence placed on top, viewed from the street scene, prior to the works being undertaken.



- 6.2 The height of the wall and fence combined is far lower than the existing fence which has been erected at the site. Furthermore, the fence along the northern section of the appeal site, and which fronts on to the street scene, appears to have been constructed without the presence of a retaining wall.
- 6.3 The appellants Appeal Statement states that the development would prevent overlooking from pedestrians accessing the land to the west of the site. However, the submitted planning application forms indicate that the appellant is the owner of the appeal site. Therefore this is within private ownership in any event.
- 6.4 The land lying to the west of the appeal site is outside the ownership of the appellant. Therefore, this would still be open to the public and could continue to result in overlooking into the site. As previously indicated, no boundary treatment has been submitted for the western boundary of the site.

- 6.5 In this context, the proposal has no bearing on preventing overlooking into the appellants garden area, given this could happen as a result of the change of use currently proposed.
- 6.6 If overlooking impacts into the appellants' rear garden area was a concern, there is no reason why various boundary treatments along the side elevation of the existing dwelling and its curtilage, could not be explored as options to provide effective screening and security.
- 6.7 It should also be noted that there is no definitive Public Right of Way within the application site itself, the nearest being approximately 30m to the west.
- 6.8 The justification put forward by the appellant does not outweigh the harm which has been identified in the Local Planning Authorities Appeal Statement, arising as a result of the proposed development.

7 CONCLUSION

- 7.1 For the reasons set out above, the Local Planning Authority respectfully requests that the appeal be dismissed. However should the Inspector be minded to allow the appeal, a list of suggested conditions is attached at Appendix 1.