
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 09/05/19

gan K Sheffield BA(Hons) DipTP
MRTPI

Arolygydd a benodir gan Weinidogion
Cymru

Dyddiad: 21.05.2019

Appeal Decision

Site visit made on 09/05/19

by K Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Welsh
Ministers

Date: 21.05.2019

Appeal Ref: APP/H6955/A/19/3221901

**Site address: Land adjacent to The Walker Fan House Building, Wynnstay Yard,
The Green, Ruabon, Wrexham, LL14 6DP.**

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 outline planning permission.
 - The appeal is made by Mr S Davies against the decision of Wrexham County Borough Council.
 - The application Ref, P/2018/0964 dated 31/10/2018, was refused by notice dated 19/12/2018.
 - The development proposed is the erection of up to six dwellings located to either side of The Walker Fan House Building including demolition of bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the development has been taken from the appeal form as it provides greater clarity of the works proposed than that given in the application.
3. In order to try to overcome concerns raised during the application process regarding highway safety, the Appellant has submitted as part of the appeal a revised drawing (D075/019). As the Council has considered the proposed amendments in its appeal submission, I have also had regard to them in determining the appeal.

Main Issues

4. The main issues are the effect of the development on historic heritage, flood risk, highway safety and protected species.

Reasons

5. The appeal site is bounded by Park Road to the south and the railway line to the north. It comprises two parcels of land to either side of The Walker Fan House Building (the Fan House), a designated Scheduled Ancient Monument (SAM) and a Grade II Listed Building (LB). The heritage asset is in the control of the Appellant.

6. Although the planning application was made in outline with all matters reserved for subsequent approval, the submitted illustrative drawings supported by the Design and Access Statement indicate the erection of six two storey detached dwellings. Four of the dwellings would be erected on the eastern portion of the site with access via the existing lane from Park Road, which serves the bungalow to be demolished and the neighbouring property, Wynn Offa. A further two dwellings would be erected on the land to the west of the Fan House, with a new access from Park Road close to the appeal site boundary with the heritage asset.

Historic Heritage

7. The Fan House was built in 1902 to ventilate the former Wynnstay Colliery. Whilst visually it appears to be in a poor state of repair, it is recorded as being a rare building type which survives relatively intact. The tall fan chamber at the eastern end creates a prominent feature in the landscape, and despite being largely encompassed by vegetation, the lower section of the building extends a significant distance to the west. To the south and separated from the Fan House by Park Road lies the Vertical Winding Engine House, a SAM and a Grade II* LB. It was built in 1855 as one of the original structures of the Wynnstay Colliery and it is recorded as being an exceptionally good example of the building type and one of the oldest surviving architectural monuments of the North Wales coalfield. It remains a visually imposing structure. Offa's Dyke SAM lies to the north east of the site and the existing access lane crosses an area identified as having the potential for sub-surface remains.
8. Although the appeal site excludes the Fan House, the effect of development on the setting of a heritage asset is a material consideration in the determination of the appeal. According to Technical Advice Note (TAN) 24: The Historic Environment the setting of a heritage asset includes the surroundings in which it is understood, experienced and appreciated, embracing present and past relationships to the surrounding landscape. The extent of the setting is not fixed and may change as the asset and its surroundings evolve. TAN 24 requires enough information to be submitted in order to allow the assessment of the proposed development in respect of the heritage asset.
9. In the light of my observations on site and the proximity of the development to the Fan House, I consider that the appeal site forms part of the setting of the heritage asset. The erection of two storey dwellings to either side of the Fan House would enclose the heritage asset and significantly alter the surroundings in which it is viewed. It is understood that there are currently no plans to stabilise the structure and hence any fencing required to secure it on grounds of health and safety would increase the sense of enclosure. Although the application has been made in outline, I am concerned that the development would significantly alter the current setting of the Fan House and its relationship with the Vertical Winding Engine House. There is also the potential that the appeal site may contain archaeological remains relating to the previous industrial use of the land.
10. It is therefore important to be able to understand the contribution the setting makes to the significance of the heritage asset, its relationship with the Vertical Winding Engine House and the effect the proposed development would have on these factors. In the absence of any evidence in this respect I find that the proposed development would radically alter the appearance of the site, significantly changing the manner in which the historic asset is understood and consequently it would cause significant harm to the setting of The Walker Fan House, contrary to Policies GDP1(a), PS2, H2, EC9 and EC11 of the Wrexham Unitary Development Plan (UDP), 2005.

Flood Risk

11. A culverted watercourse crosses the western part of the site in a north/south direction. Although the Council has provided a plan showing the route it takes, the accuracy of the plan has not been confirmed and the route is not identified on the submitted drawings. No building can take place over or within 5 metres of the centre line of the culvert. Whilst it is a matter which could be overcome, it is possible that the built development could encroach into the protected zone of the culvert with potential risk of flooding.
12. It is proposed that surface water drainage would be to soakaways. Apart from the observation that there was no standing water on the site following a period of heavy rain there has been no practical assessment of the suitability of this method. Although it is a matter which can be addressed, the lack of certainty regarding this method of drainage adds weight against the appeal.
13. On balance I find that there is insufficient evidence to conclude that the development would not encroach onto the line of the culvert or that the development would be suitably drained in respect of surface water. These matters have the potential to increase flood risk, contrary to Policies GDP1(i) and EC13 of the UDP.

Highway Safety

14. The drawing submitted as part of the appeal amended the gradient to the western access, improved the eastern access and introduced a turning head in order to allow increased manoeuvrability for vehicles within the eastern part of the site.
15. According to the Council's standards the maximum gradient acceptable at the junction of the proposed access from Park Road into the western part of the site is 1:10. The scheme originally submitted had a gradient of 1:2. The Appellant contends the amended scheme would achieve a gradient of 1:8 whereas the Council considers it would be 1:5. Although the Appellant has stated that the Council has accepted a gradient of 1:8 on another site, there is no substantive evidence to explain the Council's reason for doing so. I do not consider the evidence justifies a relaxation of the Council's standard in this instance.
16. The western part of the site is significantly lower than the adjacent highway and the difference in ground levels of approximately 3 metres is marked by a steep bank. The creation of an access in this position would therefore necessitate an increase in ground levels over a significant distance in order to achieve a gradient of 1:10. Whilst it may be possible to create a satisfactory access, on the details before me I am unable to assess the effect the changes in ground levels would have on other factors including the setting of the heritage asset.
17. I am advised by the Council that a swept path analysis is required in order to confirm that the proposed revision of the eastern access would allow two vehicles to pass. Due to the restricted width of the access lane passing places would also be required. There is uncertainty over whether these works could be implemented as the land required is not shown on the plans to be within the control of the Appellant. Furthermore the proposed turning head appears to encroach onto highway land which the Council has indicated would be unacceptable as it provides structural support to Park Road.
18. I am therefore not satisfied that safe and satisfactory access could be provided, to the detriment of highway safety and contrary to Policy GDP1(d) of the UDP. The Council also cited Policy T8 in its reason for refusing planning permission. However,

this policy relates to vehicle parking spaces and given that there is no evidence that the scheme would be deficient in this respect I agree with the Appellant that it is not relevant to the appeal.

Protected Species

19. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
20. The submitted assessment in respect of bats and breeding birds recognised high bat activity around the site and roosts of multiple species. Whilst it is generally accepted that there would be little effect on the bats from the loss of the bungalow and other structures within the appeal site, the Fan House has a high potential for crevice dwelling bat species and for hibernating bats in wall crevices. Although no bat roosts were found in the trees, they were assessed whilst they were in leaf when the view of any bat roosts can be impeded. Notwithstanding this, the trees are likely to provide important foraging and commuting features that can be anticipated as being used by bats. The effect of lighting as part of the development also needs to be addressed.
21. I consider that further surveys are required to address the identified potential of the Fan House for roosts and to ensure the proposal, in particular the removal of vegetation and introduction of lighting, would not have a detrimental effect on the foraging and commuting activities of the bats. I therefore conclude that the development has the potential to harm protected species, contrary to Policy EC6 of the UDP, Planning Policy Wales and TAN 5: Nature Conservation and Planning.

Conclusions

22. I have concluded that the development as proposed would have an adverse effect on the setting of the heritage asset. It has the potential to increase flood risk and be detrimental to highway safety. It has also not been fully demonstrated that the proposal would not have an adverse effect on the local bat population. There are no material considerations which outweigh these concerns.
23. In reaching this decision I have taken into account the requirements of section 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that the proposal would fail to meet the goals of enhancing the culture and heritage of Wales, providing safe and resilient communities and enhancing natural resources through its potential impact on heritage assets, flooding and protected species. As such I consider my decision to be in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Minister's well-being objectives as required by section 8 of the Act.
24. For the reasons given above and having had regard to all other matters raised, the appeal is dismissed.

K Sheffield

INSPECTOR