
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 05/01/21

**gan Joanne Burston, BSc MA MRTPI
AIPROW**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 29th January 2021

Appeal Decision

Site visit made on 05/01/21

**by Joanne Burston, BSc MA MRTPI
AIPROW**

an Inspector appointed by the Welsh Ministers

Date: 29th January 2021

Appeal Ref: APP/H6955/A/20/3258360

Site address: Caia Farm, Old Wrexham Road, Gresford, Wrexham LL12 8UA

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 Ryecroft Meadow (Miss Rhian Williams) against the decision of Wrexham County Borough Council.
 - The application Ref: P/2020/0218 dated 27 March 2020, was refused by notice dated 07 August 2020.
 - The development proposed is described as *retrospectively change the classification from agricultural to sui generis to enable us to continue running a dog exercise/training area*.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of agricultural land to dog exercise area (in retrospect) at Caia Farm, Old Wrexham Road, Gresford, Wrexham, LL12 8UA in accordance with the terms of the application, Ref: P/2020/0218 dated 27 March 2020, and the plans submitted with it, subject to the conditions set out in the annex to this decision.

Procedural Matters

2. Although the planning application was made in the terms given in the heading to this decision, this was changed by the Council to '*change of use of agricultural land to dog exercise area (in retrospect)*'. Whilst there is nothing to indicate that this revised description was agreed with the appellant it does give an accurate description of the proposal. For clarity I have used this in my decision.
3. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objectives of driving sustainable growth and better environments.

Main Issue

4. The main issue in this case is the effect of the proposed development on the living conditions of neighbouring occupiers, with particular reference to noise.
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Reasons

5. The appeal site is within a rural location to the south of the village of Gresford. Caia Farm lies to the east of Old Wrexham Road, with the appeal site 'Ryeford Meadow' extending from the farm buildings in a broadly southerly direction, adjoining the rear boundaries of a number of residential properties.
6. The proposal is a retrospective application to change the use of the field to a dog exercise area. The Council's main concern is that the proposed use has the potential to cause noise resulting in unwarranted disturbance to nearby residential occupiers. The appellant has submitted an updated noise assessment which took background noise readings from a position to the east of the adjoining properties for a 3 hour period in March 2020. This established a background noise level of 51.4dB ~ 51dB (Laeq) and 46.8dB ~ 47dB (L90) during the day. Old Wrexham Road is a relatively quiet traffic route, but it is close to the A483 which has an influence on what may otherwise have been considered as a quiet rural noise environment.
7. The acoustic report recommended that a 2.1-metre-high close boarded acoustic barrier should be erected on the field boundary between the appeal site and the residential properties to the west. As well as being an acoustic barrier such a fence would ensure that any dogs using the exercise area would not be upset by seeing activity in the adjoining gardens, including occupiers and their dogs.
8. The assessment has used an average size dog bark of between 85 to 90dB in a free field setting at 1 metre. However due to the impulsive nature of a dog bark a further penalty of 5dB has been added to the noise level, providing a total noise level of 95dB. The model assumed a worst-case scenario of a maximum of 10 dogs barking simultaneously along the field boundary close to the residential boundaries.
9. The assessment concluded that the noise levels at the rear façade of the closest dwelling were 49dB, with noise levels of up to 55dB within the first 8m of the rear garden. However, with the acoustic barrier in place the noise levels would be reduced by a minimum of 10dB(A). The resulting noise from barking dogs would therefore be below the existing ambient noise levels for this locality and thus would comply with British Standard 8233.
10. I also acknowledge that just hearing dogs bark and listening to the activity of those supervising them does not necessarily cause a statutory noise nuisance. Nevertheless, people's reaction to noise varies depending on their sensitivity to it and its type. There is evidence from local residents that barking, shouting and whistling can be regularly heard and to those persons it is a source of annoyance that adversely impacts on their living conditions. However, I have no dates or times of these adverse noise events to enable me to correlate these against the use of Ryecroft Meadow or to establish whether the noise emanates from neighbouring or other local dogs and people.
11. It seems to me that the activity here is relatively small-scale and that this could reasonably be limited by a planning condition. There is no reason why a well-run establishment should result in excessive amounts of barking and noise and the appellant has made it clear that dogs would be carefully managed and dogs that excessively barked would be excluded from using the area. A condition relating to a management plan could be imposed to this effect. Moreover, noisy activities have been located in the least noise-sensitive area of the site and a booking system used so that dogs using the site would not overlap.

12. In reaching this conclusion I also note that the appellant lives on site and would not want to be constantly disturbed by noise and barking. Furthermore, it would be unlikely that a business owner would allow a noisy dog or person to continue using the facility when this risks an Abatement Notice being serviced which may cause the business to close.
13. Drawing these matters together, I find that the development would comply with Policy GDP1(f) of the Wrexham Unitary Development Plan which require developments to, amongst other matters, ensure the safety and amenity of the public and safeguard the environment from the adverse effects of noise arising from development.

Other Matters

14. It was clear to me on my site visit that the existing boundary hedge between the appeal site and the dwellings was patchy in the extent that it offered any screening. Therefore, I expect that at present people using the appeal site would be able to look into neighbouring gardens. This represents a significant loss of privacy and would no doubt impact on the security of this boundary. However, the requirement for a 2.1m high acoustic barrier would ensure that the rear garden areas of the adjacent dwellings are not overlooked by those using the appeal site and would have the added benefit of increasing security along this boundary.
15. Whilst the proposed acoustic barrier, typically a close boarded timber fence, would be atypical of the means of enclosure in agricultural areas, due to the private nature of the site and its alignment preventing views from the public highway, overall, its visual effect would be extremely localised and it would have little or no effect on the character and appearance of the wider area. In local views it would appear as a rear garden fence.

Conditions

16. The Council has suggested a number of conditions which they consider should be imposed in the event that the appeal is allowed. In some cases, I have modified or combined suggested conditions in light of the advice contained in Circular 016/2014.
17. I have included a condition to require a management scheme for the dog exercise area, which addresses the management initiatives already established by the appellant. I consider such a condition is necessary in the interests of the living conditions of neighbouring occupiers.

Conclusion

18. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be allowed, subject to the conditions set out in the annex to this decision.

Joanne Burston

INSPECTOR

Annex attached to Appeal decision APP/H6955/A/20/3258360

Planning conditions

- 1) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any statutory instrument revoking and re-enacting that Order with or without amendment), no part of the premises shall be used except for the precise purposes described in the application plans and documents.

Reason: To protect the living conditions of the occupiers of adjoining properties in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

- 2) Within 1 month of the date of this decision a management scheme for the dog exercise and training area shall be submitted to and approved in writing by the local planning authority. Once approved the management scheme shall be fully implemented within one month of the date of approval.

The Management Scheme shall include details relating to:

- a) Booking system, with appropriate buffer between users, no use without appointment;
- b) Maintenance of an appointment diary, that shall be made available for viewing by the local planning authority on request;
- c) Site rules and how these will be communicated to site users;
- d) Dogs must stay in the car until their appointment slot and/or the previous users have put dogs into their vehicles;
- e) Right to refuse any dog or owner who displays excessive noise, aggressive, destructive or unreasonable behaviour;
- f) Reporting procedure of any site issues/incidents; and
- g) Biosecurity measures.

Reason: To protect the living conditions of the occupiers of adjoining properties in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

- 3) No use of the development shall be made before 7am or after 7pm Monday to Friday, or before 8am or after 6 pm on Saturdays, Sundays and Bank Holidays.

Reason: To protect the living conditions of the occupiers of adjoining properties in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

- 4) The maximum number of dogs and their handlers attending the site shall not exceed 14 no. and 7no. respectively, at any one time. For the avoidance of doubt, no other persons should attend the site except for 1 no. staff member.

Reason: To protect the living conditions of the occupiers of adjoining properties in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

- 5) The vehicular parking area as shown on approved drawing no. PL/TR/103 Rev A be fully laid out, surfaced and drained prior to first use of the development. These areas shall thereafter be permanently retained and kept free of any

obstruction and made available solely for the parking of motor vehicles at all times.

Reason: To provide for the parking and turning of vehicles in accordance with Policy GDP1 and T8 of the Wrexham Unitary Development Plan.

- 6) Within 12 months of the date of this decision the vehicular access shall provide visibility splays of 2.4 metres x 43 metres in both directions measured to the centreline of the adjoining highway. Within these splays there shall be no obstruction in excess of 1 metre in height above the level of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.

Reason: To ensure adequate visibility is provided at the proposed point of access to the highway in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

- 7) Within 12 months of the date of this decision the vehicular access shall be surfaced with hard bound materials (e.g. bituminous macadam) for a minimum distance of 5 metres behind the adjoining highway.

Reason: To ensure that no deleterious material is carried on to the highway in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

- 8) No work to clear vegetation within the site, no tree removal, and no other works that may affect nesting birds shall take place between 1 March and 31 August inclusive, unless the absence of nesting birds has been confirmed by surveys or inspections, and written approval has been given by the Local Planning Authority.

Reason: In order to protect wildlife interests, which are afforded special protection in accordance with Policies GDP1 and EC6 of the Wrexham Unitary Development Plan.

- 9) Within one month of the date of this decision, full details of a tree (1 no. standard 12-14cm diameter lime – *Tilia cordata*) and hedgerow planting scheme together with a plan indicating the position, height, design and materials for the acoustic boundary treatment shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory standard of development and to protect the living conditions of the occupiers of adjoining properties in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan.

- 10) The tree, hedgerow and acoustic boundary treatment scheme approved in connection with condition 8 shall be fully implemented within one month of the date of approval.

Reason: To ensure a satisfactory standard of development and to protect the living conditions of the occupiers of adjoining properties in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan.

- 11) The tree, hedgerow and boundary treatment scheme as carried out in connection with condition nos. 8 and 9 shall be permanently retained. Any planting or fencing becoming severely damaged or seriously diseased, or is in poor physiological condition and/or are removed without the written permission of the Local Planning Authority shall be replaced with trees, shrubs or fencing of similar size and species to those originally required to be planted / erected and within a timescale all to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory standard of development and to protect the living conditions of the occupiers of adjoining properties in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan.

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