
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/20/3259471

**Site address: Land adjacent to Llay Hall Riverside Business Park, Mold Road,
Cefn-y-Bedd, Wrexham, LL12 9YG**

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 J Roberts against the decision of Wrexham County Borough Council.
 - The application Ref: P/2020/0046 dated 16 January 2020, was refused by notice dated 16 March 2020.
 - The development proposed is the demolition of derelict building and erection of 4 no. semi-detached dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. 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 Issues

3. The main issue is whether the proposal is consistent with local and national planning policies and if not whether there are other material considerations sufficient to lead to a conclusion contrary to the development plan.

Reasons

4. There is no dispute between the parties that the Wrexham Unitary Development Plan 1996-2011 (UDP), adopted 2005, is time expired. Nevertheless, it remains the development plan for the area.
 5. The appeal site is close to but lies outside the settlement limit of Sydalit as identified in the UDP. Whilst I note the appellant's comments that the site is physically and
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visually related to the site, for the purposes of the adopted development plan, the proposal would represent development within the countryside for planning purposes.

6. Policy PS1 of the UDP directs development for housing to areas within defined settlement limits. Policy H5 of the UDP expands on Policy PS1 by allowing new dwellings outside defined settlement limits subject to a number of criteria. From the evidence before me I find that the proposal would not meet any of the circumstances set out in Policy H5. The development would therefore be contrary to Policies PS1 and H5 of the UDP.
7. Nonetheless, given the historic use of the site, the proposal would comply with UDP Policy PS3 which advises that brownfield land should be utilised before greenfield wherever possible. Nonetheless, this is tempered by PPW which recognises¹ that *"not all previously developed land is suitable for development. This may be, for example, because of its unsustainable location, the presence of protected species or valuable habitats or industrial heritage, or because it is highly contaminated."*
8. Thus, the level of conflict with UDP policies is a matter which must be weighed in the final balance.

Sustainability

9. Planning Policy Wales, Edition 10 (PPW) states² that *"Development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access, habitat and landscape conservation."* Further, PPW³ establishes that in rural areas *"most new developments should be located in settlements which have relatively good accessibility by non-car modes when compared to the rural area as a whole"*.
10. In that regard, SydalIt is a small settlement with only a very limited range of services which includes a community centre and a bus service which connects the settlement to Mold and Wrexham. Approximately 1km to the north is the larger settlement of Cefn-y-Bedd which contains a wider range of facilities including a primary school and railway station and approximately 2km to the south lies Gwersyllt which contains a health centre and a number of shops and services.
11. It would be theoretically possible for future occupiers to walk or cycle to the neighbouring settlements, which is not far in distance terms. However, bearing in mind the nature of the narrow pavements next to a busy road with fast moving traffic which is lacking pedestrian crossing points, these would be disincentives to journey even short distances on foot or by bicycle, especially during darker winter months or in inclement weather. Furthermore, considering the infrequency of bus services to shops and services, particularly after 6pm, it seems even less likely that journeys would be made by sustainable modes.
12. On this basis I conclude that the development would not offer good connections to local facilities and services, which would therefore increase the need to travel by car for local journeys. This lack of locational sustainability weighs significantly against the proposal and adds weight to findings relating to Policy PS1 above.

¹ Paragraph 3.51

² Paragraph 3.56

³ Paragraph 3.35

Effect on biodiversity

13. PPW⁴ sets out that *"The presence of a species protected under European or UK legislation, or under Section 7 of the Environment (Wales) Act 2016 is a material consideration when a planning authority is considering a development proposal which, if carried out, would be likely to result in disturbance or harm to the species or its habitat and to ensure that the range and population of the species is sustained."*
14. Moreover, Technical Advice Note 5: Nature Conservation and Planning (TAN 5) states that *"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 the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. It is considered best practice that such a survey is carried out before a planning application is submitted. Planning permission should not be granted subject to a condition that protected species surveys are carried out (my emphasis) and, in the event that protected species are found to be present, mitigation measures are submitted for approval."*
15. The Council claims that insufficient information has been submitted to demonstrate that the development can take place without having a detrimental impact upon protected species. In this respect at least 5 species of bat have previously been recorded within 1 km of the site. Furthermore, Natural Resources Wales (NRW) objected to the proposal because further information is required to assess the extent of adverse effects on bats and any avoidance or mitigation measures thus required.
16. The application was supported by a Preliminary Ecological Appraisal (PEA), dated October 2018. In summary, the PEA states that the derelict building on the appeal site offers low bat roosting potential and the site itself offers moderate potential foraging and commuting habitat for bats. The PEA recommends a Phase 2 Bat activity survey. However, no additional survey work has been submitted.
17. Given the confirmation that there are bats within 1km of the site and the site offers potential habitat there is reasonable likelihood of them being present. In the absence of further survey work being provided, as identified by the appellant's own ecologist, I cannot be satisfied that the proposal would not have an adverse effect on any protected species.
18. For the reasons outlined above, I conclude that in the absence of the provision of further survey work, that the proposal would not accord with the provisions of PPW (as set out above) and Policy EC6 of the UDP. This policy seeks amongst other things to ensure that development either within or close to sites of biodiversity interest will only be permitted where it can be clearly demonstrated that the need for the development outweighs the need to safeguard the intrinsic nature conservation value of the site.

Other material considerations

Housing Land Supply

19. Following the changes to PPW, and the revocation of Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies, there is no requirement for Councils to

⁴ Paragraph 6.4.22

maintain a five-year supply of housing land. Nevertheless, PPW still requires Councils to secure a healthy supply of housing.

20. Moreover, the Wrexham Local Development Plan (LDP) is undergoing examination and therefore the Average Annual Requirement (AAR) methodology should be used for monitoring purposes. The requirement of 7750 dwellings over the plan period would equate to an AAR of 517⁵ dwellings. The latest annual Housing Land Monitoring Statement 2019 indicates that such figures have not been achieved since 2008.
21. Although the development would only provide a limited number of dwellings, these would help to support a healthy supply of housing land, which is currently lacking. This carries significant weight in favour of the appeal.

Emerging Local Development Plan

22. The appeal site comprises part of an employment allocation in the submitted LDP. Whilst it is accepted that applications for planning permission must be determined in accordance with the adopted development plan, unless material considerations indicate otherwise, material considerations could include policies in an emerging LDP.
23. The Development Management Manual⁶ (DMM) establishes "*the weight to be attached to an emerging draft LDP will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption.*" In considering what weight to give to the specific policies in an emerging LDP it is necessary to carefully consider the underlying evidence and background to the policies.
24. The employment policies in the emerging LDP are supported by an Employment Land Review, which postulates that Llay Hall Industrial Estate/Riverside Business Park is a key employment site with an influence over the whole local authority area. Although, these policies are not set in stone until the LDP is adopted, I find that the allocation of the appeal site for employment use in the emerging LDP carries some weight against the appeal proposal.

Planning balance and conclusions

25. I have concluded that the proposal would not satisfy PPW or UDP policies with regard to the locational sustainability of the residential development and biodiversity, which carries significant weight against the appeal. Given this conflict the policy support for a brownfield site is also lost. Whilst, I have found that the proposal would contribute to a healthy supply of housing which carries significant weight in favour of allowing the appeal, this does not outweigh the harm I have identified. There are no other considerations which are sufficient to outweigh these conclusions.
26. Accordingly, for the reasons given above, and having had regard to all other matters raised, I conclude that the appeal be dismissed.

Joanne Burston

INSPECTOR

⁵ rounded up to zero decimal places.

⁶ Paragraph 9.4.8