

Huw Evans Planning

**Appeal re refusal of permission
for the erection of an agricultural
shed for agricultural building for
machinery and winter feed, on
land at Bronwylfa Road, Aberoer,
Wrexham**

**Statement on Behalf of the
Appellant**

Huw Evans 18 February 2021.

Town & Country Planning Act: S78

Appeal re refusal of permission for the erection of an agricultural shed for agricultural building for machinery and winter feed, on land at Bronwylfa Road, Aberoer, Wrexham, LL14 4ND, by Wrexham County Borough Council. Reference P2020/0220

Statement on behalf of the Appellant

1.0 Introduction

- 1.1 This appeal is made in respect of the refusal of the planning authority to grant permission for the construction of an agricultural building for storage of machinery and winter feed. The details are contained in the documents submitted with the planning application lodged on 24 March 2020 and validated on 7 July 2020 under reference P2020/0220.
- 1.2 Additional information and details were requested and supplied during the course of the consideration process. The application was subsequently refused by the Council's Planning Committee on 02 November 2020 for the following reason:

"It is considered that an essential agricultural need for the building has not been proven and therefore the siting of an isolated farm building represents a harmful intrusion into the rural landscape and Special Landscape Area, thus conflicting with policies GDP1, EC3 and EC5 of the Wrexham Unitary Development Plan".

2.0 Planning Policy Context

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. Conversely, applications that are not in accordance with relevant policies in the plan should not be allowed unless material considerations justify the grant of planning permission.
- 2.2 The development plan is the Wrexham Unitary Development Plan 1996 - 2011. Policies EC3 EC5 and GDP1 are relied upon for the authority's reasons for refusal. These are reproduced below as Appendix 1 to this statement. The UDP has time expired for nearly 10 years and as such its policies may carry considerably less weight in the determination of planning applications. In this case PPW (Ed 10), and TAN6, represent the more up to date policy and guidance context and constitute strong material considerations.

3.0 The Case for the Appellant

- 3.1 The site is located in a working agricultural landscape characterised by small open fields divided by mature hedgerows and individual or small groups of trees. The area is typical of the agricultural nature of the area containing farms and associated farm buildings together with individual dwellings. There is a farm complex 70m to the north of the appeal site and another 120m to south east. The position of the proposed building is set in the lower part of the field adjacent to the highway and screened in part by a mature hedgerow. Access is gained from an existing field gate which has been resurfaced and currently used for open storage of wrapped bales. The visual impact of the development is low particularly when seen in the context of the functional agricultural landscape. The authority is satisfied that there are no ecological or drainage issues which would prevent the grant of permission.
- 3.2 Policy GDP1 is a general criteria based policy which seeks to achieve satisfactory standards of development. It is only criterion a) which applies in this instance and this addresses matters of scale, design, layout, materials and landscaping which need to accord with the character of the site. The planning authority has no issue that the function, form and design of the building together with the materials used, are anything other than what is to be expected, and accepted, for the type of development proposed. Therefore, the development is not in conflict with Policy GDP1.
- 3.3 The authority also relies for its refusal on Policy EC5 given the inclusion of the site within a Special Landscape Area. Here, priority is given to the conservation and enhancement of the landscape. This states that development, other than for agriculture, small-scale farm-based and other rural enterprises, will be strictly controlled. Given that the proposed use of the building is for agricultural purposes there is, by definition and as a matter of fact, no conflict with Policy EC5.
- 3.4 Policy EC3 permits new agricultural buildings unless they are materially detrimental in terms of their impact on the environment or surrounding landscape. There is nothing to suggest that the proposed development has any such materially detrimental impact given its location in the least prominent part of the site which utilises the existing hedgerow as substantial screening of the building. The building cannot be reasonably considered to be in an isolated position as it would form part of a cluster of buildings comprising the dwelling 30m away on the opposite site of the B5426, the larger farm and substantial associated complex of buildings located 70m to the north, and the large agricultural open barn located on the opposite field boundary. The pattern of farm holdings with fragmented field ownership and tenancy means that it is not always practical nor viable to have all associated buildings located in one place. Even so, the position of the proposed building is not seen as an isolated location in the landscape. The basis for the planning authority in referring to Policy EC3 for refusing the proposal appears to rest more on “essential need” rather than isolated buildings.
- 3.5 Policy EC3 contains no definition of either what it considers as essential need, or for that matter, an isolated building. The reasoned justification in paragraph 5.4 of the UDP refers to a farm complex as being defined as the curtilage of the usable farm buildings usually centred around the farmhouse. However, this cannot apply in every instance due to the fragmented nature of many farms and the selling off of farm land in parcels and separate to the historical parent farm dwelling. In such circumstances it would neither be practical nor in the interests of responsible care for the well-being of livestock if farm buildings could only be located next to a farm house. It follows that the proper interpretation of an

isolated building in this instance is that of being remote or cut off from other built forms in the locality of the site. It has already been demonstrated that this is not the case. The appellant would refer to TAN 6 which states that 'new buildings should normally form part of a group rather than stand in isolation'. TAN6 recognises that this cannot always be the case.

- 3.6 The explanation for the Policy EC3 also acknowledges that farm businesses need to grow and change but then refers to problems that can arise where proposals are unusually large or are in sensitive locations. In this case the proposal is small as opposed to being unusually large. With regard to 'sensitive location', the site's inclusion within the SLA is not sufficient reason for refusal given the exemption referred to in 3.3 above and the fact that the site is in a working agricultural landscape where one expects to see agricultural buildings. The proposed building would not be unduly prominent for the reasons given above.
- 3.7 With regard to essential need, the UDP contains no definition or test as to how essential need should be assessed. Neither is there any adopted supplementary planning guidance which addresses this issue. Similarly, there is no reference in either PPW or TAN6 with regards to establishing such need in these situations let alone any detail as to how essential need is to be measured. This is significantly different to the tests to be applied when considering rural enterprise dwellings as set out in Section 4.7 of TAN6. In the absence of any reference in national planning policy and guidance to establish an essential need for agricultural buildings in the rural area, included designated and valued landscapes, there can be no planning policy context on which the planning authority can rely on to justify its reason for refusal. Furthermore, and with all due respect to planning officers and decision makers, unless they have specialist knowledge, they are not in a position to judge whether a need is essential or not.
- 3.8 The appellant is seeking to establish his farming enterprise by progressively acquiring more land when the opportunity arises. In order achieve this it is necessary to have basic accommodation for both machinery and foodstuff. It is not as simple as renting a small industrial starter unit which is how many non agricultural enterprises become established. Welsh Government seeks to encourage both the start up and expansion of rural enterprises. The traditional route into farming for many has been by securing the tenancy of local authority small holdings. However, the availability of these has been diminishing over the last 15 years or more and particularly in North East Wales. According to Welsh Government's Annual Report on Smallholdings in Wales, 2018 -19, six councils in Wales disposed of land within their smallholdings portfolio. Three of these were Denbighshire, Flintshire and Wrexham. The same report for the previous year, reveals that eight councils disposed of land including those same councils. No land has been acquired in Wales during this period.
- 3.9 The Tenant Farmers Association is on record as saying that the year-on-year reductions in the amount of land held by smallholdings authorities in Wales is a significant concern given the benefits which include opportunities for new entrants, assisting business progression and the delivery of locally produced goods. The decline in these opportunities is of increasing concern particularly as there is currently no national strategy to address the issue. This makes it all the more important that individuals, such as the appellant, who wish to establish a viable farm business are not frustrated by the unreasonable

consideration of their proposals. In terms of need, it is the farmer who is best placed to judge a development's essentiality and he/she is unlikely to commit funds and resources if the development is not necessary or viable.

4.0 Conclusion

- 4.1 It has been demonstrated above that there is no conflict with criterion a) of Policy GDP1. Neither is there any conflict with Policy EC5 given that agricultural and small scale farm based enterprises are expressly excluded from the strict control exercised in Special Landscape Areas. The Council's case is based almost solely on the question of 'essential need'. However, neither the policy, nor any supplementary guidance, identifies what is meant by essential need nor establishes how such a need is assessed. Crucially, the requirement to establish essential need and details of the tests that would need to be applied in order to demonstrate essential need, does not exist in either PPW or TAN6. These represent the most up to date policy and Guidance. Taking account of the fact that the UDP has been time expired for nearly 10 years, very little weight can be attached to the policies upon which the Council has relied upon for its reason for refusal.
- 4.2 The proposed development would not have an adverse impact on the character and appearance of the area which is essentially a working agricultural landscape where buildings such as that proposed are accepted as part of that character. It is requested that the appeal be allowed and permission be granted.

Huw Evans Planning

18 February 2021

Appendix 1

Policy GDP1

All new development should:

- a) Ensure that built development in its scale, design and layout, and in its use of materials and landscaping, accords with the character of the site and makes a positive contribution to the appearance of the nearby locality.
- b) Take account of personal and community safety and security in the design and layout of development and public / private spaces.

- c) Make the best use of design techniques, siting and orientation in order to conserve energy and water resources.
- d) Ensure safe and convenient pedestrian and vehicular access to and from development sites, both on site and in the nearby locality.
- e) Ensure that built development is located where it has convenient access to public transport facilities, and is well related to pedestrian and cycle routes wherever possible.
- f) Ensure the safety and amenity of the public and safeguard the environment from the adverse effects of pollution of water, land or air, hazards from industry and quarrying, and associated noise, odour or vibration arising from development.
- g) Secure public services (e.g. gas, water, electricity) to development at minimum public cost.
- h) Safeguard sites and areas of nature conservation and wildlife interest, and to provide new habitats where there is an unavoidable loss of existing habitats and areas of wildlife interest.
- i) Ensure that development does not result in, or is subject to, flooding, soil erosion, landslides or contamination, either on or off the site.
- j) Have regard to the need to safeguard those areas that possess a strong Welsh cultural and/or linguistic identity from development that could harm this identity.
- k) Secure the development of sustainable communities, through the promotion of the economic, social and environmental well-being of the area.

Policy EC3

The construction of new agricultural buildings will be permitted unless the development is materially detrimental in terms of its impact on the environment or surrounding landscape. The development should form part of an existing farm complex and take advantage of topography and other landscape features for screening. Isolated buildings will only be permitted in exceptional circumstances where there is an essential agricultural need, and no reasonable alternative location for the development.

Policy EC4

Development proposals should provide for the conservation and management of hedgerows, trees, orchards, woodland, wildlife and other natural landscape and water features, and include new planting in order to enhance the character of the landscape and townscape. Development which results in the loss or significant damage to valuable trees, important hedgerows or ancient woodland sites will not be permitted.

Policy EC5

Within Special Landscape Areas, priority will be given to the conservation and enhancement of the landscape. Development, other than for agriculture, small-scale farm-based and other rural enterprises, and essential operational development by utility service providers, will be strictly controlled. Development will be required to conform to a high standard of design and landscaping, and special attention will be paid to minimising its visual impact both from nearby and distant viewpoints.

