

Appeal Statement in relation to the refusal of Wrexham CBC to grant planning approval for change

of use of land to domestic and boundary fence (partly in retrospect) at 6 Fox Close, Summerhill,

Wrexham. LL11 4QH.

Local Authority Ref. , P/2020/0587

Introduction.

This appeal relates to a site at 6 Fox Close, Wrexham in relation to the change of use of land to domestic purposes and erection of boundary fencing.

The application, P/2020/0587, was refused on the 15th December 2020.

The Site.

The appeal site is formed by residential curtilage with a modern, two storey detached dwelling accessed via an estate road.

The dwelling sits at the head of the cul de sac and has garden area to the rear, a garage to the side and further to the west a raised area with trees and scrub.

Beyond the rear garden to the south are further residential properties. These properties are set at a slightly lower level than the appeal site.

Between the properties are boundary fencing and hedging of various varieties.

The land to the west, bordering the appeal site and set at a higher level, has been purchased by the appellants and incorporated into the residential curtilage.

When the dwelling was originally constructed the attached garage was formed following the removal of land to the west and a boundary fence was erected on top of this land. When this land was removed a retaining concrete wall was built and the garden fence erected upon it. The retaining wall is still visible on site and forms the basis of the proposed fencing adjacent to the dwelling.

The Proposal.

The appeal proposal seeks the change of use of the land to the west of the dwelling for residential purposes and the retention of the domestic type fencing.

The change of use relates to an area of poorly managed land which is set at a higher level than the adjacent residential properties. There are a few poor trees and areas of scrub land and deadwood

which are indicative of the lack of management of the area. There has been some evidence of fly tipping also.

Whilst there is a small roadside fence delineating the area it is open for access to all and with its elevation allowed open views into the appeal site.

The change of use would utilise the land more efficiently and effectively for residential purposes without affecting the overall aspects of the adjacent wooded areas.

The proposed fencing is considered to be residential in character and given the raised ground it sits upon it is considered that it is mostly within permitted development limits of 2 metres from ground level.

The fencing to the rear of the extended land, adjacent to the dwellings to the rear, has a fence erected at present which is lower than the 2 metres allowed under permitted development. This fencing could be raised and incorporated with a landscaping plan to mitigate overlooking.

It must be taken into account that the current rear garden of 6 Fox Close overlooks the rear properties and any extension to the land holding will not materially alter this arrangement.

Relevant Planning Policies

The Wrexham Unitary Development Plan (UDP) was adopted in 2005 and was proposed to run until 2011. Despite several attempts at a new development plan this document remains the extant development for the area and the proposed development.

The relevant policy in relation to the appeal proposal, and identified in the reasons for refusal, is Policy GDP 1 and is shown below.

Development Objectives 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.*

Reasons for refusal.

The decision notice states:-

Reason(s)

1. The proposal, by virtue of the depth and raised height of this parcel of land, would result in overlooking impacts into the neighbouring property to the

south and its associated curtilage, resulting in loss of privacy, to the detriment of its occupiers. The proposal would conflict with UDP Policy GDP1.

2. The excessive height of the fence results in an overly dominant feature and appears as a discordant addition in the locality. This is further exacerbated by the extent of tree loss which has occurred to facilitate the proposal, resulting in a development that does not accord with the character of the site and does not make a positive contribution to the locality, failing to accord with UDP Policy GDP1.

The decision notice issued by the Council relates solely to the perceived overlooking of the neighbouring property and its curtilage and resulting loss of privacy. In addition, the erected fencing is deemed to be of an excessive height, an overly dominant feature which affects the character of the site and does not make a positive contribution to the locality. Therefore, the Council contend, the development is contrary to policy GDP1 of the extant UDP.

The land subject to the change of use in this appeal was formerly part of wooded area, parts of which were included in the overall residential scheme for Fox Close. The land immediately adjacent to 6 Fox Close was mainly scrub land with poor quality, self-seeded trees that had little or no management over a number of years.

This area of land adjacent to 6 Fox Close was, and the land beyond remains, open to the public with no restrictions to access. It used as a place to walk and to exercise dogs.

Prior to the erection of the fencing and land forming the residential curtilage of 6 Fox Close, dog walkers and other pedestrians could clearly see into the original residential curtilage of the property due to the height of the surrounding land.

In addition they could also look down directly into the residential properties to the rear of Fox Close, in Celtic Road.

Policy GDP1 of the UDP, criterion (b) clearly states that new developments should ..” *Take account of personal and community safety and security in the design and layout of development and public / private spaces*”.

It is contended that the development at 6 Fox Close has not only taken account of the personal safety of the appellant’s property but also that of the properties to the rear by limiting views into their curtilage from the adjacent, higher standpoints.

Therefore, it is contended that the development complies with criterion (b) of GDP1 of the UDP.

As the safety aspect of the policy has been addressed and is acceptable the issue of materials arises.

It can be clearly seen around the estate, in several forms, timber fencing to a height of 1.8m which provides security for the home owners and forms the character and appearance of the area.

The appellants have followed this lead and erected an appropriate timber fence, with some trellising, which is similar to that on the estate.

This fencing is erected, mainly, on the ground level of the purchased land and is considered to be within permitted development limits.

It is accepted that the new fence on the additional land to the rear of 6 Fox Close could be enhanced with some form of additional landscaping and the appellants are more than happy to accept a reasonable condition to supply details of a landscaping scheme should the appeal succeed.

In consideration of the above the appellants contend that the two reasons for refusal are not supportable and the development provides for community and personal safety in a way which picks up from the character of fencing on the estate and subsequently is fully in keeping with the character and appearance of the area.

The principle of the change of use to residential curtilage has not been questioned by the Council in the reasons for refusal. The Officer’s report states that the land in question is outside the settlement boundary and in the Green Barrier. However, looking at the development plan maps on the Council

website it is not clear at all that is the case. The boundaries of the inset maps have lines which, on the ground, cover about 15-20 metres. As the Council have not added into the reason for refusal any concerns on the settlement boundary or Green Barrier issues it is contended that the site is not included within Green Barrier designation or outside of the settlement boundary.

As the development fully complies with the relevant planning policies of the extant UDP the appellants contend that the appeal should be allowed.