
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 19/01/21

**gan Declan K Beggan, MSc BSc (Hons)
DipTP DipMan MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 23/2/21

Appeal Decision

Site visit made on 19/01/21

**by Declan K Beggan, MSc BSc (Hons)
DipTP DipMan MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 23rd February 2021

Appeal Ref: APP/H6955/A/20/3259957

**Site address: Land Adjacent to Greenacres, Bottom Road, Summerhill, Wrexham,
LL11 4TR**

**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 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Antoni Jones against the decision of Wrexham County Borough Council.
 - The application Ref: GWE P/2020/0151 dated 4 March 2020, was refused by notice dated 30 July 2020.
 - The development proposed is an outline application for residential development and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposed development differs on the planning application form to that stated on the Council's refusal notice. I consider the description as given on the Council's refusal notice is more accurate and it is on this basis that I have determined the appeal.
3. The Appellant has submitted a Section 106 Unilateral Undertaking (UU) covering the provision of affordable housing, the payment of contributions towards education costs, and the provision of an open space management plan.

Main Issues

4. The main issues in this appeal are:
 - Whether the proposed development would provide a suitable site for housing having regard to the principles of sustainable development and planning policies that seek to strictly control new development outside of settlement limits;
 - Whether or not the proposal would provide adequate on-site public open space (POS);
 - The effect of the proposed drainage facilities;
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- The effect of the development on the character and appearance of the area; and,
- If harm is found in regard to any of the above, whether there are other material considerations sufficient to outweigh the harm.

Reasons

6. The site which is located in open countryside, forms part of a larger agricultural field that is bordered to its southern boundary by residential development that is within the settlement limit for Gwersyllt, as defined by the adopted Wrexham Unitary Development Plan (UDP). The northern boundary of the site is currently open, with the western and eastern boundaries, facing onto Bottom Road and another field, both denoted by mature hedging. The site benefits from an existing field access onto Bottom Road; the proposed access which falls to be considered at this stage would be located approximately in the same place as the existing access. A public footpath runs along the southern boundary of the site.

Suitable Site for Housing

7. It is a long-standing planning policy position that the countryside should be safeguarded from uncontrolled and sporadic development, with development primarily directed to existing settlements; otherwise unrestrained encroachment of the countryside would occur. However, other appropriate locations outside settlements cannot be discounted and these have to be weighed against national planning policy that supports sustainable development as detailed in Planning Policy Wales Edition 10 (PPW).
8. Policy H5 of the UDP only permits new dwellings outside defined settlement limits in certain circumstances, none of which apply to the appeal proposal. The explanatory text to the policy states it is designed to prevent new housing in the form of isolated dwellings, the consolidation of sporadic groups, or the extension of ribbon development in the countryside as it would result in a loss of visual quality and landscape character and adversely affect agriculture. Policy PS2 of the UDP states, that development must not materially detrimentally affect countryside, landscape/townscape character, open space, or the quality of the natural environment. Policy GDP1 of the UDP sets out general development principles and seeks, inter alia, to 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 locality; it also refers to securing the development of sustainable communities, through the promotion of the economic, social and environmental well-being of the area. Policies PS2, H5 and GDP1 broadly reflect the stance taken in PPW, insofar as they relate to the protection of visual amenities and control of new housing in the countryside in line with sustainability principles.
9. The appeal site is located outside of the settlement limit for Gwersyllt and therefore is in open countryside. It has not been justified under policy H5 of the UDP in terms of new housing in the countryside. Policy PS2 of the UDP states, inter alia, that development must not materially detrimentally affect the countryside or the quality of the natural environment; this approach is echoed in PPW which states the countryside, in line with sustainability principles, should be conserved and where possible enhanced for its own sake. The proposed development would lead to a significant area of open countryside being built over; such development by its very nature would neither conserve nor enhance the countryside, and result in material detriment to the

countryside and landscape of the area. The proposal would therefore be contrary to policy PS2 of the UDP and the general development principles as set out in policy GDP1. The proposal would not meet the environmental dimension of sustainable development as referred to in PPW.

10. The site would be located in reasonable proximity to services such as public transport, and other facilities within Summerhill such as the primary school, health centre, garages, and pubs; in the wider area of Gwersyllt there would be a high school and various shops, which whilst not as accessible on foot nevertheless could be accessed by the bulk of people. The site would also provide for additional housing some of which would be for affordable purposes, whilst the development would bring forward economic benefits via construction and longer-term spending in the area. The cultural dimension of the proposal appears to be neutral. Therefore, I find that the site would provide for social and economic benefits; I shall address the weight to be attached to these benefits later.
11. PPW states that a plan led approach is the most effective way to secure sustainable development through the planning system. I have previously found that the UDP policies applicable to the proposed development broadly reflect the stance taken in PPW insofar as they relate to the control of new housing in the countryside in line with sustainability principles. The proposal is consequently in conflict with local and national planning policies that in broad terms seek to control development in the interests of sustainability.
12. Drawing the threads of the above together, in regard to the Council's first reason for refusal, the proposed development would not provide a suitable site for housing having regard to planning policies that seek to strictly control new development outside of settlement limits. Whilst the UDP is time expired, nevertheless it remains the operative development plan for the area and, although now based on aging data, and as a result attributing less than full weight, nevertheless the plan's policies as referred to in the refusal notice remain generally relevant in terms of the sustainable location of development. PPW supports sustainable development, however, this must be in accordance with the development plan unless material considerations indicate otherwise; these other considerations are considered later.

POS

13. The Council's second reason for refusal states the proposal would have a shortfall in POS. Policy CLF5 of the UDP relates to open space requirements for new residential development and requires 0.4 ha per 50 dwellings. In this instance the Council have applied a sum of 0.2 ha of POS, however the scheme cannot meet this as it only provides 0.14 ha. The appellant argues that as the scheme is in outline the submitted layout plan is only for illustrative purposes and that as the size of the POS is arbitrary it would be subject to further negotiation and approval at the reserved matters stage.
14. The Council refer to the Order¹, which is a material consideration in this appeal, and it states that where layout is a reserved matter, as is the case in this instance, that the application for outline planning permission must state the *approximate* (my emphasis) location of buildings, routes and open spaces included in the development proposed. The proposed application details meet the requirements of the Order; there is no requirement to specify exact numbers of dwellings.

¹ The Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (the Order)

15. I appreciate the submitted drawing indicates 31 dwellings, but it is evident from other application details such as the DAS that this is a maximum figure; it is not necessarily the final number should the scheme ever come to fruition. In addition, the description of the proposal does not refer to any specific number of dwellings.
16. Whilst it is evident based on the indicative layout, the proposed development would not provide the level of POS as required by the Council, nonetheless, I see no reason why any concerns in regards to this matter at the outline stage could not be addressed via a suitably worded planning condition along the lines of that suggested by the Council in their appeal submission. Such an approach would overcome the Council's second reason for refusal and ensure the provision of a suitable amount of POS.

Drainage

17. The Council's third refusal reason relates to the lack of information to demonstrate the site can provide a compliant Sustainable Urban Drainage System Standard (SuDS) in line with national standards², and in the absence of such information the Council took the view that the proposal had not demonstrated it could be progressed without a detrimental impact on flood risk either on the site or locally. Local residents echo the Council's drainage concerns.
18. The appellant indicates the site would be subject to a SuDS scheme although has given little other detail apart from indicating a potential location within the site and stating that surface water would be collected from hard surfaced areas and discharged to the ground by means of infiltration in accordance with SuDS principles.
19. Welsh Government (WG) policy dictates that all new development above a certain size is served by a SuDS scheme, with schemes such as that proposed having to gain approval by a SuDS Approval Body (SAB) before construction begins. As a consequent SuDS proposals are no longer part of the planning permission procedures.
20. WG advise that SuDS approval should be made at the same time as the corresponding planning application, in order to insure the SuDS scheme is an integral element of the design and to maximise benefits and opportunities; in this case it appears the appellant has chosen to pursue such approval at a later date. Pursuance of a SuDS approval at a later date involves an element of risk for a developer as it may not be possible to gain such approval for a scheme that would meet the required standards, nonetheless such an approach is permitted.
21. In this case I am mindful that it would not be appropriate for this appeal process to duplicate controls that are secured by other legislation. The Council argue that it has not been demonstrated that a SuDS scheme can be delivered that would comply with statutory standards, however the adequacy and effects of such a system is a judgment for the SAB, not the local planning authority within the planning application process. In the absence of a SuDS approval it would not be possible to implement any corresponding planning permission.
22. Bearing the above in mind, I consider the substance of the Council's third reason for refusal lies outside the scope of this appeal and should not be considered any further in this process.

² Refer to Welsh Government publication, 'Statutory standards for sustainable drainage systems – designing, constructing, operating and maintaining surface water drainage systems'.

Character and Appearance

23. In terms of the Council's fourth reason for refusal it argues the proposed development would not accord with the character of the area nor make a positive contribution to the appearance of the locality thereby having a detrimental effect on the area's landscape and townscape character. The refusal reason cites lack of compliance with UDP policies GDP1 and PS2 which collectively seek to safeguard visual amenity; PPW reflects the stance taken in these policies and refers to development proposals responding to their surroundings to ensure that a development is well integrated into the fabric of the existing built environment, and be considered in terms of its relationship between a site and its surroundings to achieve good design.
24. The appellant argues that the design and layout of the proposal as shown on the submitted scheme is for illustrative purposes only with any detailed design subject to a later application. Whilst I share some of the Council's concerns in terms of the illustrative layout of development, nonetheless, I see no reason why this detailed matter could not be subject to later control via a reserved matters application.
25. Setting aside the above issue, it is clear from the Council planning report that another aspect to their concerns relates to encroachment of built development beyond the settlement where there is no development either side or to the north of the site and which it is argued results in an obvious and illogical addition to the area.
26. Residential development in Summerhill is well contained to the south of the appeal site, with a relatively firm and consistent line of dwellings that form a noticeable built edge that is in stark contrast with the rural character of the agricultural fields and open countryside that the appeal site forms part of. Whilst there are dwellings beyond the settlement boundary to the north of the appeal site these are sporadic in nature and are clearly seen within the context of the surrounding rural landscape.
27. Irrespective of any final layout or design, the proposal would result in a significant area of built development that would project and encroach into a landscape whose character is rural in nature and as a result would appear contrary to the existing pattern of development and the character of the area. From local vantage points, the proposal would appear as a stark, obvious visual intrusion that would jut into the surrounding countryside and would be seen as an illogical extension to the area, and as a result have a materially detrimental effect on the character and appearance of the area; in this respect it would appear as 'bolt on' development that would be at odds with the prevailing character of the area.
28. For reasons given above I consider the proposed development would be detrimental to the character and appearance of the area and a result run contrary to policies GDP1 and PS2 of the UDP, which collectively seek to protect visual amenity.

Other Material Considerations

29. The Wrexham Local Development Plan (LDP) is currently undergoing examination prior to being formally adopted. The weight attached to an emerging LDP when determining planning applications generally depends on the stage it has reached but does not simply increase as the plan progresses to adoption. The Council highlight that the site has not been included within the defined settlement limit of Gwersyllt within the LDP and remains in open countryside, and there are residential sites allocated within the LDP that are nearer to main facilities in Gwersyllt than the appeal site. I also note third parties have drawn attention to housing land supply details that have formed part of the LDP examination process. Certainty regarding the content of

the emerging plan will only be achieved once the examining Inspectors publish their binding report and therefore at this stage, I accord only modest weight to the LDP.

30. The appellant refers to Technical Advice Note 1: Joint Housing Land Availability Studies (TAN 1), which referred to *considerable* (my emphasis) weight being attached to the need to increase housing where a five year housing supply does not exist, however, TAN 1 was revoked in March 2020. The revocation of TAN 1 in effect gives the decision maker more discretion on an individual basis to determine the weight to be applied to housing need and supply. The Council do not dispute there is a need to increase housing land supply, however they state the weight to be attached to this would not outweigh the harm arising from the development; I agree.
31. Whilst I afford significant weight to the need to increase housing land supply this cannot be to the detriment of the countryside or the quality of the natural environment, irrespective of whether 25% of any dwellings on the site would be for affordable purposes. These benefits, or any others such as a short timeframe of deliverability would not outweigh the significant shortcomings of the proposal as identified above, and its conflict with local and national planning policies which seek to promote sustainable development through the control of the location of new residential development in the countryside, and the safeguarding of visual amenities. I accept the proposal would provide economic and social benefits, but these are limited, and would not outweigh the harm identified.
32. In support of his stance the appellant has referred to a number of recent Council and appeal decisions that have been granted for development outside of settlement boundaries and the consistency of such approaches.
33. In terms of the Council decisions I do not have the full details that led to those cases being accepted and so cannot be sure that they represent a direct parallel to the appeal proposal, including in respect of scale, location relative to nearby development, and the main issues before the decision makers. In his submissions the appellant draws comparisons with previous decisions allowed under appeal, however I note a number were made prior to the revocation of TAN 1 and the current version of PPW and therefore the planning policy context has substantially changed since this application was determined, and therefore they are not directly comparable. In addition, I appreciate the appellant's concerns in terms of consistency, however, each case is determined on its own merits, based on the specific facts and planning context at that particular time.

Other Matters

34. The Council raised a number of concerns in regard to the appellant's submitted UU however bearing in mind the substantive issues as discussed above it is not necessary to pursue these matters any further.
35. Third parties have raised a number of other concerns such as highway safety, however based on the application details and my site observations, I consider this issue, or any others raised would not have justified refusal of the scheme on those grounds.

Conclusions

36. I have found that the proposed development would not provide a suitable site for housing having regard to the principles of sustainable development and planning policies that seek to strictly control new development outside of settlement limits, and would be detrimental to the character and appearance of the area. Any matters in

favour of the proposal would not overcome or outweigh the concerns identified. Therefore, after taking account of all the evidence before me, and for the reasons given above, I conclude that the appeal should be dismissed.

37. In reaching my decision, I have taken account of 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 one or more of the Welsh Ministers' well-being objectives as required by section 8 of the Act.

Declan K Beggan

INSPECTOR