
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 30/10/19

gan **A L McCooey BA MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 14.11.2019

Appeal Decision

Site visit made on 30/10/19

by **A L McCooey BA MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 14.11.2019

Appeal Ref: APP/H6955/A/19/3235198

Site address: Land adjacent to Ashgrove, off Pant Hill, Penycae, Wrexham

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 and Mrs Price against the decision of Wrexham County Borough Council.
 - The application Ref P/2019/0406, dated 23 April 2019, was refused by notice dated 5 July 2019.
 - The development proposed is the erection of a 4-bed detached dwelling with associated detached garage.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on highway safety and whether a safe and adequate means of access can be provided to serve the proposal;
 - whether enough information has been provided to assess the risk to the proposed development from surface water flooding and to assess the proposed drainage arrangements;
 - whether enough information has been provided to assess the risk to the proposed development from land instability;
 - whether enough information has been provided to assess the effect of the proposal on the trees and hedges on the site.

Reasons

3. The site is situated at the end of an unsurfaced lane off Afoneitha Road (B5097) close to its junction with Pant Hill. There is another unsurfaced lane which runs to the rear of 5 properties on Afoneitha Road and joins the site access lane. The site comprises the garden of an existing bungalow called Ashgrove. There are trees and hedges along the boundary and several fruit trees in the garden. The proposal is for a substantial two storey house orientated to face towards Ashgrove with parking and a garage to the front.
-

4. Current local planning policy is provided by the Wrexham Unitary Development Plan (UDP). Although past its end date, the policies therein remain relevant until the new Local Development Plan (LDP) is adopted. The site is within the development limit in the UDP. Policy H2 is supportive of proposals for residential development on land within settlement limits subject to compliance with Policy GDP1, which lists criteria to be met by all development proposals. The reasons for refusal rely on criteria d), f) and i) within that policy. Policy EC13 states that development which would result in an unacceptable adverse impact on the water environment due to additional surface water run-off will not be permitted. Planning Policy Wales (PPW) states that surface water flooding will affect the layout and design of schemes and that these factors should be considered at an early stage.

Access and Highway Safety

5. The B5097 is subject to a 20 mph speed limit at this location. Visibility in the westerly direction at the junction of the lane with the B5097 is poor due to the raised footway and pedestrian guardrail. The appellants have suggested that this guardrail could be replaced so that a visibility splay of 19m could be achieved. This would be below the required 25m visibility splay for 20 mph roads. The Local Planning Authority statement confirms that concerns regarding visibility have been addressed. However, the B5097 is a busy road and I consider that any reduction in this minimal visibility splay is a factor that must be weighed in the consideration of the proposal.
6. The access lane leading to the site is narrow with no footways or passing places. It is unsurfaced and has potholes and significant erosion. Evidence indicates that this erosion was caused by surface water flows along the lane. Visibility at the junction with the other lane to the rear of Afoneitha Road is poor. The condition of the rear lane is equally poor, and it would not be a suitable alternative access route. Both lanes serve 10 dwellings and the portion leading to the site serve 3 dwellings. The Council considers that the lane is not suitable for use by traffic from further development. I agree and conclude that the increased traffic associated with a large dwelling (and its construction) would be prejudicial to highway safety because of the poor condition and restricted width of the lane. The restricted visibility at the junction with the B5097 and the other lane would also be prejudicial to highway safety. For these reasons I conclude that the proposal would be contrary to Policy GDP1 (d).

Surface Water Flooding

7. The Local Planning Authority has highlighted that the area is prone to surface water flooding and supplied evidence from Natural Resources Wales' (NRW) flood maps¹ showing part of the site and adjoining land to be at a high risk of flooding. Local residents have also supplied evidence of major surface water flooding and sewers overflowing in the area. It is stated that these incidents occurred twice this year. The appellant has excluded the south eastern corner of the garden from the application site. It is claimed that this will prevent any risk of flooding. There are several problems with this approach. The precise extent of the area at high risk of flooding (1 in 30 years return period) has not been specified. The works on the site could affect surface water flows and increase the risk of flooding of the appeal proposal and other properties in the area. For these reasons, further information on flood risk and surface water drainage would be required and planning permission should not be granted in its absence.

¹ NRW do not comment on surface water flooding and have not commented on this application

8. Schedule 3 to the Flood and Water Management Act 2010 makes the provision of Sustainable Drainage Systems (SuDS) a mandatory requirement for all new developments. From 7 January 2019, the majority of new developments required SuDS approval. The exception to this requirement is laid out in Article 6 of The Sustainable Drainage (Approval and Adoption) (Wales) Order 2018. There has been some confusion caused by the wording of this exception, with some literature referring to a 'single dwelling' exception. However, the exact wording of the exception is such that a single dwelling is only excepted from the need for SuDS approval if the area of land covered by the construction work is less than 100 m². In effect this means that the exception relating to single dwelling is exactly the same as that which applies to 'any other type of construction work'. The works to provide this dwelling would exceed 100 m² and so SuDS approval would be required.
9. The Council confirms that no application has been made or pre-application advice sought. The appellants indicate that surface water would be drained by means of on-site soakaways. The Council's evidence is that soakaways may not be suitable due to the impervious nature of glacial till present in the area. I have not seen any cogent evidence to lead me to a contrary conclusion on such a matter and it is for this reason that I concur with the Council's view that surface water drainage proposals have not been adequately considered as part of the development proposal. The proposed development conflicts with UDP Policies EC13 and GDP1 for these reasons.

Land Instability Risk

10. PPW states that planning decisions will need to take into account the potential hazard that instability could create to the development itself and the surrounding area. PPW also refers to the possible need for applications to be accompanied by a coal mining risk assessment report. The Coal Authority confirms that the application site falls within the defined development high risk Area. Its records indicate that within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application, specifically both actual and probable shallow coal mine workings and a thick coal seam outcrop. The appellants rely on a preliminary report that only relates to mine entries. It is argued that the cost of a coal mining risk assessment report would be prohibitive and that precautions can be incorporated into the design of the dwelling to address any issues that may be identified later. The Coal Authority does not consider this would adequately address the impact of the legacy of coal mining on the proposed development and objects to the proposal due to the absence of a coal mining risk assessment report.
11. The appellants' submitted coal mining report provides the basic coal mining information in relation to the application site; it does not provide an assessment of the risks to any proposed new development on the site. Insufficient information has been submitted to address the potential hazards within the site as advised by the statutory consultee. It is not known whether the site can be safely developed or whether the proposed layout would be acceptable. The proposal is therefore contrary to advice in PPW and to Policy GDP1 (f).

Effect on Trees and Hedges

12. The Local Planning Authority refused planning permission on the grounds that trees and hedges on the site were not properly assessed and refers to UDP Policies PS2, GDP1 and EC4. I note that several fruit trees and an Ash tree near the proposed

access within the site have been felled. The Local Planning Authority takes no issue with the loss of the Ash tree or fruit trees within the site. The remaining trees and hedges on the site are close to the site boundaries. These trees and hedges are shown on the submitted plans to be retained as part of the proposal. The Local Planning Authority has not provided any evidence of potential adverse effects of the proposal on these trees and hedges. I conclude that their retention and measures for their protection could have been addressed by suitable planning conditions, ensuring compliance with the above UDP policies.

Other Matters

13. The Local Planning Authority concludes that the design of the proposal itself would be acceptable in terms of the effect on the character and appearance of the area and would avoid adverse effects on the living conditions of nearby residents. Subject to the retention of boundary vegetation, I agree with this assessment. Other matters raised in the objections to the proposal are not grounds for the refusal of planning permission.

Conclusion

14. 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 have also had regard to advice in Planning Policy Wales on the approach to applying the Act. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' revised well-being objectives to build healthier, more resilient communities and environments. I conclude that the proposal would conflict with national policy in PPW and Policies GDP1 and EC13 of the UDP for the reasons given above. I have considered the benefits outlined in the appellants' submissions, but they do not outweigh the identified harm that would result. Having considered all relevant matters, I conclude that the appeal should be dismissed.

A L McCooey

Inspector