

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 10/10/19

gan Richard E. Jenkins BA (Hons) MSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 25.11.2019

Appeal Decision

Site visit made on 10/10/19

by Richard E. Jenkins BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 25.11.2019

Appeal Ref: APP/H6955/A/19/3234271

Site address: Land South of the Paddock, Old Wrexham Road, Gresford, Wrexham, LL12 8UA

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 outline planning permission.
 - The appeal is made by Mr T Edwards against the decision of Wrexham County Borough Council.
 - The application Ref: P/2019/0336, dated 29 April 2019, was refused by notice dated 17 June 2019.
 - The development proposed is outline planning application for proposed residential development to form 8No. mews style properties in two blocks of 4No units with central access point and associated parking to the rear.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development from the Local Planning Authority's (LPA) Notice of Decision as it provides a more accurate description than that outlined on the planning Application Form. As this is consistent with that outlined on the Appeal Form, I am satisfied that there is no prejudice in this respect.
3. The Council's second Reason for Refusal relates to the drainage of surface water. However, as sufficient information has been submitted to demonstrate that infiltration is likely to be a suitable means of drainage, the Council has since withdrawn its objection on such grounds. I have no reason to come to a different conclusion on such a matter, so shall confine my reasoning to the outstanding matters of dispute.

Main Issues

4. These are: whether the development is acceptable in principle, having particular regard to the planning policy framework; the effect of the proposed development on the character and appearance of the area; the effect of the proposed development on the purposes and openness of the Green Barrier and whether any such harm would be clearly outweighed by very exceptional circumstances; the effect of the proposed development on pedestrian and highway safety; and the effect of the proposed development on local ecology, having particular regard to the proposed works to the hedgerow fronting Old Wrexham Road.
-

Reasons

Principle of Development, Character and Appearance and Green Barrier

5. The appeal proposal represents an undeveloped site located outside of the settlement limits defined by the adopted Wrexham Unitary Development Plan 1996- 2011 (Adopted 2005) (UDP). The development is therefore located in the countryside for the purposes of planning policy. Policy PS1 of the adopted UDP directs development for housing to areas within defined settlement limits. Policy H5 comprises a criteria-based policy that expands on the principles of Policy PS1, setting out the circumstances where new dwellings in the countryside would be permitted. The development does not however represent a policy exception referred under criterion (a) of Policy H5 and, as the development would not comprise 'infilling' or a development related to a 'rural enterprise', it would also conflict with criterion (b) and (c) respectively. The principle of the development would therefore run counter to the general thrust of the development strategy advocated by the adopted UDP.
6. The appeal site is located adjacent to an existing dwelling and opposite existing dwellings located along Old Wrexham Road. Other developments are also located further to the south. Nevertheless, there is little doubt that the development would represent both a physical and visual incursion into what is currently an area of open countryside. Indeed, by virtue of its scale and nature, the development proposed would urbanise and injuriously alter the rural characteristics of the appeal site, to the detriment of the character and appearance of its countryside setting. In coming to this conclusion, I have been mindful of the fact that the existing hedgerow, which contributes to the rural frontage of the site, would be materially altered to facilitate the development and would not therefore be an effective screen to the development. The development would therefore conflict with the general aims of Policy PS2, Policy PS3, Policy PS4 and Policy GDP1 of the adopted UDP which generally seek to protect the countryside. For the same reasons, it would also conflict with the general thrust of Planning Policy Wales (Edition 10, 2018).
7. The site is also located within a Green Barrier designation defined by the adopted UDP which, for planning policy purposes, is akin to the Green Wedge policy tool referred within PPW. Policy EC1 of the adopted UDP states that development proposals within Green Barriers will only be granted planning permission if they are for agriculture, forestry, essential facilities for outdoor sport and recreation, cemeteries and other uses of land which maintain the openness of the Green Barrier and do not conflict with the purposes of including land within it. The development proposed in this case would without doubt comprise 'inappropriate development' within the Green Barrier for the purposes of PPW. Moreover, the development would also fail to fall within the types of development permissible by Policy EC1 of the adopted UDP.
8. PPW states that, when considering applications for planning permission within such designations, a presumption against inappropriate development will apply. There is little doubt that, given the scale and nature of the development, it would materially reduce the openness of the site. As such, and by encroaching into an area of open countryside, the development would run counter to the purposes of the Green Barrier which seeks to: i) prevent the coalescence of urban areas and villages with other settlements; ii) assist in safeguarding the countryside from encroachment; iii) protect the setting of urban areas and villages; and iv) assist in urban regeneration by encouraging the recycling of derelict and other urban land.
9. The appeal proposal therefore conflicts with Policy EC1 of the UDP and, in accordance with the advice contained within national policy, such harmful impacts merit

substantial weight in the planning balance. Nevertheless, PPW states that inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the designation. In order to fully conclude on such a matter, it is therefore necessary to consider whether the arguments advanced in favour of the development amount to such very exceptional circumstances.

10. Given that the adopted UDP is time-expired, I consider that it attracts less than full weight in the determination of this appeal. Indeed, despite the disapplication of paragraph 6.2 of Technical Advice Note 1: *Joint Housing Land Availability Studies* (JHLAS) (TAN1) and the on-going consultation regarding the wider application of that document, national policy dictates that the absence of an up-to-date development plan renders the LPA without a five year supply of land for housing. PPW requires LPAs to ensure that sufficient land is genuinely available or will become available to provide a five year supply of land for housing. I therefore consider the need to increase the supply of housing in the area to weigh significantly in favour of the appeal. The appeal site is not allocated for housing in the emerging Local Development Plan (LDP), which has been submitted for independent Examination. Nevertheless, the weight to be attributed to that document does not simply increase as the plan progresses towards adoption. The fact that the emerging LDP allocates significant areas of greenfield land is however material to the determination of the appeal, not least because it illustrates that the identified housing need cannot be met without the release of greenfield land.
11. Nevertheless, having considered all matters raised, I do not consider that the matters in favour of the development justify the harm and associated policy conflict identified in this case. In coming to this conclusion, I have been particularly mindful of the substantial harm that would arise to the countryside setting and openness of the Green Barrier. I am also mindful that the positive benefits would be limited by the fact that, despite being located within walking distance to the village, the site would not be accessible from available facilities and services by a continuous and convenient pedestrian footway. Indeed, there would not be a continuous footway between the appeal site and Chester Road, meaning that the overall sustainability credentials of the development would be somewhat limited. I have fully considered the appellant's reference to other planning decisions within the vicinity of the appeal site. However, I have not been made aware of the full details of such cases so have not, therefore, been able to undertake a detailed assessment of those schemes. I have however fully considered the existing built form in my assessment of the appeal scheme and, notwithstanding such matters, it is a well-established principle of planning that each case should be treated on its own particular merits. I do not therefore consider the reference to other developments to weigh heavily in favour of the development.
12. Based on the foregoing, and having considered all matters raised, I find that the matters in favour of the development fall significantly short of the very exceptional circumstances required to clearly outweigh the harm to the Green Barrier. It therefore follows that the development would also run counter to both Policy EC1 and the sections of PPW relating to such designations.

Pedestrian and Highway Safety

13. The Council objects to the proposed development on the basis that safe and satisfactory vehicular access has not been demonstrated and that the development would therefore have a detrimental impact upon pedestrian and highway safety within the area. Nevertheless, having regard to the indicative Site Plan and the submitted speed survey, and bearing in mind the fact that access is a matter that is reserved for subsequent determination, I am satisfied that the appellant has demonstrated that

access arrangements with satisfactory visibility distances could be provided without causing material harm to pedestrian or highway safety in the area. Achieving satisfactory visibility would however be reliant on significant works to the existing hedgerow that fronts the site. Such matters are considered elsewhere in this Decision.

14. Nevertheless, whilst the submitted Site Plan indicates that a pedestrian footway could be provided along the site frontage, it was clear at the time of my site inspection that, despite being located within relative close proximity to the centre of the village, there is not a convenient and uninterrupted pedestrian footway between the appeal site and Chester Road. Indeed, as set out above, a significant proportion of this section of Old Wrexham Road is not served by a pedestrian footway. It is also material to note that a number of the existing dwellings located along this route do not benefit from off-street parking, meaning that parked vehicles materially reduce the width of the carriageway and constitute an obstruction to pedestrians.
15. It is clear that Policy T9 of the adopted UDP states that development proposals will be required to provide, amongst other things, walking routes where feasible and appropriate. In this respect, I note the difficulties of retrofitting such a provision in this instance. Nevertheless, the appeal site would inevitably intensify the use of Old Wrexham Road by both vehicles and pedestrians and would therefore exacerbate the foregoing problems, to the detriment of pedestrian safety. It is on this basis that I find that the development would conflict with the general thrust of Policies PS4, GDP1(d)(e) of the adopted UDP and the principles of PPW and Technical Advice Note 18: *Transport* (TAN18). I note the LPA's objection on the grounds of Policy T8. However, as I have not seen any valid objection to the proposal on the grounds of parking provision, I do not find any policy conflict in this respect.

Ecology/ Hedgerows

16. I have already considered the amenity value of the hedgerow fronting the appeal site within the assessment of the character and appearance of the area. I shall therefore confine my reasoning in this respect to its ecological value. The Council objects to the development on the basis that it would fail to protect the existing locally valuable hedgerow, whilst also citing the lack of suitable space for the successful establishment of mitigation measures. In contrast, the appellant contends that the hedgerow fronting the appeal site would be retained, recognising however that it would be maintained at a height of 1 metre to facilitate safe access and egress from the site.
17. I was able to confirm at the time of my site visit that a significant proportion of the hedgerow fronting the appeal site sits upon an earth bank. As such, reducing its height to 1 metre would, in large parts, remove the extent of the vegetation that the Council wishes to retain. To this limited extent, I have sympathy with the Council's concerns. Nevertheless, whilst I note the diminished ecological value of the hedge should it be removed or maintained at 1 metre high, I am mindful that the submitted Ecological Report concludes that mitigation, compensation and enhancement measures could be taken to ensure that the overall ecological impacts would be low. I have not seen any cogent evidence to challenge such a conclusion and, having regard to the modest scale of the hedgerow relative to the wider area of the site, and the flexibility available for suitable avoidance, mitigation and/ or compensatory measures to be provided through any subsequent application(s) for approval of reserved matters, I do not consider it to have been satisfactorily demonstrated that the loss of the hedgerow represents a justified reason for refusal in this case.
18. I therefore find no material conflict with Policy EC6 of the adopted UDP in relation to such matters.

Other Matters and Overall Conclusions

19. Based on the foregoing analysis, I have found above that the principle of development would fundamentally conflict with the development strategy of the adopted development plan. The development would also cause material harm to the character and appearance of the area and fail to maintain the openness of the Green Barrier. The matters in favour of the development, that include the contribution that the development would make to the local housing land supply, do not comprise the very exceptional circumstances necessary to clearly outweigh the harm to the Green Barrier or indeed the wider policies designed to protect the countryside. I have not found the ecological matters to be fatal to the appeal scheme. However, the development would also unacceptably increase the threat to pedestrian safety.
20. The matters against the scheme therefore amount to a compelling reason why planning permission should not be granted in this instance and it is for this reason that I conclude that the appeal should be dismissed. In coming to this conclusion, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.
21. I note the fact that the Council has raised concerns in its Statement of Case that the appellant has not submitted a Unilateral Undertaking, under Section 106 of the Act, to deliver necessary obligations. However, the information available to me in this respect is limited and, given that I have already found the development to be unacceptable both in terms of principle and practical harm, I do not consider it necessary for me to conclude on such matters.

Richard E. Jenkins

INSPECTOR