
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 14/08/19

gan **A L McCooey BA MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 11.09.2019

Appeal Decision

Site visit made on 14/08/19

by **A L McCooey BA MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 11.09.2019

Appeal Ref: APP/H6955/A/19/3227191

Site address: Oakdale, Pant Lane, Gresford, Wrexham, LL12 8HB

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 Stephen McKinlay against the decision of Wrexham County Borough Council.
 - The application Ref: P/2018/0713, dated 10 May 2018, was refused by notice dated 26 October 2018.
 - The development proposed is the demolition of existing bungalow and erection of 2 dwellings and access arrangement.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Amended plans were submitted with the appeal that proposed to re-locate a rear single storey element on the front dwelling from the north east corner to the north west corner of the building. Whilst there was no issue taken by the Council with this aspect of the proposal, the appellant considered that it would reduce the impact on an adjoining dwelling and move it away from a tree. The appellant considered that this amendment would be minor and of benefit to existing and proposed dwellings. However, under the Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017, the appellant may not raise any matter which was not before the Local Planning Authority at the time of the refusal. I therefore take no account of the amended plans in this decision. My decision is based on the plans as submitted to the Local Planning Authority.

Main Issues

3. The main issues are the effect of the proposal on highway safety; the effect on the character and appearance of the area and the effect on the living conditions of the occupiers of adjoining dwellings.
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Reasons

4. The site is in a residential area to the north of Gresford centre. There is a bungalow on the site with a garage and outbuilding. It is sited to the front of the long plot, level with the other dwellings along the road. There is a house to the west (Edge Croft) and a bungalow to the east (Langside). A small development of 4 dwellings (known as the Conifers) is sited behind the 3 frontage dwellings to the east. It has an access road running alongside the entrance to Maes y Pant, which is an area of community woodland with car parking at the entrance. No. 3 The Conifers backs onto the site and no. 2 is side on to the rear of the site. Woodland within Maes y Pant lies to the rear (north) of the site and adjoining dwellings.
5. The proposed dwellings would be sited one behind the other. They would be of a 2-storey contemporary design with shallow monopitch roofs. The access position would remain as existing but would be widened. A wide driveway leading to both dwellings and parking and turning areas are proposed in front of the dwellings. The front dwelling is termed Oakdale Cottage and the rear Oakdale House.
6. Current local planning policy is provided by the Wrexham Unitary Development Plan (UDP). This is past its end date, but the policies therein remain relevant until the new Local Development Plan (LDP) is adopted. The examination of the LDP has only recently commenced. Policy GDP1 of the UDP is a general policy that lists criteria to be met by all development proposals the reasons for refusal rely on criteria a), d) and f) within that policy.

Highway safety

7. The principal concern in terms of highway safety is poor visibility at the access meaning that it would be unsafe, contrary to Policy GDP1 (d). The available visibility at the existing access to the appeal site is stated as 4m in either direction. Visibility at the accesses to the adjoining dwellings is around 8 to 14m in both directions. A new fence has been erected along the frontage of Edge Croft that limits visibility.
8. The appellant undertook a traffic survey for a week in mid-December 2018. The results show that the average weekday flow is 625 vehicles eastbound and 582 westbound. This demonstrates that Pant Lane is relatively lightly trafficked. The highway authority did not dispute the survey results. The issues raised by local residents in relation to traffic on Pant Road were unsupported by convincing evidence. Average (85%) speeds are around 29 mph. The visibility requirements set out in Technical Advice Note (TAN) 18: Transport are therefore 2.4m by 43m. Despite the claims of objectors, the evidence is that there have been no recorded accidents on Pant Lane within the last 19 years.
9. The Council argues that the visibility splays should be measured to the nearside kerb. Their provision would require a legal agreement with the neighbouring properties on either side in order to remove obstructions to visibility. The appellant refers to guidance in Manual for Streets 2 (MfS2) that allows for relaxations in visibility where traffic speeds and volumes are low, and there is no local evidence of problems.
10. The appellant states that with the removal of shrubs along the site frontage, visibility of around 28m would be available to the left (measured to 1 m off the kerb in accordance with MfS2). This increases to 43m if the splay were to be measured to the centre of the road. Support for this method is found in MfS2 in circumstances where it is unlikely that vehicles approaching from the left will cross the centreline. The example is given that opposing flows may be physically segregated at that point. This is not the case here. The road is not subject to any parking restrictions. Traffic

approaching from the left may have to pass a parked car. The access is close to a bend and forward visibility for traffic on Pant Road is limited. This factor would cause drivers to slow if passing a parked car. During my site visits no cars were parked on the road near the site and no convincing evidence was provided to demonstrate that this would be a common occurrence.

11. To the right exiting visibility is blocked by the new fence along the frontage of Edge Croft after 15m. However, due to the curvature of the road, visibility is available from 60m to 90m. A very short wait would be sufficient to establish that the road was clear before proceeding. The Council argues that the required visibility is 43m and visibility in excess of that (i.e. between 60m and 90m) should not be taken into account. No convincing explanation of the effect on highway safety or harm caused has been provided. I consider that visibility would be adequate for safe exit in this direction.
12. There would be an increase in the traffic using the site access. Turning facilities are proposed that would enable vehicles to exit in a forward gear. Traffic speeds and volumes are low and there is no convincing evidence of local problems. There have been no accidents on the public highway for a considerable period. This seems to me to be a case where visibility requirements can be relaxed given the factors outlined above. In all these circumstances, I consider that the access that can be provided would be acceptable and would comply with GDP1 (d). I am reinforced in this conclusion by the fact that there was no highway safety reason for refusal of planning permission for the retention of the new fence along the frontage of Edge Croft.
13. Objections referred to the road being used as a shortcut and to new developments in the area and Llay that would increase traffic further. However, no convincing evidence to support these contentions was provided. The development involves one additional dwelling and concerns regarding adequate highway capacity and footways were not supported by the Highway Authority.

The character and appearance of the area

14. The character of this part of Pant Road is formed by frontage dwellings set in generous plots with mature planting. The established character is linear development of single dwellings along the road. It is the case that Oakdale Cottage to the front would respect the existing settlement pattern. I recognise the fact that views of the resulting dwelling would be limited from Pant Road. However, I do not consider that the development would be so inconspicuous that it would not have any effect upon the character and appearance of the area, not least because the proposed wide driveway and parking areas would open up views from the frontage. Both dwellings would be visible from surrounding properties including the road leading to the Conifers. The proposal would appear out of character with the prevailing pattern of development in the area and, thereby, cause material harm to the character and appearance of the surroundings. This would be contrary to Policy GDP1 (a) of the Wrexham UDP.
15. Whilst the Conifers is a backland development, it appears as a separate development or small estate with its own large access road, located alongside the access to Maes y Pant. It is not comparable to the appeal proposal which is a tandem form of development with one dwelling immediately behind the other served by a single access.

16. The appellant also refers to an approved tandem development elsewhere on Pant Lane. The Council did not really attempt to justify the earlier approval other than to say that it was over 10 years ago. This is an unconvincing argument as policy on this type of issue has not changed in the last 10 years (other than the removal of any reference to tandem development from Planning Policy Wales). That said, I do not consider that the circumstances of this approval are directly comparable to the appeal proposal. Indeed, the earlier approval involved the replacement of two existing dwellings. This one example does not justify setting aside the harm that I have identified and approving of the appeal proposal.
17. I note the guidance in TAN 12: Design that housing layouts should respect local context and generally every effort should be made to orientate dwellings so that they front existing roads and spaces. I have set out my conclusions on the effect of the proposal on the character of the area. The development does not all front existing roads, whereas the Conifers development does front an estate road. It does not respect the local context and is unacceptable for the reasons given.

Effect of the proposal on living conditions

18. The proposed rear dwelling would be in close proximity to the boundary of no. 3 The Conifers and the evidence was that a mature hedge has been removed. The front elevation of the dwelling would overlook part of the rear garden. The appellant argues that this part of the garden is not the main amenity area and a large portion of the garden area would not be overlooked. Whilst other parts of the rear garden closer to the dwelling would not be overlooked to the same extent, I consider that the degree of overlooking in such proximity would be detrimental to the occupiers' privacy.
19. The issue of an over-bearing impact of the proposal was raised by the residents of no. 3. The rear elevation of no. 3 would face the gable of the proposed rear dwelling. The proposal would be 2-storey even though its monopitch design means that it would be lower than a conventional 2-storey house. There was an alleged discrepancy in the measurements of distances between the proposed Oakdale House and No. 3. No measurements were taken by the appellant, who based his figures on OS plotting data. This has an accuracy tolerance of +/- 0.5m. The objectors claim that the building would be around 2m closer than claimed. I consider that it would be reasonable to allow for a tolerance of 0.5m and that the quoted measurements could be less by this amount.
20. The appellant indicated that the proposed dwelling would be compliant with the minimum separation distance of 13m from a habitable room window to a blank wall¹. The plans and distances supplied by the appellant show the distances measured perpendicular from the windows of no. 3, as it is stated that this is the normal method of measurement. No explanation of this is provided. One does not only look straight out of a window and the issue is the proximity of the building. It is therefore reasonable to consider actual distances and the wider view. If one measures the actual distance from the windows to the gable it is around 12m. At this distance the 2-storey proposal, even allowing for its lower height, would be a large feature in the outlook from the entire rear elevation of no. 3. The proposed building would be overbearing in these circumstances and would have a detrimental effect on the living conditions of its occupiers.

¹ Set out in the Council's Space around Dwellings Guidance Note 21

21. I do not consider that the proposal would overshadow or block light or air to nos. 2 and 3 the Conifers because of the relative siting, orientation and degree of separation. There is adequate separation between the proposed dwellings and Langside and no. 2 the Conifers to ensure compliance with the Council's space standards. Given the design and extensive boundary vegetation, the degree of over-shadowing of Langside would not be significant.

Other matters

22. Objections refer to the lack of consultation with neighbours and the circumstances of the purchase of the property. These matters are not relevant to the determination of this appeal. The removal of a Laurel hedge was completed prior to the application and the site must be assessed as it stands (including the existing Holly trees). The identity of the resident or the fact that the appellant is alleged not to reside at the property is irrelevant. No evidence of a Tree Preservation Order or any effect on the trees to the north of the site as a result of the proposal was produced. I have considered the other matters raised by local residents in objection to the proposal, but none justify withholding permission had I found the scheme acceptable in relation to the main issues.

Conclusion

23. For the reasons given above: I conclude that the proposal would fail to respect the existing settlement pattern and would have a detrimental effect on the character and appearance of the area contrary to Policies PS4 and GDP1 (a) of the UDP. The proposal would also have a detrimental effect on the living conditions of the occupiers of no. 3 The Conifers by virtue of the loss of privacy and its overbearing impact contrary to Policy GDP1 (f). I conclude that the impact of the proposal on highway safety and on other issues raised would not justify the refusal of planning permission.
24. Having considered all relevant matters, I conclude that the appeal should be dismissed for the reasons given. 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 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.

A L McCooey

Inspector