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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 27/11/19 & 10/12/19

gan K Sheffield BA(Hons) DipTP  
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 13.01.2020

## Appeal Decision

Site visit made on 27/11/19 & 10/12/19

by K Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 13.01.2020

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**Appeal Ref: APP/H6955/A/19/3237654**

**Site address: Gamford House, Gamford Lane, Rossett, Wrexham, LL12 0EW**

**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 Urban Developments Limited against the decision of Wrexham County Borough Council.
  - The application Ref P/2019/0246, dated 07/03/2019, was refused by notice dated 01/07/2019.
  - The development proposed is the change of use, conversion and replacement of agricultural barns and farmhouse to form eight detached dwelling houses including removal of derelict structures across the site.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. As the Appellant failed to attend the Access Required Site Visit at the appointed time I made a return visit when I was able gain entry to the site and the buildings.
3. In 2016 the Council granted planning permission<sup>1</sup> for the change of use and conversion of barns to form six residential units, construction of two semi-detached dwellings in place of the existing farmhouse and demolition of the remaining structures on the site. The Council has confirmed that the permission has recently lapsed. Therefore this scheme no longer provides a fallback position.
4. I have identified several discrepancies in the drawings particularly between the proposed plans of the individual buildings and the 3D massing drawings. Since the former consist of the detailed floor plans and elevations whereas the latter represents them in a 3D format which is not to scale, I have taken the floor plans and elevations to be a more accurate representation of the proposed scheme. Other discrepancies are minor and have no bearing on the principle of the development.

### Main Issues

5. The main issues are whether the proposal would accord with planning policies which seek to strictly control residential development in the open countryside; the effect of

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<sup>1</sup> Application Ref P/2016/0384

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the development on the character and appearance of the area; and the effect of the development on the purposes and openness of the green barrier and whether any such harm would be clearly outweighed by very exceptional circumstances.

## Reasons

6. The appeal site lies on Gamford Lane to the east of Rossett. The site was previously in agricultural use and together with the detached farmhouse comprises a significant number of vacant farm buildings of varying age, size and design. The buildings are in various states of repair and the site is subject to unlawful entry and vandalism.
7. In addition to the demolition of the farmhouse and its replacement by two dwellings, significant sections of the existing agricultural buildings would be removed. The parts to be retained would be converted and extended to create a further six dwellings. The Appellant contends that the Council in considering the scheme on a plot by plot basis failed to address the overall scheme. However, in order to assess the proposal and be able to reach a fully reasoned conclusion it is necessary to consider the various elements and the issues they raise individually as well as in combination.

## Planning Policy

8. Despite being time-expired, the Wrexham Unitary Development Plan 1996-2011 (UDP), adopted in 2005, remains the development plan for the area<sup>2</sup>. However, given its age, I consider it attracts less than full weight in the determination of the appeal. The appeal site lies some distance outside the settlement limit of Rossett as identified in the UDP. The proposal would therefore represent development within the countryside for the purposes of planning policy. The site is also within the green barrier and the Special Landscape Area (SLA).
9. Policy PS1 of the UDP directs development for housing to areas within defined settlement limits. Policies H3 and H10 comprise criteria-based policies which expand on the principles of Policy PS1, setting out the circumstances where the conversion of a building to residential use and replacement dwellings in the countryside would be permitted.
10. Whilst the existing farmhouse is in a poor state of repair and a considerable amount of work would be required to bring it back into a habitable condition, I agree with the Council that it is capable of being made habitable without substantial reconstruction. However, the proposal would replace the farmhouse with two dwellings which is not consistent with the intent of Policy H10 of the UDP or the Council's Local Planning Guidance Note (LPGN) 13: Housing in the Countryside, adopted in 2011, which states that replacement dwellings can only be on a one for one basis. In granting the previous permission the Council accepted the replacement of the farmhouse with two dwellings and it has adopted the same approach in respect of the appeal proposal.
11. However, in the previous scheme the properties were semi-detached and designed to look like a single property which had been incrementally extended and sub-divided. In the case before me the proposed dwellings would be larger than and extend beyond the footprint of the existing property onto land which is currently open and, being detached they would create two distinctly separate units. I consider that the two dwellings proposed on plots 1 and 2 would fail to reflect the form, bulk and character of the original dwelling, contrary to Policy H10 of the UDP. The Council has given no

<sup>2</sup> Unlike a Local Development Plan which ceases to be the development plan on expiry of the plan period.

reason why it has considered the two new dwellings as replacements for the farmhouse and I have not sought an explanation as I am satisfied that my decision on the appeal would remain the same if I had considered the two dwellings in place of the farmhouse as one replacement and one new property.

12. The remaining buildings which cover a substantial part of the site are of agricultural origin. Whilst many are of brick under a slate roof, others are steel framed with metal cladding above a brick plinth. It is proposed to remove a large number of the buildings, with those remaining being converted and extended to provide residential accommodation.
13. The tests regarding conversion to residential use in Policy H3 of the UDP include that there is no longer an agricultural need for the building and alternative non-residential uses have proved to be inappropriate. The Council is satisfied on this matter and I have no reason to reach a different conclusion. The other tests in Policy H3 require the building to be structurally sound and capable of conversion without extensive rebuilding tantamount to the erection of a new dwelling and the floor plan of the existing building to be sufficient to create a habitable dwelling. Further clarification is given in the justification of the policy which states that the building to be converted should be of domestic scale and constructed of permanent materials, such as stone, brick, slate or tiles. The policy does not support the conversion of prefabricated buildings to residential use.
14. With regard to housing in the countryside, LPGN 13 accepts the principle of converting existing buildings which are no longer suitable for their original purpose to other uses. It also recognises that some buildings may be unsuitable. These include those which are structurally unsound; roofless, missing substantial sections of wall, or so ruined that only vestiges remain of the original structure. Although not adopted, LPGN 3: Converting Rural Buildings (LPGN 3) is a material consideration. It also recognises that some buildings will not be suitable for conversion and states that planning permission will not be granted if the proposals involve rebuilding more than 10% of the walls if the roof structure needs to be rebuilt or 20% of the walls if the roof structure is retained.
15. In addition, LPGN 3 emphasises that the building in its present form should be suitable for the proposed new use without large extensions and the converted buildings should retain their original structure and not have the appearance of being fundamentally new structures. The guidance also expects all applications to include a structural survey which demonstrates that the buildings are structurally sound and capable of conversion without extensive rebuilding. I am not aware that such a report has been submitted in this instance.
16. Although the submitted drawings suggest that part of the existing structures would be retained to create the property identified as plot 3, the Design and Access Statement confirms that the framework and cladding of the existing barn would be replaced on the same scale and footprint to create a single detached dwelling. Furthermore, only one end of the building is currently clad, the remainder is open to the elements and I found on site that a large part of the building has an earth floor. I consider that the works required to create the proposed property would be tantamount to the erection of a new dwelling, contrary to Policy H3 of the UDP and the guidance in LPGN 3 and LPGN 13.
17. The long narrow building to be converted into the dwelling identified as plot 4 is brick under a slate roof. Although it lends itself to conversion, a small reduction in the length of the building and a modest increase in the height of part of the ridge are

proposed. This would reflect the existing step in the ridge and allow the existing first floor to be successfully converted. Whilst these alterations may be necessary to create a habitable dwelling, I do not consider that this applies to the significant extension proposed to form the entrance and part of the living space. I am not persuaded that an extension of the size proposed would be necessary to make the building habitable and, on this basis, I find the proposed dwelling on plot 4 to be contrary to Policy H3 of the UDP and would fail to accord with the guidance given in LPGN 3.

18. The property identified as plot 5 would be formed from one of three adjoining steel framed buildings which are a mix of metal and timber cladding above a brick plinth. Two of the existing buildings would be demolished and whilst the remaining structure would be retained and converted into a single unit it is confirmed in the Design and Access Statement that the cladding and roof finish would be replaced. The creation of a dwelling from the remaining structure would involve substantial reconstruction to the extent that most of the fabric of the building would be new. Due to its form of construction, I find the building to be unsuitable for conversion and I consider the proposed works to create a habitable property would be tantamount to the erection of a new dwelling, contrary to Policy H3 of the UDP. Furthermore the extent of the rebuild would significantly exceed the guidance given in LPGN 3.
19. The building proposed to be converted into the two properties on plots 6 and 7 is a large brick building with a two-storey side extension and single storey rear extension both built in blockwork. Attached to the front of the side extension there is a two-storey building and extending from the front of the main part of the building there are two parallel rows of pig sties with a central yard. These buildings are all in brick under slate roofs and would have formed an integral part of the original farmyard. It is proposed that they will all be demolished.
20. I acknowledge that the building to be converted has little merit and that the previous permission allowed a substantial increase in the ridge height and the introduction of new openings. The current scheme also proposes an increase in the ridge height as well as extensions to the rear and side. In addition a glazed link would be created in the centre of the building with the ridge set below that of the main roof. In some views this feature would result in the properties appearing to be detached.
21. I am concerned that the original character of the building would be replaced by what would appear to be fundamentally new structures. Furthermore, the wholesale loss of the pig sties and the yard area together with other brick buildings in this central area would result in the original character of the site being lost. I therefore find that the proposal in respect of plots 6 and 7 would involve extensive reconstruction, alteration and extension of the existing building which cumulatively would be tantamount to the erection of two new dwellings, contrary to Policy H3 of the UDP and the guidance in LPGN 3.
22. The proposal in respect of plot 8 involves the demolition of some single and two storey sections of the existing brick building which would be replaced in part by a small single storey extension and an attached garage contained within the footprint of the existing building. There would also be a minor increase in the ridge height to part of the retained two-storey section to allow full use of the existing first floor. There is no evidence to justify the demolition and partial replacement of parts of the building and these works represent a significant alteration to the existing structure. Nevertheless, I am satisfied that the building is capable of conversion without extensive rebuilding. The form and appearance of the structure which would remain would be largely kept

and would not be compromised by the modest extensions. Overall, I find that the proposal for plot 8 would accord with Policy H3 of the UDP and LPGN 3.

23. Given that in respect of some of the plots I have concluded that the proposals would be tantamount to the erection of new dwellings, I have had regard to Policy H5 of the UDP. This policy permits new dwellings outside defined settlement limits subject to certain criteria which includes that the proposals comprise infilling. Infill proposals are defined as the development of one or two residential units in a small gap along a continuously developed frontage within a clearly identifiable group of buildings. LPGN 13 provides examples of locations where infill development would and would not be acceptable. It also clarifies that dwellings sited substantially away from the highway with large front gardens or properties set within large plots with a sizeable gap to neighbouring properties are unlikely to constitute continuously built frontages. Whilst I acknowledge that the site currently comprises a complex of buildings, I do not consider that the proposals would constitute infill development, contrary to Policy H5 of the UDP and LPGN 13.
24. Although I have concluded in favour of the proposal regarding plot 8, I have found that the proposed conversion schemes to create dwellings on plots 3, 4, 5, 6 and 7 would be tantamount to the erection of new dwellings, contrary to Policy H3 of the UDP. In addition, plots 3 and 5 would utilise buildings that are not of a form of construction that is suitable for conversion. Furthermore the replacement dwellings on plots 1 and 2 would fail to comply with Policy H10. I have also concluded that there are no grounds to justify the development under Policy H5 of the UDP. The proposals would also fail to be in accord with LPGN 13.
25. It is acknowledged that the buildings are in a poor state of repair and subject to anti-social behaviour and that in providing an integrated and comprehensive development of the site the proposals would overcome these problems. However I do not consider this to be sufficient reason to justify a development which would undermine the objective of national and local planning policy to strictly control development in rural areas. On balance I therefore find the principle of the development proposed is not justified.

*Effect on the character of the area*

26. According to Policy EC5 of the UDP priority will be given within the SLA to the conservation and enhancement of the landscape. Development is strictly controlled and is required to conform to a high standard of design and landscaping, and special attention will be paid to minimising its visual impact from both nearby and distant viewpoints. In addition Policy GDP1 seeks to ensure that in its scale, design and layout all new development accords with the character of the site and makes a positive contribution to the appearance of the nearby locality.
27. The site has an agricultural character in a wider rural setting which contains other clusters of residential properties with agricultural origins. Although a net reduction in the buildings on the site and the removal of the dilapidated structures would improve its visual quality, buildings relevant to the agricultural origins of the site would be lost and replaced by new build. I acknowledge that the development would mostly be contained within the footprint of the existing buildings and that the design of some of the buildings would contain agricultural elements. However, I am concerned that parts of the scheme, in particular the dwellings to replace the farmhouse together with the detached garages in focal positions on the road frontage would create an urban appearance out of keeping with the agricultural character of the site and detrimental to the visual amenity of the area.

28. On balance I consider that the proposed development would result in a fundamental change in the appearance of the site which would fail to conserve or enhance the landscape, contrary to Policies EC5 and GDP1 of the UDP.

*Green Barrier*

29. For the purposes of national policy the designation of green barrier is synonymous with the term green wedge. Whilst PPW makes a presumption against inappropriate development in green wedges it sets out the circumstances under which new buildings may not be considered as such. In addition to those set out in Policy EC1 of the UDP PPW also lists the replacement of existing dwellings<sup>3</sup> and the re-use of buildings<sup>4</sup>. However the latter is subject to the original building being substantial, permanent and capable of conversion without major reconstruction. Given the scale of the dwellings proposed in place of the existing farmhouse and the conclusions I have reached with regard to the existing buildings to be converted, I find that the proposed dwellings would fail to comply with the tests, with the exception of plot 8. However, this unit is only a small part of the development and overall I conclude that the proposals would constitute inappropriate development.
30. PPW also advises that the re-use of existing buildings may not be inappropriate if the new use will not have a greater impact on the openness of the green wedge and the purposes of including land within it. This is reflected in Policy EC1 of the UDP. Openness and permanence are recognised as the essential characteristics of Green Belts<sup>5</sup>. Whilst local designations such as green barriers do not convey the permanence of a Green Belt, openness is still considered an important attribute. Although PPW does not specifically define openness, it is generally accepted to be the absence of urban sprawl and encroachment into the countryside. Of the purposes of the green barrier set out in PPW and reflected in paragraph 5.2 of the UDP the one considered to be most relevant to the appeal is to “*assist in safeguarding the countryside from encroachment*”.
31. Whilst the clearance of buildings from large areas of the site would increase its openness, this has to be balanced against the extension of some of the buildings to be retained and the erection of several new structures in areas of the site which are currently open. This includes the detached garages set away from the dwellings and large areas of hardstanding. Whilst the landscaping scheme would include native hedgerows to define the outer perimeter of the site and the internal boundaries between the plots, I am concerned that the character of the site would change significantly from agricultural to residential and would result in encroachment beyond the existing confines of the buildings and into the countryside.
32. On balance I consider that the development would have a greater impact on the openness of the green barrier and the purposes of including land within it and the positive elements I have identified do not outweigh the policy presumption against inappropriate development. I therefore conclude that the proposal would constitute inappropriate development in the green barrier, contrary to Policy EC1 of the UDP and PPW.

<sup>3</sup> Paragraph 3.71

<sup>4</sup> Paragraph 3.72

<sup>5</sup> PPW Paragraph 3.61

*Very exceptional circumstances*

33. According to PPW<sup>6</sup> permission for inappropriate development should only be granted in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the green barrier. The exceptional circumstances in this instance are identified as the current supply of housing land, the status of the site as previously developed land, sustainability and viability.
34. The UDP is time expired and therefore, in accordance with national policy, the absence of an up-to-date development plan renders the Council without a five-year land supply for housing<sup>7</sup>. PPW requires local planning authorities to ensure that sufficient land is genuinely available to provide a five-year supply of land for housing<sup>8</sup>. As such, and notwithstanding the disapplication of paragraph 6.2 Technical Advice Note 1: Joint Housing Land Availability Studies (TAN 1) and the current consideration of the wider application of that document, I consider that the need to increase the supply of housing land weighs in favour of the appeal.
35. My attention has been drawn to several appeals where the need to increase housing land has been given considerable weight. However, two of the decisions predate the disapplication of paragraph 6.2 of TAN 1 and were therefore made when the decision maker was directed to attribute significant weight to the lack of a five-year housing land supply. Furthermore all the developments proposed a substantial number of dwellings which would make a significant contribution towards housing. This constitutes a fundamental difference between these cases and the appeal before me. Therefore, as the proposal would provide a small number of dwellings, I find the contribution the development would make to the lack of a five-year housing land supply to be limited.
36. The planning application cites the existing use of the site as a vacant farm holding, the last use being described as a pig farm. Whilst reference has been made to the site also being used as a workshop depot for commercial vehicle repairs, no substantive evidence has been submitted to confirm that such a use was carried out lawfully in its own right as opposed to being ancillary to the agricultural use of the land. On the evidence before me I consider the land to be agricultural. Whilst PPW defines previously developed land as that which is or was occupied by a permanent structure and associated fixed surface infrastructure, the definition specifically excludes agricultural or forestry buildings. The site therefore does not fall within the definition of previously developed land and the predilection given to the development of such land in preference to greenfield sites does not apply in this instance.
37. It is acknowledged that the site lies relatively close to the settlement of Rossett and the facilities it provides. It is also acknowledged that the proposal would provide the comprehensive redevelopment of the land and I have no reason to consider that the design and construction of the dwellings would not be sustainable in themselves. However, I have found against the principle of the development proposed which would also harm the character of the area and constitute inappropriate development in the green barrier. I find such matters outweigh the sustainable credentials of the development in this instance.
38. The Appellant contends that the previous proposal was constrained by the need to convert buildings which do not offer the prospect of conversion at a reasonable cost

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<sup>6</sup> Paragraph 3.70

<sup>7</sup> Technical Advice Note 1: Joint Housing Land Availability Studies, paragraph 8.2

<sup>8</sup> Paragraph 4.2.15

and the scheme failed to optimise the design opportunities. Moreover as shown in the submitted Development Cost Appraisal the previous scheme would fail to generate a rate of return generally expected by developers whereas the appeal proposal would provide a healthy return. It is accepted that conversion schemes present challenges due to the constraints imposed by planning policy and guidance. However, the principle of the appeal proposal has been found to be unacceptable and there is no longer an extant permission to fall back on. Furthermore there is no indication in PPW that a more relaxed approach should be taken in respect of housing in the countryside where a conversion scheme may not be viable. Although viability can be a material consideration, in this instance I consider it carries no weight.

39. Taking the development as a whole, I consider that the very exceptional circumstances to justify the development have not been demonstrated. I therefore conclude that the proposal would constitute inappropriate development within the green barrier. There are no exceptional circumstances sufficient to outweigh the harm to the green barrier which would result from the proposal and to allow the development would therefore be contrary to Policy EC1 of the UDP and would not be in accord with national planning policy.

#### *Other matters*

40. The Wrexham Local Development Plan (LDP) is currently under examination and whilst the Council in submitting the plan for examination considers it to be sound, the weight that can be attributed to an emerging plan depends on the stage it has reached. It does not simply increase as the plan progresses. I have not seen anything to indicate that the submitted LDP is to be found sound or will be adopted in the immediate future. I therefore consider that the weight to be attributed to emerging policy should be limited.
41. I have noted that in the LDP the appeal site would not be within the SLA or the green barrier and that the settlement limit of Rossett has been reviewed. However, given that the outcome of the examination is not known I give these matters limited weight. Notwithstanding this the appeal site would remain in open countryside and I am not aware that the strict control over housing in the countryside would alter or be outweighed by the removal of the site from the green barrier and the SLA.

#### **Conclusions**

42. I have concluded that the proposal would not satisfy planning policy in respect of residential development in the open countryside and would harm the rural character of the area. It would also constitute inappropriate development in the green barrier which would not be clearly outweighed by very exceptional circumstances. There are no other material considerations which are sufficient to outweigh these conclusions.
43. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal be dismissed.
44. In reaching my decision I have considered 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' well-being objective to build resilient communities.

*K. Sheffield*

INSPECTOR