
Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 14/02/19

Ymweliad safle a wnaed ar 14/02/19

**gan Hywel Wyn Jones BA (Hons) BTP
MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 11.03.2019

Appeal Decision

Hearing Held on 14/02/19

Site visit made on 14/02/19

**by Hywel Wyn Jones BA (Hons) BTP
MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 11.03.2019

Appeal Ref: APP/H6955/A/18/3217719

Site address: Land at Knolton Bryn Farm, Knolton, Overton, Wrexham, LL13 0LE

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 David Owen against the decision of Wrexham County Borough Council.
 - The application (ref: OVE P /2018 /0229), dated 22 February 2018, was refused by notice dated 18 September 2018.
 - The development proposed is the erection of an agricultural worker's dwelling.
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Decision

1. I dismiss the appeal.

Preliminary Matter

2. The application sought outline permission with all matters, other than access, reserved for subsequent approval. The submitted drawings are intended to be indicative only for all details save access. I have taken into account an amended location and indicative block plan that formed part of the scheme determined by the Council.

Main Issues

3. The main issues are:
 - (i) Whether there is a rural enterprise justification for the dwelling, having regard to local and national policies on new housing in the countryside.
 - (ii) The effect of the proposed development, including any loss of trees, on the character and appearance of the area.

Reasons

Rural Enterprise Justification

4. The appeal site is a small grassed enclosure adjacent to farm outbuildings and surrounded by fields. For the purposes of planning policy, it lies within the
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countryside where local¹ and national² planning policies identify the provision of a dwelling to meet the proven need of a rural enterprise as an exception to a generally restrictive approach to new development.

5. The appellant presently farms some 225ha of land of which 199ha is tenanted. He owns 26ha of land in a holding that includes the appeal site which lies 5 miles or so from his present rented home. It was explained at the hearing that the farm business tenancy and the farmhouse are on a 12-month renewal basis. To provide longer-term security for the appellant's business and his home, he seeks a new dwelling on his own land from which he would farm the land holding in his ownership. The cost of the dwelling would be financed by the sale of some of his machinery and livestock as he downsizes his farm business. Outbuildings at the main, tenanted farm yard have recently been granted planning permission to be converted from agricultural use. It was suggested that this heightened concerns that his tenancy may be terminated. However, that permission was first granted in 2011 and no evidence was offered on the likelihood that the conversion works would take place, nor the effect of such works on the farm tenancy.
6. I have assessed whether a new dwelling is justified by the business outlined in the appeal proposal in the light of the advice in Technical Advice Note 6: Planning for Sustainable Rural Communities (TAN6) and the associated Practice Guidance. The proposed business plan includes keeping 160 ewes over winter where they would graze the land and 80 12-18 month store cattle, again over winter, where they would be kept in a shed when ground conditions are too wet for them to use the fields. From the 26ha land holding it is proposed to take 2 silage cuts from 12ha and from another 12ha to harvest 1 cut of silage and 1 of hay. Whilst the appellant suggested alternative farming practices at the hearing, as I explained, I must determine the appeal on the plan provided, noting that changing one aspect has potential impacts on other elements. I have considered the scheme against the 4 tests set out in TAN6. In doing so I acknowledge that the Council, in its determination of the application, did not take issue with the first 3 tests identified below.

Functional Test

7. In relation to the functional test the appellant refers to the welfare and efficiency benefits of being close at hand at all hours. Although specific reference was made to the particular needs associated with calving it was later accepted that the business plan did not envisage this taking place. Lambing would take place for no more than 2 months a year and, if required, temporary accommodation for a worker could be provided for that period. Sheep and calves are presently kept on the land and its buildings without worker accommodation. Whilst I do not doubt the convenience and security benefits for the farmer to live on site, the nature and scale of the proposed enterprise means that the essential need to which paragraph 4.8.1 of TAN6 refers has not been shown. There is no reason to believe that the inability to be on hand night and day to deal with an emergency would threaten its viability or its existence.

Time Test

8. Appended to the appellant's Planning Statement is a calculation of the standard man days (SMD) using the standard Nix pocketbook approach which claims a requirement which exceeds the equivalent of one full time worker (a figure of 1.26 SMD is calculated). The figures used in the calculation were examined in some detail at the

¹ Policy PS1 of the Wrexham Unitary Development Plan

² Paragraph 4.2.36 Planning Policy Wales, Edition 10

hearing. As a consequence, it was established that: there was double counting in relation to 12ha of silage cropping, the value for the store cattle at 1.6 is higher than the 1.1 figure used in the TAN Practice Guidance; the calculation for both the cattle and ewes failed to acknowledge that neither would be present on the land for up to 6 months each year. All these details show that the time requirement has been over estimated. However, and most significantly, it was also accepted that the figures had represented the hours calculated as 'days' which means that the total figures are exaggerated by a factor of 8. Correcting this reduces the SMD requirement of the enterprise to some 0.16.

Financial Test

9. Although the Council does not take issue with the profitability of the proposed business it considers that a permanent dwelling would not be justified until such time as its profitability had been realised.
10. The appellant's business plan shows a predicted profit of some £10,000 per annum. From this figure the appellant would draw an income, although it was suggested that, as many of the normal household bills, such as utility services, are paid by the business, this was a reasonable return. I consider that this is at odds with the Practice Guidance which explains that the profit from the enterprise should provide a realistic return to unpaid labour: "The absolute lowest threshold of remuneration will be the statutory minimum wage but, in the majority of cases, higher levels of remuneration will be appropriate.". In this case the appellant is a worker who has significant experience of running a large farming enterprise.
11. At the hearing I questioned the identified annual income from cattle of £72,800 compared to £20,000 cost on the basis that all cattle were to be bought in the autumn and sold in the subsequent spring. It was acknowledged that this identified profit margin was too high, and it was suggested that an uplift of some 100% per animal was more realistic. It was agreed that this resulted in a reduction in the identified profit by some £30,000. As a consequence, the final end of year balance must be adjusted to show an annual loss of some £20,000.
12. The appellant explained at the hearing that there would be additional income from his contractor work but that does not alter the fact that the farming business, which dictates the business' location is shown to be unprofitable.

Other Dwelling Test

13. The Council suggests that buildings within the ownership of the appellant's father may have potential for conversion, but as they are outside the appellant's control they do not provide a reasonable alternative to a new dwelling. However, at the hearing the appellant explained that he owned and rents out 3 houses, 2 of which were some 5 miles from the appeal site. It seems to me that the functional demands of the proposed business could be met by the appellant occupying one of these properties.
14. In relation to the first main issue I find that the scheme clearly does not meet the tests identified above and thus no justification for the proposed dwelling has been demonstrated. The scheme is therefore contrary to policies PS1 and H5 of the Wrexham Unitary Development Plan, and PPW and TAN6.

Character and Appearance

15. The appeal site is enclosed by established hedgerows on 2 sides and stockproof fencing on the remaining boundaries. There are several mature trees that lie on these

boundaries which provide the site with a sense of visual containment. During my visit I noted discrepancies between the position of certain trees on the ground when compared to a drawing accompanying the application. It was also evident that one tree shown with a large canopy on the drawing did not exist. The Council suggested that this could enable the dwelling to be positioned further from the canopy of existing trees. My visit demonstrated that a sensitively designed and positioned dwelling could be accommodated without causing unacceptable harm to any trees, either as a direct result of the construction work or in the longer term. Any effect on a roadside hedge to improve visibility from the proposed access would not cause significant harm to its appearance, subject to appropriate mitigation.

16. On the second main issue, noting the scope to impose mitigating conditions, I find that the effect of the proposed development on the character and appearance of the area would be acceptable. There would be no conflict with policy EC4, which is protective of trees and hedgerows, or policy GDP1(a) which seeks to ensure that new development makes a positive contribution to the appearance of its locality.

Other Matters

17. Cllr McCusker referred to the community support for the appellant and the absence of any local objections. I have also borne in mind the practical difficulties and stress caused to the appellant by uncertainty over the future tenure of the rented farmland and his home. However, such considerations do not justify permitting a scheme which is clearly at odds with planning policies that seek to protect the countryside.

Conclusions

18. For the foregoing reasons I find that no justification has been established for a rural enterprise dwelling on the site. Whilst I have found that the effect on the character and appearance of the area would be acceptable, this does not alter my findings that the appeal should be dismissed because of its conflict with planning policies designed to control new development in the open countryside.
19. In reaching my decisions, 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 these decisions are in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

Hywel Wyn Jones

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr David Owen	Appellant
Mr Stuart Thomas	Planning Consultant, Berrys
Mr Mark Morrison	Surveyor, Berrys
Cllr John McCusker	Ward Member, Wrexham CBC

FOR THE LOCAL PLANNING AUTHORITY:

Mr Matthew Phillips	Planning Control Lead
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