
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 12/12/17

**gan Clive Sproule BSc MSc MSc
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**Arolygydd a benodir gan Weinidogion
Cymru**

Dyddiad : 11 Ionawr 2018

Appeal Decision

Site visit made on 12/12/17

**by Clive Sproule BSc MSc MSc
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**an Inspector appointed by the Welsh
Ministers**

Date : 11 January 2018

Appeal Ref: APP/H6955/A/17/3183371

Site address: Land to the east of Bottom Road, Gwersyllt, Summerhill, LL11 4TR

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 Site Plan UK against the decision of Wrexham County Borough Council.
- The application Ref GWE P/2016/0738, dated 13/05/16, was refused by notice dated 03/04/17.
- The development proposed is outline planning permission for residential development on land to the east of Bottom Road, Summerhill.

Decision

1. For the reasons that follow, the appeal is dismissed.

Preliminary Matters and Main Issues

2. The application was made in outline with all matters, apart from access, reserved for determination at a later date.
3. A unilateral undertaking was provided with the appellant's final comments. It deals with the provision of public open space and affordable housing, and a contribution toward education provision.
4. The main issues address the Council's reasons for refusal and are considered to be: a) the effect of the development proposed on the character and appearance of the locality; b) the effect of the development proposed on highway safety; c) the effect of the development proposed on surface water run-off; and d), the effect of the development proposed on protected species.

Reasons

Character and appearance

5. Strategic Policy PS2 of the *Wrexham Unitary Development Plan 1996 – 2011*, Adopted February 2005 ('UDP') states that development must not materially detrimentally affect countryside, landscape/townscape character, open space or the quality of the natural environment. Amongst other things, the 'General Development Principles' within UDP Policy GDP1 state that all new development should ensure that built development in its scale, design and layout accords with the character of the site and makes a positive contribution to the appearance of the nearby locality.
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6. The UDP is now beyond the period for which it planned, which could reduce the weight attributed to policies that look to an out-of-date evidence base, or that are no longer consistent with *Planning Policy Wales – 9th edition* ('PPW').
7. Section 4.11 of PPW is entitled *Promoting sustainability through good design*, and it confirms the importance accorded to 'good design'. PPW paragraph 4.11.9 states "...*The visual appearance of proposed development, its scale and its relationship to its surroundings and context are material planning considerations. Local planning authorities should reject poor building and contextual designs. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions...*". Technical Advice Note 12 – *Design* (TAN 12) provides relevant advice on matters that include the delivery of good design. It is apparent that UDP Policies PS2 and GDP1 are consistent with PPW and they attract full weight in this case.
8. Development in Gwersyllt sits either side of the A541 (and a parallel railway line) as it runs northwards from Wrexham. The predominantly residential development in Summerhill is in an elevated position on ground that rises gradually up to the west of the A541. It forms a discernible block of development along Top Road, Bottom Road and First Avenue which also run north/north westwards from Gwersyllt and roughly parallel to the A541.
9. Residential development in this part of Summerhill has a clear northern extent, as beyond this there is open countryside with occasional buildings/pockets of development within it. The appeal site comprises two fields that extend northwards from the current extent of development at Summerhill. The southernmost of the two fields is significantly larger than the other and lies along the eastern side of Bottom Road. A highway linking Bottom Road to the A541 runs along the northern boundary of the southernmost field and curves around the second northernmost field. This causes the second field to be offset from the first and linked to it by a small section of common boundary at the northeast corner of the first field.
10. The smaller northernmost field is within land designated as a Special Landscape Area where UDP Policy EC5 seeks: priority to be given to the conservation and enhancement of the landscape; there to be strict control on development other than for agriculture, small-scale farm-based and other rural enterprises and essential operational development by utility service providers; and, development to have a high standard of design and landscaping with special attention given to minimising visual impact. Supporting text to UDP Policy EC5 notes that "...*Much of the landscape's quality stems from the pattern of hedgerows, trees and woodland and other natural features such as ponds...*", and this is how I found it to be.¹
11. Within the context of PPW and its relevant parts, UDP Policy EC5 also attracts full-weight in this case.
12. Part 2 of Statutory Instrument 2012 No.801 (W.110) - *The Town and Country Planning (Development Management Procedure) (Wales) Order 2012* ('the Order') is relevant to this case. Within Part 2 of the Order, paragraph 3 (3) states that:

"...3) *Where layout is a reserved matter, the application for outline planning permission must state the approximate location of buildings, routes and open spaces included in the development proposed...*".

¹ UDP paragraph 5.5

13. As such, the indicative layout is clearly relevant to the determination of the outline proposal. In this regard, it is not apparent that the indicative layout fully responds to the opportunities provided by the site to reflect the development patterns and the densities of development in the locality.
14. However and notwithstanding the details provided within the indicative layout, developing the fields chosen for the proposal would result in a long, thin and in part off-set addition to the edge of the settlement at Summerhill. The length of this projection into the countryside would be much greater than its interface with the existing settlement, and principally this would be seen in near views taken from this part of Gwersyllt.
15. These factors would cause the proposed development to appear as an illogical addition to development in Summerhill, and by its form the proposal would fail to retain the characteristically strong and cohesive edge to the settlement in this location. As such, the appeal scheme would be unacceptably harmful to the character and appearance of the locality. It would be materially detrimental to the landscape and townscape character on the northern edge of Gwersyllt and would fail to make a positive contribution to the appearance of the nearby locality. Therefore, the appeal scheme conflicts with UDP Policies PS2 and GDP1 and the relevant parts of PPW and TAN 12. By the nature of the development proposed and for the reasons stated above, the appeal scheme also conflicts with UDP Policy EC5.
16. The Grounds of Appeal consider the potential for further phases of housing to come forward to the east and west of the appeal scheme.² However, the current proposal falls to be considered on its own merits and potential developments, the details and appropriateness of which remain unknown, cannot weigh in favour of this scheme or off-set the identified harm.
17. Gwersyllt has Green Barrier designation to the east, south and west and other factors may constrain development opportunities around the settlement. Even so, the appeal scheme would not be the only way in which additional homes could be provided in this locality, or indeed, in the county as a whole.

Highway safety

18. The northern section of Bottom Road above the proposed site access, and the narrow single track road that connects Bottom Road to the A541 ('the northern route'), have limited vehicle passing opportunities, limited cycle and pedestrian provision and, in places, restricted forward visibility. The appeal scheme would increase traffic movements along this route. At the application stage, this increase was noted to be 78% and 48% in the morning and evening peak hours respectively.
19. However, analysis of traffic survey data at the appeal stage indicated that only around 8% of existing traffic travelling north from this part of Gwersyllt chose to use the route past the appeal site to the A541. Of the traffic in this part of Gwersyllt, the traffic resulting from the proposed development would be nearest to the northern route. The latest analysis estimates that 16% of the traffic resulting from the appeal scheme would use the northern route, rather than the 60% estimated at the application stage. This is predicted to result in an additional 8 and 7 two way movements along the northern route during the morning and evening peak hours respectively.³ There is no convincing evidence to the contrary.

² Paragraph 6.27 of the Ground of Appeal

³ Resulting in predicted peak hours total two way movements on the northern route of 45 and 51

20. A number of highway improvements were proposed for the northern route. However, the Council's Highways section considered that these improvements would not provide sufficient mitigation and could lead to increased speeds on certain sections of these roads. Following this and the appeal stage traffic analysis, these improvements are no longer being offered by the appellant.
21. The northern route is comprised of rural highways that are used by traffic and pedestrians on a daily basis. The narrow road widths and curving alignment along this route reasonably can be expected to reduce vehicle speeds. To some extent these factors can also be expected to encourage the use of the alternative southern (urban) routes through Gwersyllt to the A541, and this is reflected in the current analysis.
22. A single 'slight injury' accident has been recorded for the northern route and it occurred in 2008.⁴ Increasing the number of vehicles using this northern route would be expected to increase risk for users of those highways. However, it has not been demonstrated that the increased risk would be significant and unacceptably harmful to highway safety. Nor has it been shown that the proposed increase in traffic on highways to the south of the appeal site would be unacceptably harmful.
23. The proposed access is shown to provide adequate visibility splays along Bottom Lane, which is indicated to be widened and modified to provide priority to southbound vehicles. Given the nature of the highway and its traffic, the proposed access would provide a safe and suitable access to the development.
24. For these reasons, the appeal scheme would have an acceptable effect on highway safety, and complies with the relevant parts of UDP Policy GDP1 'General Development Principles'.

Surface water run-off

25. The third reason for refusal states that it would not be possible to determine whether the proposal accords with UDP Policy EC13, nor has it been demonstrated whether sustainable drainage systems could be used on the appeal site to accord with advice in TAN 15 – *Development and Flood Risk*. UDP Policy EC13 is not permissive of development that would have an unacceptable adverse impact on the water environment due to additional surface water run-off.
26. The Council Officer's Report on the application notes that, for the purposes of flood risk, the appeal site is in a 'zone A' location. TAN 15 confirms zone A locations to be considered at little or no risk of flooding, and seeks new development to be directed away from 'zone C' locations (where there is a greater risk of flooding) toward suitable land in 'zone A'.⁵
27. At the appeal stage, the appellant provided a Flood Consequences Assessment (FCA) and outlined drainage proposals for the appeal proposal. These have confirmed: how sustainable drainage principles would be applied; the limitations for surface water drainage on the appeal site; and, the discharge solution agreed with Welsh Water. If this appeal were to be allowed, the Council has indicated that it would accept a planning condition to deal with this matter. Information provided confirms that given the scale of the appeal site, its circumstances and the nature of the development proposed, it should be possible to deliver a drainage scheme of a suitable design and performance through a planning condition.

⁴ As highlighted in paragraph 6.10 of the Grounds of Appeal

⁵ Paragraph 6.2 of TAN 15

28. Accordingly, it is evident that the appeal scheme would have an acceptable impact on the water environment to comply with UDP Policy EC13 and accords with the advice in TAN 15.

Protected species

29. At present the two fields that comprise the appeal site are used for agriculture and, for the most part, are bounded by hedgerows. Evidence indicates that at the application stage concerns were raised in relation to the proposed removal of 30m of ecologically and historically 'important' hedgerow and the development's potential impact on bat activity on the appeal site. However rather than mentioning these particular matters, the Council's fourth reason for refusal notes the protected species report is not sufficient to enable the impact to be assessed.
30. UDP Policy E6 'Biodiversity Conservation' is only permissive of development either within or close to sites of biodiversity interest where it can be clearly demonstrated that the need for the development outweighs the need to safeguard the intrinsic nature conservation value of the site.
31. A 'Bat Transect and Remote Detector Survey Report' was provided in October 2016. It noted there to be no statutory designated sites for bats within 10km of appeal site and there to be similar habitats to the appeal site around it (except to the south) and in the wider area. Foraging and commuting activity was observed over the site's hedgerows, but the report concluded that within context of the agricultural practices on the appeal site and countryside around it, the proposed development would be on land that is low value habitat for bats and it offers no roosting opportunities. Proposed mitigation would address lighting during and after construction, along with roosting, foraging and commuting habitat enhancement. Appeal stage documentation includes an 'Ecological Enhancement Plan' that provides greater detail on these measures, along with mitigation and enhancements for nesting birds and important hedgerows, and mitigation for badgers.
32. Information submitted with the Grounds of Appeal have caused the Council to conclude that the proposed ecological mitigation is "...*likely to result in a high standard of remediation of the site to cater for the development and absorb the impact of the built development...*". The Council does not identify harm to protected species, and the evidence in this case confirms that none would occur and any impacts would be adequately mitigated. The Council has suggested a condition that would address this. For these reasons, no conflict with UDP Policy EC6 has been demonstrated.

Other matters

Precedent

33. The nature of the harm identified in this case concerns the specific circumstances of the appeal site and its relationship to existing development and the countryside around it. Each planning application and appeal is determined on its own merits. It has not been shown that the circumstances and details of other proposals referred to are comparable to those of the appeal scheme for the other planning decisions to act as a precedent in this case. In addition, matters of weight in a planning judgement or balance are for the decision-taker to determine within the specific context of a proposal and that is how I have dealt with this case.

Housing provision

34. PPW paragraph 9.2.3 is unambiguous that local planning authorities must ensure that there is a five year supply of land for housing. Evidence confirms that Wrexham does not to have a five year supply of land for housing, and the Council Officer's Report on the proposal noted that the county's housing requirements could no longer be met within the existing defined settlements.⁶ In this case, the unilateral undertaking would provide a scheme for 25% of the dwellings to be delivered as affordable housing.
35. Paragraphs 8.1 and 8.2 of TAN 1 - *Joint Housing Land Availability Studies* address *Transitional arrangements* where a local planning authority does not have an adopted Local Development Plan and cannot demonstrate a five year supply of housing. TAN 1 paragraphs 8.1 and 8.2 do not deal with the weight to be attributed to the lack of a five year housing land supply.
36. Paragraph 6.2 of TAN 1 states that when housing land supply is below the five year requirement, "...the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies...". While parties may have a view on the weight to be attributed to the provision of new (market and affordable) housing, PPW is the current national policy and TAN 1 the current advice on this matter. As noted above, the appeal proposal conflicts with development plan policies. Therefore, while the 2.94ha appeal site could contribute a considerable number of additional dwellings to meeting the housing need, this only provides limited weight in favour of the proposal. This is especially so as it is not evident that the appeal site would be the only land that could provide these additional homes.

Sustainable development

37. In regard to sustainable development, the cultural impact of the appeal proposal would appear to be neutral. There would be social benefit from the appeal scheme through: the provision of new market and affordable homes; the support that occupiers of the dwellings would provide for local services; proposed improvements to the local highway/public rights of way network; and, proposed on-site recreation facilities. Also, there would be economic benefit from the construction and occupation of the dwellings. However, such benefits could also be achieved from development that is policy compliant. Consequently, these benefits only provide limited weight in favour of the appeal scheme. Matters relevant to environmental well-being are addressed above and those in relation to the character and appearance of development are reflected in the identified planning policy conflict.

Conclusion

38. For the reasons set out above, the proposed development would conflict with UDP Policies PS2, GDP1 and EC5 and the relevant parts of PPW and TAN 12.
39. All representations in this case have been taken into account and no matters, including the scope of possible planning conditions and the benefits of the scheme, have been found to outweigh the significant weight attributed to the identified harm and policy conflict. Accordingly, the proposal would not be a sustainable form of development and the appeal should be dismissed.

⁶ It is apparent that UDP Policy PS1, which deals with defined settlement limits, is out-of-date and attracts limited weight in this case.

40. 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' well-being objective of supporting safe, cohesive and resilient communities.

Clive Sproule

INSPECTOR