
Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 23/05/17

Ymweliad â safle a wnaed ar 23/05/17

**gan Clive Sproule BSc MSc MSc
MRTPI MIEnvSci CEnv**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 20.07.2017

Appeal Decision

Hearing held on 23/05/17

Site visit made on 23/05/17

**by Clive Sproule BSc MSc MSc MRTPI
MIEnvSci CEnv**

an Inspector appointed by the Welsh Ministers

Date: 20.07.2017

Appeal Ref: APP/H6955/A/17/3167412

Site address: Sesswick Way, Cross Lanes, Wrexham LL13 0PA

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 N&K Elliott (Agriculture) against the decision of Wrexham County Borough Council.
 - The application Ref MAR P/2016/0533, dated 12/05/16, was refused by notice dated 12/01/17.
 - The development proposed is erection of 2 broiler chicken buildings including feed silos and photo voltaic panels to provide renewable energy to the farm.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 broiler chicken buildings including feed silos and photo voltaic panels to provide renewable energy to the farm at Sesswick Way, Cross Lanes, Wrexham LL13 0PA in accordance with the terms of the application, Ref MAR P/2016/0533, dated 12/05/16, and subject to the conditions in the attached schedule.

Main Issue

2. With reference to the Council's reason for refusal and the representations in this case, the main issue is considered to be the effect of the proposed development on the environment and/or the character and appearance of the locality. Including whether the proposed development would result in isolated buildings, and if so, would there be exceptional circumstances where there is an essential agricultural need and no reasonable alternative location for the development.

Reasons

Background

3. The application's Design and Access Statement confirms the development to consist of two broiler chicken rearing buildings that would each hold up to 40,000 birds. Each poultry building would be approximately 101.0m x 23.4m with eaves 2.7m in height
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rising to a 5.7m ridge¹. These buildings would be served by control/weighing rooms and mess facilities and five feed silos. In addition, 70m² of mobile living accommodation would be provided for people managing and operating the site.

4. The Council's reason for refusal refers to Wrexham Unitary Development Plan 1996-2011 ('UDP') policy EC3, and the policy is reflected in the main issue identified above (where effects on character and appearance include those on *surrounding landscape*). UDP policy EC3 is clear that development should form part of an existing farm complex, and take advantage of topography and landscape features for screening. The appeal proposal would not be part of an existing farm complex, which the supporting text to the policy defines as the curtilage of the useable farm buildings usually centred around the farmhouse.
5. Supporting text to the policy recognises the need for investment in modern farm buildings and equipment, and that farm businesses need to change and grow in response to market forces and legislation to survive. The appeal scheme would be a new farm business, and one that would be responding to market forces.
6. The supporting text to UDP policy EC3 also highlights that problems can arise due to proposals that are unusually large or that would be in sensitive locations, and that planning conditions may be necessary to lessen the impact of development.
7. The appeal site is an open field that lies between Bedwell Road to the east and to the west the recently constructed Sesswick Way (which the Council Officer's report on the application refers to as *the southern Wrexham Industrial Estate link road*). In addition to the two roads, the appeal site is bounded by open fields to the north and south².
8. During the site visit it was possible to see a farm on the opposite side of Sesswick Way³, but the remainder of that western side of the highway appeared to be open countryside. In contrast, the largely parallel route of Bedwell Road has more development, including some within the corridor of land sandwiched between Sesswick Way and Bedwell Road. In addition, from the appeal site entrance it is possible to see large scale industrial development that terminates views northwards along Sesswick Way.
9. Bedwell Road also runs from the vicinity of the industrial estate to the north. Unlike the straightness and even levels of the newly constructed Sesswick Way, Bedwell Road has varying lines and levels that reflect the very gently rolling character of this predominantly agricultural countryside. These, along with the access points/junctions and occasional development along its length, indicate Bedwell Road to be the older of the two highways running north/south in this location.
10. Development on Bedwell Road is understood to include abattoir and fallen stock facilities with associated buildings on either side of the highway to the north of the appeal site. A dwelling and its curtilage are near to the abattoir/fallen stock buildings, and lie between them and the appeal site. Its occupants would have views across fields and boundary vegetation toward the proposed development. To the south of the appeal site is development within Cross Lanes which is present on both sides of Bedwell Road, and other dwellings on the A525 around its roundabout junction with,

¹ These dimensions have been rounded up or down to the nearest tenth of a metre

² Which include a former railway line immediately to the north

³ That the Council Officer's report on the application notes to have been converted for residential purposes

and that forms the southern terminus of, Sesswick Way. The appeal site is much closer to the southern roundabout junction of Sesswick Way than its northern roundabout junction. The Council Officer's report on the application indicates these existing developments to be approximately 200m from the proposal, and the Council's Statement of Case notes the separation distance to Cross Lanes to be approximately 180m.

Environment

11. Representations during the hearing confirmed local concerns regarding the potential for environmental impacts from the development proposed (that could also be impacts on local living conditions). Due to the scale of the proposed operation, an Environmental Permit has been issued by Natural Resources Wales and it would address possible environmental impacts from the proposed operation. A section deals with emissions to water, air and land, with specific subsections for noise, odour, pests and monitoring.
12. Flock rotation would produce 7.7 flocks per annum. The building would be cleaned after each flock and waste would be taken off-site⁴. While concerns have been raised regarding the handling of waste and waste water from the buildings, environmental legislation and regulation would address unacceptable environmental impacts associated with the permitted operation.
13. These are also matters relevant to land use planning, but *Planning Policy Wales – 9th edition* ('PPW') is clear that "...*The principle of non-duplication should be maintained even though the powers and duties resulting from other legislation may also be the concern of local authorities...*"⁵. The proposed development would be significant in scale, but the nature of the operations are well understood and not complex. Consequently, there is no reason to doubt the ability of parallel environmental regulation to prevent or address impacts from the appeal scheme, and the degree of separation between the proposal and residential development supports this conclusion.
14. PPW is clear that the Welsh Government's objectives for the conservation and improvement of natural heritage include safeguarding protected species. The appeal site is next to ponds that support populations of great crested newt ('GCN') and it is possible that GCN use the appeal site for foraging, dispersal and sheltering purposes⁶. Section 3.6.1 of the environmental permit requires monitoring that would address future pond conditions and potential impact on GCN populations.
15. Technical Advice Note ('TAN') 5 – *Nature Conservation and Planning* paragraph 4.1.1 highlights that "...*The development control process is a critical stage in delivering the protection and enhancement of nature conservation required by PPW...*" to ensure that planning applications are submitted with adequate information, including ecological surveys. PPW seeks to, amongst other things, safeguard protected species. The application was supported by a GCN method statement that includes survey data, a site assessment, an exclusion and capture scheme, and further mitigation and compensation.

⁴ As noted in the Design and Access Statement

⁵ Paragraph 1.2.4 of PPW

⁶ NRW consultation response letter, dated 24/10/16

16. At the hearing it was confirmed that: the possible effects on protected species had been the subject of consultation with NRW and it was found that the proposal would not have a detrimental impact on the long term favourable conservation status of GCN (or any other protected species); and, the proposal would accord with the guidance in TAN 5. The evidence in this case gives me no reason to disagree with these conclusions.

Character and appearance

17. As noted above, the appeal site is within gently rolling open countryside, but in the vicinity of existing commercial development on Bedwell Road and residential development, including that within in Cross Lanes. Views from the site entrance along Sesswick Way toward Wrexham Industrial Estate highlight the presence of large scale industrial development in the wider locality.
18. Land levels on Sesswick Way are lower than those on the appeal site which, along with the vegetative field boundaries in the area, would significantly reduce views of the proposed buildings. Nevertheless, it would be possible to see the proposed development and it would be more apparent when summer foliage is absent.
19. The appeal proposal would introduce two very large buildings and associated infrastructure into this open countryside. However, they would be clearly agricultural in character, which would be emphasised by the design of the sheds and the accompanying feed silos. Evidence has confirmed the necessity of their scale which responds to changing agricultural markets and the contemporary economics of production.
20. UDP policy EC3 recognises that agricultural development in the open countryside should reinforce existing farm complexes, which the appeal proposal would fail to do. However, it would be contained between two parallel highways, one of which has been a focus of rural development. In these circumstances, the appeal scheme would be of sufficient scale to appear as an independent agricultural unit/enterprise. The proximity and nature of existing development around the appeal site would ensure that development of the type and scale proposed would not be isolated. As such, the appeal scheme would be appropriate for the particular circumstances of this site and it would reflect the pattern of development in this rural location.

Conclusion on the main issue

21. The appeal scheme would not cause unacceptable impacts on the environment, nor would it be unacceptably harmful to the character and appearance of the locality. Accordingly, this would be an appropriate location for the proposed agricultural buildings, associated development and the temporary siting of mobile living accommodation in connection with it. For these reasons, the proposed development complies with UDP policy EC3.

Other matters

Economic effects

22. Given the separation distance between the proposal and residential development in the locality, it is not apparent that a regulated agricultural business of the type proposed would be likely to have an effect on property prices. In any event, PPW paragraph 1.2.1 is clear that the planning system manages the development of land in the public interest and it has been long held that property values are not material to

planning decisions. Therefore, I attribute neutral weight to any economic impact resulting from the effect of the development on land values.

23. Market conditions can challenge the economic viability of businesses. For the appeal proposal, other factors such as illness in the flock could also threaten its viability. However, the economic model for a development of the type proposed is well understood and the appellant is clearly aware of the factors that would be important to its success or failure.
24. Paragraph 3.1.2 of Technical Advice Note 6 – *Planning for Sustainable Rural Communities* ('TAN 6') states that support should be given to the diversification of the rural economy as a way to provide local employment opportunities, increase local economic prosperity and minimise the need for travel. The appeal site is close to sources of feed, processing plant for the chickens and transport links. The appeal scheme would support these objectives, which attracts significant weight in favour of the proposal.

Living accommodation

25. During the hearing it was apparent that there is a clear intent to develop and a financial case for the proposal. However, it was not apparent that there would be a clear functional need for a dwelling. With reference to the guidance in paragraph 4.6.2 of TAN 6, if this appeal were to be allowed, the proposed residential unit of accommodation would be appropriate for a temporary period limited by planning condition.

Highway safety

26. HGV and box van movements that would be likely to result from the proposal have been set out in the application's Design and Access Statement. These vehicle movements to and from the appeal scheme, along with associated car movements, would be via the access onto Sesswick Way. Clear and adequate sight lines could be provided in both directions from this access, while still leaving sufficient space for landscaping. Following consultation with the Highway Authority, the Council Officer's report on the application concluded that the access, turning and parking arrangement and likely traffic movements proposed would be unlikely to be harmful to highway safety. Given the circumstances of the site and the evidence in this case, no matters have been raised that indicate that the appeal scheme would be likely to have an unacceptable impact on highway safety. In this regard, it complies with the *General Development Principles* in UDP policy GDP1.

Precedent

27. Similar nearby facilities and development opportunities have been referred to. Each application and appeal is considered on its own merits within the context of the particular circumstances and policies that are relevant to it, and that is how I have dealt with this case. Consequently if this appeal were to be allowed, it would not set a precedent for other agricultural proposals, nor would it facilitate industrial or commercial development in the open countryside.

Sustainable development

28. 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 WCFG Act. In reaching this decision, I have taken into account

the ways of working set out at section 5 of the WBFG Act and I 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 set out as required by section 8 of the WBFG Act.

Conclusion

29. The appeal proposal complies with UDP Policies EC3 and GDP 1, and the relevant parts of PPW, TAN 5 and TAN 6. All matters that have been raised in representations have been taken into account, but none have been found to outweigh the identified lack of harm and policy compliance. There would be social and economic benefits from the construction and operation of the agricultural business. It is evident that, with appropriate planning conditions, the appeal scheme would be a sustainable form of development that would be suitable for the location proposed. Accordingly, the appeal should be allowed.

Conditions

30. Possible conditions contained within the Council's statement have been considered within the context of the evidence in this case and discussions during the hearing. For the avoidance of doubt and to ensure an appropriate form of development, a condition shall be imposed regarding the approved drawings.
31. To protect the character and appearance of the locality conditions shall be imposed to address external facing/roofing materials and landscaping. In the interests of protecting the character and appearance of the locality, and to ensure the proposed temporary accommodation is occupied in a manner appropriate for a location where residential development would not normally be permitted, conditions shall be imposed to address the occupation and temporary nature of the proposed residential unit of accommodation.
32. To protect the living conditions of nearby residents a condition shall be imposed to address the poultry use of the building.
33. To protect the natural environment a condition shall be imposed to address biodiversity. In the interests of protecting the natural environment and character and appearance of the locality a condition shall be imposed to relation to external lighting. In the interests of protecting the natural environment and agriculture a condition shall be imposed in relation to biosecurity.
34. The main parties agreed to conditions in relation to confirmation of licencing under Regulation 53 of The Conservation of Habitats and Species Regulations and associated compliance auditing. However, these matters can be addressed within the context of the biodiversity condition requiring the submission of a scheme of great crested newt avoidance, mitigation and compensatory measures and management regime prior to development commencing. Therefore, the suggested specific conditions for confirmation of licencing under Regulation 53 of The Conservation of Habitats and Species Regulations and associated compliance auditing shall not be imposed.

C Sproule

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than five years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan – Revision D, dated 06-10-2016
 - Location Plan - Revision E, dated 13-10-2016 (with junction vision splay)
 - Block Plan – Revision A, dated 31-05-2016
 - Block Plan – Revision C, dated 06-10-2016 (with access details)
 - Proposed Elevations – Revision A, dated 31-05-2016
 - Proposed Floor Plan – Revision A, dated 31-05-2016
 - Roof Plan – Revision B, dated 21-06-2016
- 3) The buildings hereby permitted shall only be used as a broiler chicken rearing unit as described in the application documentation.
- 4) No development shall take place until samples of all external facing and roofing materials including the colour(s) have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of great crested newt avoidance, mitigation and compensatory measures and management regime based on proposals outlined in the approved ecological report entitled *Great Crested Newt Method Statement* – October 2015 by Bowland Ecology. The approved scheme shall provide confirmation of the need for and issue of any licence required, and make provision for a compliance audit and report and its submission to and approval in writing by the local planning authority after each phase of development. Development shall be carried out in accordance with the approved scheme of great crested newt avoidance, mitigation and compensatory measures and management regime.
- 6) No development shall take place until there has been submitted to and approved in writing by the local planning authority a Biosecurity Risk Assessment that shall include measures to address invasive non-native species. Development shall be carried out in accordance with the approved Biosecurity Risk Assessment and its measures shall be retained thereafter.
- 7) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping and a management plan for the landscaping and associated/resulting screening, which shall include indications of all existing trees, shrubs and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. Planting within the scheme of landscaping shall include proposals for the road frontage and the access. The measures to protect existing trees, shrubs and hedgerows shall be implemented during the course of development.
- 8) The approved scheme of landscaping shall be carried out within 12 months of the commencement of the development hereby permitted; and any trees or

plants which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

- 9) A scheme for external lighting shall be submitted to and approved in writing by the local planning authority before the buildings and structures hereby permitted are brought into use. External lighting at the site shall thereafter only be installed in accordance with the approved scheme and retained as such.
- 10) The occupation of the residential unit of accommodation hereby permitted shall be limited to a person solely or mainly employed or last employed in the enterprise hereby permitted, or a widow, widower or surviving civil partner of such a person, or any resident dependents.
- 11) The local planning authority shall be notified in writing of the date of first occupation of the residential unit of accommodation hereby permitted within seven days of the date of first occupation. Within six years of the date of first occupation of the residential unit of accommodation hereby permitted, the use shall be discontinued and the residential unit of accommodation hereby permitted and any associated paraphernalia associated with its use shall be removed from the site.

APPEARANCES

FOR THE APPELLANT:

Anthony Atkinson	Acorus
Neil Elliott	Appellant
Kathryn Elliott	Appellant
M Elliott	

FOR THE LOCAL PLANNING AUTHORITY:

Philip Forster	Wrexham County Borough Council
BSc(Hons) MCD	

INTERESTED PERSONS INCLUDED:

Cllr J Pritchard	County Councillor
Heather Rowland	Local resident
D Williams	Local resident
Christine Stead	Local resident
Malcolm Huxley	Local resident
John Jones-Perrott	Local resident
Glynis Walton	Local resident
Elizabeth Griffiths	Local resident

DOCUMENTS

- 1 Block Plan, Revision A, dated 31-05-2016 and provided in relation to possible condition no.2