

## **Penderfyniad ar yr Apêl**

Ymweliad â safle a wnaed ar 24/01/17

**gan Kay Sheffield BA(Hons) DipTP  
MRTPI**

**Arolygydd a benodir gan Weinidogion Cymru**

**Dyddiad: 16.02.2017**

## **Appeal Decision**

Site visit made on 24/01/17

**by Kay Sheffield BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Welsh Ministers**

**Date: 16.02.2017**

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**Appeal Ref: APP/H6955/A/16/3161345**

**Site address: Land to rear of Isfryn, 5 Queen Street, Rhosllanerchrugog,  
Wrexham, LL14 1TB**

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| <b>The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.</b> |
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- 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 Mrs P Grounds against the decision of Wrexham County Borough Council.
  - The application Ref P/2016/0326, dated 06/04/2016, was refused by notice dated 05/09/2016.
  - The development proposed is residential development (1no. dwelling) with associated parking and garage.
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### **Decision**

1. The appeal is allowed and planning permission is granted for residential development (1no. dwelling) with associated parking and garage at land to the rear of Isfryn, 5 Queen Street, Rhosllanerchrugog, Wrexham, LL14 1TB in accordance with the terms of the application, Ref P/2016/0326, dated 06/04/2016, and the plans submitted with it, subject to the conditions set out in the Annex to the decision.

### **Main Issue**

2. The main issue is whether the development would be served by a safe and satisfactory means of access.

### **Reasons**

3. The planning application was made in outline with all matters reserved for subsequent approval. The appeal site is an area of open land to the rear of Isfryn which fronts onto and derives access from Queen Street. The illustrative details submitted as part of the proposals indicate a two storey dwelling and a detached garage with parking and turning facilities within the site. The Council raised no objection to the principle of the development, but raised concerns with regard to the access via an unadopted track. Whilst on the location plan submitted by the Council the track is annotated as being part of Duke Street I have noted that the residents refer to it as being off Duke Street. For clarity I refer to it as the unadopted track.
  4. The unadopted track provides vehicular and pedestrian access to approximately ten dwellings some of which front onto Queen Street. The track is also part of the route of a Public Footpath which runs through to Hill Street to the south and I understand
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from the evidence that it forms part of a Safe Route to School. The width of the track is fairly consistent from where it leaves the metalled section of Duke Street to the north until it reaches the appeal site. At this point the track is approximately 11 metres wide but it reduces in width slightly as it passes the appeal site and although concrete bollards prevent access by vehicles there is a worn pedestrian path. The section of the track accessible to vehicles is surfaced with compacted stone and there were some potholes.

5. Although it is generally accepted that no more than five dwellings should be accessed off an unadopted road, the track already serves significantly more than this. The reason for limiting the number to five is given as being that the volume of traffic generated by more than five dwellings would be such that it would give rise to additional danger to pedestrians and road users generally. However, the width of the track is more than sufficient to allow two vehicles to pass and with space for pedestrians. I acknowledge that the surface of the track is not metalled and that increased use would contribute to the deterioration of the surface. Nevertheless, I am not persuaded by the evidence that in its current condition the use of the track to access the appeal site would harm the safety of other motorists and pedestrians, the amenity of neighbours or cause an obstruction to the public right of way.
6. I am aware that the maintenance of the unadopted track is the responsibility of neighbouring owners and occupiers. However, its condition and the need for repairs as a direct result of the development would be a matter between the Appellant and the parties with a controlling interest. This also applies to the matter of whether the Appellant has a legal right to access the site, although I have noted that the Council was assured of this by the Appellant and I have no evidence to the contrary.
7. On the evidence before me I am satisfied that the development would be served by a safe and satisfactory access for vehicles and pedestrians in accordance with Policy GDP1 (d) of the Wrexham Unitary Development Plan, 2005.
8. I have had regard to the conditions suggested by the Council in the light of Welsh Government Circular 016/2014 *The Use of Planning Conditions for Development Management*. I have imposed the standard conditions in respect of outline permissions as set out in the Circular and in the interests of amenity have confirmed that the permission is restricted to a single dwelling. In the interests of the environment I have imposed conditions to ensure the development is satisfactorily drained. Although the risk of Great Crested Newts on the site is low, the Council has suggested the need for the submission of a reasonable avoidance scheme. Given their protected status and presence within 500 metres of the site I find the condition to be necessary.
9. The Council has suggested conditions which restrict the access to Duke Street, require the surfacing of the access and control of surface water run-off from the site. As the appeal site is not bounded by any other road and access is a matter reserved for subsequent approval I do not consider the Council's suggested conditions are reasonable or necessary.
10. 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 Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act"). 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.

11. For the reasons given above, and having had regard to all other matters raised, the appeal is allowed.

*Kay Sheffield*

INSPECTOR

#### Annex – Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) This permission shall be limited to the erection of one dwelling.
- 5) No development shall commence until details of a scheme for the disposal of foul water, surface water and land drainage has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the occupation of the dwelling and retained in perpetuity.
- 6) No development shall commence until details of a Reasonable Avoidance Measures Scheme in relation to Great Crested Newts for the construction phase of the development has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.

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