

**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 APPEAL AT
YEW TREE VILLA HOLT ROAD BOWLING BANK**

COUNCIL'S STATEMENT OF CASE

PLANNING REF: P/2016/0439

PINS REF: 3164652

1.0 THE SITE

- 1.1 The appeal site forms part of the garden of the dwelling Yew Tree Villa. The proposed development plot is situated to the south-east of the existing dwelling and associated outbuilding.

2.0 PROPOSAL

- 2.1 The appellant is seeking outline planning permission for the erection of a detached dwelling. All matters are reserved for subsequent approval.

3.0 PLANNING HISTORY

Yew Tree Villa

- 3.1 ISY 16714 Demolition of existing cottage and erection of replacement cottage on the same site. Granted 10 May 1989.

Land to the north of Yew Tree Villa

- 3.2 ISY 17260 Residential development of land by erection of 4 dwellings for local need with construction of new vehicular and pedestrian access. Outline planning permission granted 22.1.91.
- 3.3 ISY 20230 Erection of 4 no. three bedroomed detached dwellings and garages and construction of new vehicular access. Reserved matters approved 7.9.1992

4.0 NATIONAL PLANNING CONTEXT

- 4.1 Planning Policy Wales, in particular Chapter 9, as well as Technical Advice Note 1: Joint Housing Land Availability Studies.

5.0 LOCAL PLANNING CONTEXT

- 5.1 The relevant development plan is the Wrexham Unitary Development Plan adopted 14 February 2005.

- 5.2 The policies directly relevant to this appeal are:

- PS1 Broad Location of Development
- H5 Housing in the Countryside
- GDP1 Development Objectives

- 5.3 The following policies are also relevant to the appeal proposal:

- T8 Parking

5.4 The policies of the UDP are supplemented by a Local Planning Guidance Notes (LPGN). The LPGNs applicable to the appeal proposals are:

- LPGN13: Housing in the Countryside
- LPGN16: Parking
- LPGN21: Space around Dwellings

6.0 THE COUNCIL'S CASE

Policy

6.1 The site lies outside of a settlement limit (as defined on the UDP proposals maps) and in open countryside where, in accordance with both PPW and UDP policies, residential development is strictly controlled. Policy H5 allows for limited housing development to take place outside of settlement limits but only where proposals are for:

- i) the conversion of suitable buildings;
- ii) the subdivision of an existing dwelling;
- iii) up to two dwellings on an infill plot;
- iv) small scale affordable housing schemes on sites adjacent to a settlement limit; and
- v) key rural worker housing.

6.2 Of the above, i), ii) and iv) are not applicable. There are no rural enterprises operating at or adjacent to the site. Furthermore, no details have been submitted by the appellant to demonstrate that there is an essential need for an employee of a rural enterprise to live at the site so the proposals would not accord with v). The development of the site would therefore only accord with policy H5 if it constituted an infill plot. Paragraph 6.13 of the UDP defines infill as development of no more than two dwellings in a small gap within a well-developed frontage where no environmental damage occurs. Further guidance on infill development is given in Local Planning Guidance Note 13.

6.3 The appeal site currently forms part of the residential curtilage of Yew Tree Villa. Despite the larger gap between Yew Tree Villa and the Foxlea than the gaps between Foxlea and the dwellings to the north-west of it (Lilac Cottage, The Willows and Oak View), Yew Tree Villa appears part of a continuous built frontage consisting of it and the 4 dwelling referred to above.

6.4 St Pauls School lies to the south-east of the appeal site and whilst the school is undoubtedly built/developed frontage, there is a very clear degree of physical and visual separation between the school and Yew Tree Villa and its curtilage. This degree of separation is reinforced by a field access immediately adjacent to the site boundary and a second access adjacent to the boundary of the school. The school is therefore clearly detached from rather than being part of the built frontage

consisting of Yew Tree Villa and its neighbouring dwellings. In turn, this means that the appeal site is not a small gap within an otherwise well-developed built frontage. The appeal site therefore does not constitute an infill plot and accordingly the proposed development is contrary to policy H5.

- 6.5 Bowling Bank is characterised by clusters of ribbon development interspersed with gaps of varying size. The gaps in existing built frontages make a significant contribution to the rural character of the area. The proposed dwelling would represent an undesirable intrusion into the existing gap between Yew Tree Villa and St Pauls School to the detriment of the rural character of the locality. Accordingly the proposals also conflict with policy GDP1(a).
- 6.6 The ecology report that accompanied the planning application states that permission has been granted by the Council for the erection of a dwelling on part of the present garden. This is not in fact the case. Yew Tree Villa is a comparatively modern dwelling that replaced a previous property (see paragraph 3.1). Whilst permission was granted for the 4 dwellings to the north in the early 1990s (see paragraph 3.2 and 3.3), this was under the provisions of a policy in a previous local plan that is no longer in force. The Council has no record of permission having been granted for any other dwellings within or adjacent to the curtilage of Yew Tree Villa.

Housing Land Supply

- 6.7 Planning Policy Wales (paragraph 9.2.3) requires Local Planning Authorities to ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing. Because the UDP plan period has now expired, in accordance with Technical Advice Note 1 Wrexham is currently unable to demonstrate whether it has a 5 year housing land supply. In accordance with paragraph 6.2 of TAN1, the need to increase the supply of land available for housing should be afforded considerable weight, provided proposals accord with both national and local planning policy.
- 6.8 The Council contents that policy H5 remains broadly consistent with Planning Policy Wales (paragraph 9.3.6) which advises that new house building in the open countryside, away from established settlements, should be strictly controlled. The policy should therefore be afforded significant weight in this instance. Furthermore it is the Councils view the need to increase the supply of housing land does not, in this instance, justify a departure from policy H5 due to the harm to the rural character of the area identified in paragraph 6.5.

Access

- 6.9 The Highway Authority advised that visibility splays of 2.4 x 56m are required in both directions and have confirmed that this appears

achievable. This will however require the reduction in height of an existing hedge and fence within the appeal site as well as a hedge, fence, gates and gate pillars within the remaining curtilage of Yew Tree Villa – which lie outside of the appeal site. In order to secure the provision of and perpetual maintenance of the section of the visibility splay crossing the frontage of Yew Tree Villa that lies outside of the appeal site, a planning obligation will be required.

- 6.10 The Highways Authority commented that the submitted site plan does not demonstrate the provision of adequate parking and turning space. This is correct. The Local Planning Guidance Note 16 maximum parking provision for the site is 3 spaces, based on the indicative plan suggesting a 4 bedroom dwelling. The site is not served by regular public transport and, other than the nearby school, there are no local facilities in Bowling Bank. Future occupiers of the site would be reliant on the private car for the majority of journeys and therefore it would be reasonable to insist upon the maximum parking provision in this instance.
- 6.11 Whilst it would be possible to accommodate 3 vehicles in the parking space shown on the indicative plan, this would be at the expense of vehicles being able to turn within the site prior to exiting. The ability for vehicles to turn is considered essential to highway safety in this instance. There is sufficient space within the plot to provide a larger area for parking and turning. This is a matter that could be addressed at reserved matters stage.

Ecology

- 6.12 The site lies within 250m of a Great Crested Newt breeding pond. In accordance with comments made by NRW a scheme of reasonable avoidance measures (RAMs) will need to be implemented to ensure the development does not adversely impact upon GCN. The submission and implementation of RAMs scheme could be secured by condition.

Drainage

- 6.13 NRW have expressed concern that the submissions do not detail the means of foul drainage. However these concerns could be addressed via a planning condition to require the submission of a drainage scheme for approval and its subsequent implementation.

8.0 CONCLUSION

- 8.1 The site is located outside of a settlement limit, is not an infill plot and the proposals will have a detrimental impact upon the rural character of the locality. The development therefore does not accord with policies PS1, H5 and GDP1(a) of the Wrexham Unitary Development Plan. The Council respectfully asks that the appeal be dismissed.

- 8.2 If the Inspector is minded to allow the appeal, the Council request that this is only done if the appellant has submitted a Unilateral Undertaking that secures the provision and maintenance of a 2.4 x 56m visibility splay across the frontage of Yew Tree Villa in perpetuity.

Suggested Conditions

1. Approval of the following details shall be obtained from the Local Planning Authority before any part of the development is commenced:
 - a. the layout of the building(s)
 - b. the scale of the building(s)
 - c. the appearance of the building(s)
 - d. the means of access to the building(s)
 - e. the landscaping of the site
2. Plans and particulars of the reserved matters referred to in condition 1 (above) shall be submitted in writing to the Local Planning Authority before the expiry of three years from the date of this permission. The development shall only be carried out in strict conformity with such details as are approved.
3. The development hereby approved shall be commenced before the expiry of five years from the date of this permission or before the expiry of two years from the date of approval of the last of the reserved matters required to be approved, whichever is the later.
4. No part of the development shall commence until a scheme for the comprehensive and integrated drainage of the site indicating how foul water, surface water and land drainage will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented in accordance with a timescale to be agreed as part of the submitted details and maintained thereafter.
5. The submissions made in respect of condition 01 shall include details of the location and layout of vehicular parking and turning facilities. Vehicular parking and turning facilities shall be laid out, surfaced and drained in strict accordance with the details as are subsequently approved prior to the first occupation of the dwelling and thereafter permanently retained and kept free of any obstruction, and made available solely for the parking and turning of vehicles at all times.
6. Prior to the first occupation of the dwelling the vehicular access shall provide visibility splays of 2.4 metres x 56 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction in excess of 1 metre in height above the level of the nearside edge of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.

Reasons

1. To comply with the provisions of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012.
2. To comply with Section 92 of the Town and Country Planning Act, 1990.

3. To comply with Section 92 of the Town and Country Planning Act, 1990.
4. To ensure that effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system.
5. To provide for the parking and turning of vehicles clear of the highway the interest of traffic safety.
6. To ensure that adequate visibility is provided at the proposed point of access to the highway.