

Sirol Wreccsam

Wrexham County

BOROUGH COUNCIL

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In pursuance of its powers under the Acts and Orders referred to below, the County Borough Council as Local Planning Authority, hereby determines your application in accordance with the particulars and plans comprising the application.

Applicant

Trevor (Brynkinalt) Estates

Code Number

CHI CB02827

Agent

Angela Whitfield & David Jackson,
FPD Savills,
Wytham Court,
11 West Way, Botley,
Oxford OX2 0QL

Date received

17th December 1998

Decision date

12th April 1999

Town and Country Planning Act 1990
Town and Country Planning (General Development Procedure) Order 1995

Refusal of Outline Planning Permission

APPEAL ALLOWED
SEE W.C.
LETTER 10.08.99

LOCATION AND DESCRIPTION

PART O.S. PLOT 5600, OFF SHEPHERDS LANE, CHIRK.

RESIDENTIAL DEVELOPMENT AND CONSTRUCTION OF NEW
VEHICULAR AND PEDESTRIAN ACCESS.

PARTICULARS OF DECISION

OUTLINE PERMISSION REFUSED FOR THE REASON(S) STATED BELOW

- 01 The development would be premature in view of the proposals contained in the draft Unitary Development Plan which shows the site as located outside the settlement limits for Chirk.
- 02 Notwithstanding the protection accorded by the Tree Preservation Order, the development would be likely to adversely affect the health and setting of the trees on and adjacent to the site.
- 03 The development is likely to have an adverse effect on protected species (Great Crested Newts) contrary to Glyndwr District Local Plan policy A1 (III).
- 04 The development would affect the attractive landscape setting of this part of Chirk.
- 05 The access to the site is unsatisfactory in that visibility at the junction of Shepherds Lane and Colliery Road is substandard. Furthermore, Shepherds Lane is substandard in width and its use for further development would create danger for users of the highway. Any proposal to widen it would destroy the historic boundary hedge contrary to Glyndwr District Local Plan policy L10.

Officer appointed for this purpose
Refer to the Statement of Applicant's Rights and General Information enclosed.



Penderfyniad ar yr apêl

ymweliad a safle cynhaliwyd ar 26 July 1999

Appeal Decision

site visit held on 26 July 1999

gan/by John D Wallis BSc(Hons) MRTPI

Arolygydd penodwyd gan Cynulliad Cenedlaethol Cymru

an Inspector appointed by the National Assembly for Wales

Dyddiad/Date 10-08-1999

Appeal : T/APP/H6955/A/99/513143

- 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 brought by the Trevor (Brynkinalt) Estate Company against the Wrexham County Borough Council.
- The site is part OS 5600, off Shepherds Lane, Chirk, near Wrexham.
- The application (ref: CHI CBO2827), dated 14 December 1998, was refused on 12 April 1999.
- The development proposed is residential.

Decision: The appeal is allowed and planning permission granted subject to conditions set out in the attached schedule.

Procedural matters

1. The application, as submitted to the Council, sought outline planning permission for the erection of 11 No individually designed dwellings with vehicular and pedestrian access to Shepherds Lane. However, during discussions, the Appellant's Agent agreed that the number of dwellings should not be specified and that means of accessed should be reserved.

The Development Plan

2. The development plan in force for the area comprises the approved Clwyd Structure Plan [CSP] (Alteration No 1) 1991 and the adopted Glyndŵr District Local Plan [GDLP] February 1994. The emerging Wrexham Unitary Development Plan [WUDP] (November 1998) has been issued for public consultation and a Deposit Version is expected later this year. The appeal site, which has a frontage of some 200m to the eastern side of Shepherds Lane and an average depth of around 40m, lies within the defined settlement limits for Chirk and is allocated for residential development under GDLP Policy H2. However, it has been excluded from the settlement limits defined in the WUDP and the Appellants have made written representations to the Council for its re-instatement and extension onto other land to the east.

The main issues

3. From my study of the written representations and from what I saw on my visit, I consider the main issues to be the effect of the proposed dwellings on the character and appearance of the site and its surroundings in the light of local policies; whether or not they would adversely affect the health and setting of trees protected by the Wrexham County Borough (Community of Chirk) Tree Preservation Order [TPO] No 33; whether or not they would have an adverse impact on a protected species (Great Crested Newts); the effect that they would have on the landscape setting of this part of Chirk, and; whether or not a safe and convenient vehicular access could be provided to serve them without harming an historic boundary hedge.

Inspector's reasons and conclusions

4. On the first issue, Section 54A of the Town and Country Planning Act 1990 presumes in favour of development proposals that are in accordance with the statutory development plan unless material considerations indicate otherwise. The appeal site was considered to be suitable for high quality housing and was allocated as such without any local objection at the GDLP public inquiry stage. The explanatory text to GDLP Policy H2 provides for the preparation of Development Briefs for large or sensitive housing sites to ensure that development takes place in a manner which is sensitive to the local environment and to identify development constraints and show how they might be overcome at the design stage.
5. No such Brief has been prepared for the appeal site and there is nothing to show that its parkland character has materially changed since it was first allocated or that any new constraints to its development have been identified. Development plans are intended to provide a firm basis for rational and consistent decisions on planning applications and appeals and there is no convincing evidence to show that local circumstances or policies have materially changed since the appeal site was first identified as being suitable for new housing.
6. The emerging WUDP is at a very early stage in the adoptive process and, bearing in mind that the exclusion of the appeal site from the defined settlement boundary has already been informally challenged, it can be given very little weight. My conclusions, therefore, on this first issue are that there are no over-riding local policy objections to housing development here and that the character and appearance of the locality and its surroundings could be protected by paying careful attention to its layout and design at the reserved matters stage.
7. On the second issue, the appeal site contains about a dozen mature parkland oak trees and a sycamore within or close to its boundaries. A Tree Surgery survey carried out on behalf of the Appellants shows that some are unsuitable for retention due to disease or damage; others need remedial works or a development exclusion zone around them if they are to be retained. Nevertheless, there seem to be sufficient spaces between their respective canopy spreads to allow for the building of a small number of individual houses and, provided that the requirements of BS 5837 (Trees in Relation to Construction) 1991 are met, I am satisfied that the health and setting of those trees which merit protection for their public amenity value would not be adversely affected and could be retained by imposing appropriate conditions.
8. On the third issue, it was claimed by local residents at the application stage that a small dew pond some 40m to the east of the appeal site boundary is a haven for wildlife, including ducks, wild geese, frogs, toads and newts. The Officer Report to the Inspection of Sites Sub-Committee meeting of 12 April 1999 stated that this pond had been identified as being potentially suitable for Great Crested Newts although no evidence had been put forward to confirm this. The Council now says that the Countryside Council for Wales has evidence to suggest that this pond contains such newts but, as this has not been supplied to me, I am not convinced that this aspect of the appeal is a material consideration of any weight. The pond is not classified as a Site of Special Scientific Interest and there is no evidence before me to show that the building of new houses on the appeal site would endanger a protected species.
9. On the fourth issue, the Council says that the appeal site has been included (together with other land) in the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales published by CADW. However, as I have not been supplied with a plan showing the full extent of the area so designated, its grading classification or when this particular area of parkland was first registered, I cannot tell the extent (if any) to which it might be affected.

10. Its landscape value did not, apparently, deter the Council from allocating it as land suitable for low-density, individually designed 4/5 bedroom detached houses in September 1990 and confirming that allocation when the GDLP was adopted in February 1994. There have been no other statutory landscape designations in the meantime and this would seem to support the Planning Officer's advice to the Planning Committee that, until such time as the WUDP has progressed further towards adoption, the provisions of the GDLP should take precedence. My conclusion, therefore, on this issue is that the landscape setting of this part of Chirk would not be materially affected. Whilst there would be some loss of open views to those residents living opposite, Planning Guidance (Wales) Planning Policy states that the planning system does not exist to protect the private interests of one person against the activities of another.
11. Turning finally to the fifth issue, the Highway Authority advise that there is no objection, in principle, to frontage development onto Shepherds Lane provided that improvements are made to the carriageway and to its sub-standard junction with Colliery Road. The low hedge and timber fence along the roadside is mainly thorn interspersed with holly, hazel and self-set deciduous trees partly overgrown with brambles other summer weed species. Whether or not the existing narrow carriageway needs to be widened to a full 5.5m and provided with a continuous footway along its length is a matter for the Council to decide at the reserved matters stage. In my opinion, the formation of a new access off Colliery Road would not be desirable because it would too close to the present junction and could lead to conflicting turning traffic movements which would limit forward visibility, thereby causing accidents.
12. The existing hedge is not particularly old and, from what I saw of it, does not contain the range of species or display the other characteristics which might lead to its classification as an 'important' hedgerow to which the Hedgerow Regulations 1997 might apply. Depending on the layout, I see no reason why it should not be replaced behind the widened carriageway (if that were felt to be essential) or set back behind the visibility splays if individual or paired private driveways were considered to be more acceptable. My conclusion, therefore, on this final issue is that the hedgerow along Shepherds Lane does not merit any special protection.
13. My overall conclusions are that the appeal scheme is in accordance with GDLP Policy H2; does not conflict with the aims of Policies A1 (III) or L10, and; there are no other material considerations of sufficient weight to outweigh the provisions of the development plan.

Other matters raised

14. I have taken into account all of the other matters raised in the written representations, including the local claims that the appeal site is poorly drained and that any interference with the surface water drainage may lead flooding on Shepherds Lane. However, neither Dwr Cymru (Welsh Water) nor the Environment Agency Wales have made any adverse comment and surface water drainage is dealt with under other legislation. None of these other matters are of sufficient importance to alter the conclusions that I have reached on the main issues.

Conditions

15. I have examined the conditions, which the Council would favour if the appeal were to be allowed and Nos. 1 – 3 inclusive are necessary on an outline permission. As means of access is now reserved, No 4 is not needed. No 5 duplicates the requirements of TPO No 33. There is no evidence of any local flooding to justify No 6 or of the presence of protected species to justify No 7. No 8 can be incorporated into the required landscaping scheme.

Formal decision

Schedule:

Appeal: T/APP/H6955/A/99/513143

16. For the above reasons and in exercise of the powers transferred to me, I hereby allow the appeal brought by the Trevor (Brynkinalt) Estate Company against the Wrexham County Borough Council and grant outline planning permission for residential development on Part OS 5600 off Shepherds Lane, Chirk, near Wrexham in accordance with the terms of the application No: CHI CB02827 dated 14 December 1998, and the plans submitted therewith, subject to the following conditions:

- (i) Approval of the details of the siting, design and external appearance of the dwellings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.
- (ii) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
- (iii) The development hereby permitted shall be begun 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.
- (iv) The plans and particulars submitted in accordance with the condition (i) above shall include:
 - i a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;
 - ii details of the species, diameter (measured in accordance with paragraph (i) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (iii) and (iv) below apply;
 - iii details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
 - iv details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, (within the crown spread of any retained tree or of any tree on land adjacent to the site) (within a distance from any retained tree, or any tree on land adjacent to the site, equivalent to half the height of that tree);
 - v details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.
 - vi In this condition "retained tree" means an existing tree which is to be retained in accordance with the plan referred to in paragraph (i) above.
- (v) All planting, seeding, turfing or fencing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development 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 consent to any variation.

Informative Notes

17. This decision only grants planning permission under Section 57 of the Town and Country Planning Act 1990 and does not give any other approval or consent which may be required.
18. The Developers attention is drawn to the Notes attached to the Council's List of suggested conditions.

