

Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 02/09/15
Ymweliad â safle a wnaed ar 02/09/15

**gan Clive Nield BSc(Hon), CEng,
MICE, MCIWEM, C.WEM**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 16/09/2015

Appeal Decision

Hearing held on 02/09/15
Site visit made on 02/09/15

**by Clive Nield BSc(Hon), CEng, MICE,
MCIWEM, C.WEM**

an Inspector appointed by the Welsh Ministers

Date: 16/09/2015

Appeal Ref: APP/H6955/A/15/3011371

Site address: The Kings Mills (public house), Kingsmill Road, Wrexham, LL13 0NS

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 Marstons Estates Limited against the decision of Wrexham County Borough Council.
- The application Ref P/2014/0868, dated 21 November 2014, was refused by notice dated 2 March 2015.
- The development proposed is the erection of a new convenience store (Class A1).

Decision

1. The appeal is dismissed.

Procedural Matters

2. At the opening of the hearing I referred the main parties to advice issued some 2-3 weeks earlier that I expected them to be able to deal during the hearing with 2 elements of national Green Barrier policy not adequately covered in their written statements: whether or not the proposal would amount to "inappropriate development" in the Green Barrier; and, if it did, whether or not there were very exceptional circumstances that would clearly outweigh the harm the development would do to the Green Barrier. However, there appears to have been an administrative shortcoming, and neither party was aware of that correspondence. Consequently, I allowed a short adjournment of the hearing to enable them to review the relevant national policy and to prepare for those matters.

Main Issues

3. The main issues in this case are the effects of the proposed development on the openness and purpose of the Green Barrier and on the character and appearance of the area. In addition, if the proposal amounts to inappropriate development in the Green Barrier, then it is necessary to consider whether or not there are any very exceptional circumstances that would clearly outweigh the harm to the Green Barrier.

Reasons

Effects on Green Barrier

4. The appeal site comprises the public house and its car park, and the proposed convenience store would be built on part of the car park close to the eastern boundary of the site. This part of the site lies outside the settlement limits and within a designated Green Barrier. The Council's refusal included reference to Policy EC1 of the adopted Wrexham Unitary Development Plan, which reads *"Within Green Barriers development will only be granted planning permission if it is for agriculture, forestry, essential facilities for outdoor sport and recreation, cemeteries and other uses of land which maintain the openness of the Green Barrier and do not conflict with the purpose of including land within it."* The purposes of a Green Barrier are specified in the supporting paragraph 5.2 and are similar to those in Planning Policy Wales.
5. The proposed store would have a footprint of some 400 sq m and a maximum roof height of over 7 metres. As such it would represent a building of significant size and bulk and would be detrimental to the openness of the Green Barrier. The Appellant argues that its effect on the Green Barrier would be negligible as the established tree screen to the east would be maintained and the store would not be visible from the wider Green Barrier. However, that is of limited relevance; the principle of openness transcends visibility and is rather a measure of open space.
6. The Appellant also argues that the proposal would not affect the purpose of the Green Barrier as the land in question is brownfield land that has previously been developed as a car park. It is described as urban fringe land, and it is argued that the proposal represents urban regeneration of underused land. Whilst there is some merit in these arguments, it is widely accepted that it is the urban fringes where most pressure is experienced in maintaining the integrity of Green Belts (and the Green Barrier in this case). Even though the proposed store would not extend beyond the present area of the car park, its substantial built form would extend the solid built edge of the urban area and conflict with the Green Barrier purpose of safeguarding the countryside from encroachment.
7. I conclude that the proposal would conflict with UDP Policy EC1 due to its harmful effects on the openness of the Green Barrier and conflict with its purposes. Planning Policy Wales is a material consideration in development control decisions, and paragraph 4.8.14 advises that substantial weight should be attached to any harmful impact which a development would have on a Green Belt or (in this case) a Green Barrier.

Other Effects on Character and Appearance

8. The part of the car park on which the store would be built lies outside the settlement limit and so conflicts with the aims of UDP Policy PS1 which directs new development for housing, employment and community services to within defined settlement limits. Protection of the countryside is further provided by Policy PS2, which says that: *"Development must not materially detrimentally affect countryside, landscape/townscape character, open space, or the quality of the natural environment"*. In this case the store site also lies within a Special Landscape Area, and UDP Policy EC5 reinforces this protection. It says that priority will be given to the conservation and enhancement of the landscape and that development of this sort will be strictly controlled.

9. The Council argues that the proposal would detrimentally affect the countryside location and the character of the area. However, on matters of character and appearance, the tree screen has a strong influence on the site. I agree with the Appellant that the site is perceived as more part of the urban fringe than the wider countryside and that the trees would largely screen the store from views from the countryside. The trees also screen views from within the settlement towards the surrounding countryside, and I do not consider the addition of the proposed store would materially affect perceptions of the character and appearance of the area (other than its relative openness).
10. My conclusions on this issue are that the store would not cause significant harm to the character and appearance of the area and, on balance, would not conflict with the relevant development plan policies.

Other Harm

11. Several local residents have expressed concerns on other matters, particularly effects on highway and pedestrian safety and effects on the amenity of nearby residents due to noise and disturbance. The Appellant submitted a highways statement at the application stage addressing site access for both vehicles and pedestrians, and the Council considered that to be satisfactory. It takes no issue on these matters.
12. Local residents have drawn my attention to the speed of traffic on Kingsmill Road, to the close proximity of the Ashburn Way junction and bus stops, which are also used by school buses, and to recent accidents near the Old Mill just along the road. The proposed convenience store would clearly give rise to increased traffic both for customers and delivery vehicles. However, the scheme includes improvements to the site access and the provision of a footway to serve the bus stop. Whilst I have some reservations about the safety of pedestrians crossing the road at peak traffic times, I have no reason to disagree with the overall assessment carried out by the Council's highways department. I conclude that the proposed scheme would not significantly detract from highway and pedestrian safety.
13. Turning to amenity, the Appellant also submitted an acoustic assessment at the application stage based on noise surveys at several representative times of the week. It concluded that effects on noise would not be significant, and I have heard no evidence to lead me to any other conclusion. Residents are also concerned about possible late night disturbances due to antisocial behaviour. However, that is mere speculation to which I give little weight. If it were to occur, one would expect the appropriate authority to take action.

Benefits of Scheme

14. In support of the scheme the Appellant submits it would provide a range of benefits, including up to 20 permanent and part-time jobs, support for the local economy by attracting trade, improved consumer choice, reduced needs for local residents to travel, the provision of a footway link to the bus stop, and the redevelopment of an under-used brownfield site with a well designed building. These are valuable benefits.
15. Some local residents argue that the proposed new store would be detrimental to other shops in the area and that any benefits would be offset by harmful effects elsewhere. It is also submitted that effects on other shops would be contrary to Welsh Government aims for sustainability, which includes economic and social elements. However, these are speculative and unsupported assertions and warrant little weight.

Very Exceptional Circumstances

16. Finally, I turn to consider the overall balance of the matters at issue, and this clearly rests on comparison of the effects on the Green Barrier with the benefits of the scheme.
17. The Wrexham Unitary Development Plan was adopted in February 2005 and does not fully reflect the Welsh Government's latest policy on Green Belts and similar local designations, such as Wrexham's Green Barrier. Planning Policy Wales is an important material consideration and makes it clear that, except in regard to the degree of permanence, locally designated Green Barriers warrant the same protection against harmful development as Green Belts. Paragraph 4.8.15 says that "*Inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Belt or Green Wedge*" (Green Barrier in this case).
18. Paragraph 4.8.16 defines the types of development that are not "inappropriate", and the Appellant accepts that these do apply to the appeal development, except "*other uses of land which maintain the openness of the Green Belt*" (in this case Green Barrier). The Appellant argues that the scheme would not affect the Green Barrier. However, I have considered that argument above and have reached the conclusion that the scheme would cause harm to the openness of the Green Barrier and to its purpose. Thus, I do not consider the development to fall into any of the types of development that are not inappropriate. It follows that it would be inappropriate development and that it can only be justified if there are very exceptional circumstances that clearly outweigh the harm to the Green Barrier, to which substantial weight should be attached (PPW paragraph 4.8.14).
19. I am advised that the Council is likely to review the position of the settlement boundary in its emerging Local Development Plan and that the whole of the appeal site is likely to be included within the boundary, thus eliminating the issues on the Green Barrier and Special Landscape Area. The Council does not dispute this. However, the draft Local Development Plan has yet to be put out to consultation and is not expected to be adopted before 2018. Consequently, it is not appropriate to give any meaningful weight at present to policy changes that might or might not take place.
20. Thus the only matters found in favour are the benefits summarised above, and I do not consider these to amount to very exceptional circumstances sufficient to clearly outweigh the harm to the Green Barrier. For the reasons given above I conclude that the appeal should be dismissed.

Clive Nield

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Stephen Buckley, BA(Hon), Peacock & Smith Limited – Agent.
BPI, MRTPI

FOR THE LOCAL PLANNING AUTHORITY:

Ms Sharon Holman, LLB(Hon), Development Control Planning Officer, Wrexham
LPC, MCD County Borough Council.

INTERESTED PERSONS:

Cllr Brian Cameron	Wrexham County Borough Council.
Cllr Graham Rogers	Wrexham County Borough Council.
Ms Kerry James, BSc(Hon), MTPL, MRTPI	Kerry James Planning – acting Agent (in absence of Mr Bob Dewey) on behalf of Mr Mark Trubshaw.
Mr Mark Trubshaw	Local shop owner.
Mr Michael & Mrs Margaret Carr	Nearby residents.
Mrs Carol Trickett	Nearby resident.
Mr Michael Young	Representing his son, Scott Young, a nearby resident.

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Letter of Notification and list of persons notified.
- 2 Note to Council from Mr Michael Cohen re non attendance at
Hearing and request for copy of Appeal Decision.
- 3 Sketch plan of other shops within 1.3 mile radius of site,
submitted by Ms James on behalf of Mr Trubshaw.

PLANS

A1-A14 Application Plans, as revised and considered by the Council:

4216-P00 - Location Plan

4216-P01 Rev G - Site Layout

4216-P02 Rev E - Ground Floor General Arrangement

4216-P03 Rev B - Elevations

4216-P05 Rev A – Existing and Proposed Section

4216-P06 – Proposed Roof Plan

4216-P08 Rev A – Fences and Gates

4216-P10 – Plant Area

4216-P11 Rev A – Soft Landscape Proposal

4216-P12 Rev A – Site Layout, Refuse Vehicle Tracking

1065-110_2D (A1) – 2D Topographical Survey

1065-110_2D (A1) – 2D Topographical Survey

1065-110_U (A1) – Underground Utilities Survey

D25125/PY/A – Lighting.