

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 18/12/14

gan Iwan Lloyd BA BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 8 Ionawr 2015

Appeal Decision

Site visit made on 18/12/14

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 8 January 2015

Appeal Ref: APP/H6955/A/14/2220097

Site address: Land opposite the Cemetery, Stryt Las, Rhosllanerchrugog, Wrexham LL14 2DB

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 outline planning permission.
- The appeal is made by W D Stant against the decision of Wrexham County Borough Council.
- The application Ref RHO P/2013/0819, dated 21 November 2013, was refused by notice dated 27 January 2014.
- The development proposed is development of 14 affordable dwellings, associated infrastructure works and amenity space.

Decision

1. The appeal is dismissed.

Procedural matters

2. The planning application is submitted in outline with access, layout, scale and landscaping considered at this stage. Two layouts were submitted with the appeal. The Council clarified that it had considered plans refs: J024.1.0.100 REV B and 101 REV B (the first a layout of the development and the second the layout with landscaping). This layout is the same as that presented with the appeal, plan ref: J024.1.0.101 REV C (albeit with a difference reference number) and that shown in the design and access statement. No prejudice would therefore arise in my dealing with the appeal and layout plan J024.1.0.101 REV C.
3. I consider that sufficient information has been provided with the application and in the design and access statement to indicate that Article 3 of Part 2 of the statutory instrument¹ is met.
4. A planning obligation dated 20 May 2014 has been submitted which covenants that the development would only provide affordable housing on the site which would be managed by or in the ownership of a Registered Social Landlord (RSL). There is also a clause which prevents the disposal except to a RSL.

¹ 2012 No. 801 (W.110) Town and Country Planning, Wales, The Town and Country Planning (Development Management Procedure) (Wales) Order 2012

5. The Welsh Government has issued a direction on 16 September 2014 that the proposal is not an environmental impact assessment development within the meaning of the 1999 Regulations (as amended).

Main issues

6. I consider the main issues are:

- Whether the proposal would be inappropriate development in the green barrier, and
- Whether there are other considerations which clearly outweigh the harm to the green barrier, thereby justifying it on the basis of very exceptional circumstances.

Reasons

Green Barrier

7. The site lies to the south of Stryt Las between housing developments on this side of the road, and opposite a Cemetery located on the north side of the road. The site is some 2.5ha and is located outside the settlement limit as defined in the Wrexham Unitary Development Plan (UDP). It is also in a green barrier and special landscape area.
8. Planning Policy Wales Edition 7 July 2014 (PPW) indicates that when considering applications for planning permission in Green Belts or green wedges, a presumption against inappropriate development will apply. The construction of new buildings in a Green Belt or in a locally designated green wedge is inappropriate development unless it is, amongst other things, for the following purpose: limited infilling (in those settlements and other development sites which have been identified for limited infilling in the development plan) and affordable housing for local needs under the development plan policies.
9. UDP Policy EC1 indicates that within green barriers, development will only be granted permission if it is for agriculture, forestry, essential facilities for outdoor sport and recreation, cemeteries and other uses of land which maintain openness of the green barrier and do not conflict with the purpose of including land within it.
10. The development proposed would not fall within these limitations or could be considered as other uses of land, since it involves the construction of buildings for residential purposes. The coverage of buildings, roads and infrastructure on the site would inevitable and significantly reduce openness of the site.
11. As for the purposes of including the land within the green barrier, PPW paragraph 4.8.10 indicates that local designations such as green wedges may be justified where the land is required to serve the same purpose to a Green Belt, although they do not convey the permanence of a Green Belt. This area of green barrier to the south of Stryt Las forms part of a larger swathe of land which extends to the south and is within the same UDP designation. Penycae and Rhosllanerchrugog are urban villages constrained by the green barrier land. Should the development site be built on, then the distinction between these urban villages would be lost, and therefore, I conclude that the green barrier land the subject of this appeal would prevent the coalescence of these settlements and assist in safeguarding the countryside from encroachment. The proposed development would conflict with the purpose of including the land within the green barrier. The proposal therefore conflicts with UDP Policy EC1.

12. Green wedge policies are reviewed as part of the development plan review process. The general policies controlling development in the countryside apply in green wedges, but there is a general presumption against development which is inappropriate in relation to the purposes of the designation.
13. The Council's strategic policy UDP PS1 directs new residential development to sites within the defined settlement limits. UDP Policy H5 permits exceptions to the development of land outside defined settlement limits. Limited infilling is one such exception, but the site has not been identified as a candidate for limited infilling in the UDP. Infilling is generally defined as one or two dwelling units. The development of this size would not meet this particular exception. Policy H8 allows in exceptional circumstances affordable housing to be built within rural settlement limits and other limited affordable housing proposals on the edge of settlements. This is permissible where no more than 5 dwellings can be accommodated on a site which forms a logical extension to the settlement limit and the development reflects the surrounding townscape and landscape form.
14. The Council indicates that the policy is inapplicable to Rhosllanerchrugog, since this is an urban village as defined in the UDP. The policy does not preclude affordable housing on the edge of settlements and settlements in this context of the policy is not restricted to particular parts of the Authority. However, the proposal clearly exceeds the upper limits of this policy. The proposal would occupy the central portion of the site with a pond and play area either side. This configuration would appear as an unorthodox incursion on the land with undeveloped areas either side. The development would not provide a form and layout which unifies the development with the pattern of development found in the locality. The part semi-circular layout is an unusual configuration and a response to the mine shafts situated on the site, but it is not a layout which reflects the built development in the vicinity of the site. Development of the site in my view cannot be regarded as a logical extension to the settlement and the proposal conflicts with UDP Policy H5.
15. I consider the proposal would fail to meet the permitted exceptions of the development plan and affordable housing for local needs policies and thereby conflicts with UDP Policies PS1, EC1, H5, and H8. I consider the proposal also fails to meet the limited circumstances set out in paragraph 4.8.16 of PPW.
16. The development of the site would erode the openness of the green barrier and conflict with the purposes of including land within it, particularly in preventing the coalescence of the settlements and safeguarding the countryside from encroachment.
17. I conclude that the proposal represents inappropriate development in the green barrier. By definition, the harm identified by reason of inappropriate development in the green barrier is given substantial weight against the development.
18. I note the points about the classification of the site as a green barrier and whether it is in fact within the green barrier designation. As a matter of fact the site is within the green barrier and whether this should be re-classified is a matter for the process of review of the development plan.

Other considerations

19. It is accepted that there is a deficiency in the 5 year housing land supply. This point is not contested and the Joint Housing Land Availability Study 2013 concludes that there is 3.4 years of housing land supply. The housing land supply situation is a substantial factor in favour of the proposal.

20. The second point relates to the deliverability of the site for affordable housing. It is argued that 5 affordable housing units on the site as directed by Policy H8 is unviable and that given the pressing need, site constraints due to previous mining activity and viability; 14 units would better serve the needs of the community. A housing association would prefer a larger scheme and costs could be spread across a phased development. It is also argued that viability is not a consideration, and the RSL grant or funding is only agreed after the permission is granted. The appellant contends that the planning obligation provides sufficient weight on the matter of deliverability for the development to proceed on the basis of providing affordable housing to meet the community needs.
21. The Council indicates that in order to contribute to the supply of housing, sites must be free from constraint in relation to planning issues, physical impediments, ownership constraints and be economically viable. The Council's viability appraisal indicates that the development costs of the site would exceed the development value of the site and that it would be highly unlikely that it would proceed within the next 5 years. However, the appellant indicates that the analysis is flawed on development costs. Either way the matter cannot be conclusively determined if an 'open book' approach has not been followed by the parties. In this regard, the matter is neutral, and not a point in favour of the development.
22. The submission of a planning obligation for a proposal which fails to meet the relevant policy for the reasons previously set out, fails the three tests of Regulations 122 of the Community Infrastructure Levy Regulations 2010, and the policy tests of Circular 13/97.
23. Turning to the issue whether the site is previously developed land. In relation to the definition in PPW, the matter cannot be conclusively presumed, since there is no fixed surface infrastructure on the site, and I am not aware that the mineral extraction was subject to restoration procedures. The matter is regarded as a neutral point and is not a factor in favour of the development.
24. As the site is not in a settlement the preference to use previously developed land, if this applies in this case, is not necessarily endorsed by PPW, as not all such land is suitable for development. The housing land supply could equally be met on sites outside settlement limits that are not constrained by the green barrier and with less stringent planning controls.
25. All other issues raised such as the planning history of other appeal developments, the mitigation put forward on ecology issues, and the provision of a play area, are all neutral factors, not matters in favour of the development.

Conclusions on green barrier

26. In my view, the balance of the argument which is purported to be in favour of the proposal does not clearly outweigh the harm to the green barrier and would not diminish the substantial weight against the development by reason of inappropriateness. I therefore conclude that the proposal is unacceptable having regard to the strict control over development in the green barrier contained in national and local policies. For the reasons given above, and having regard to all other representations submitted, I conclude that the appeal should be dismissed.

Iwan Lloyd

INSPECTOR