



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 17/02/12

gan David Kaiserman BA DipTP MRTPI
Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 15/03/12

Appeal Decision

Site visit made on 17/02/12

by David Kaiserman BA DipTP MRTPI
an Inspector appointed by the Welsh Ministers
Date: 15/03/12

Appeal Ref: APP/H6955/A/11/2166553

Site address: Land adjacent to Mount House, Church Street, Ruabon, Wrexham, LL14 6DS

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 Mr G Billington against the decision of Wrexham County Borough Council.
 - The application Ref P/2011/0403, dated 8 June 2011, was refused by notice dated 2 August 2011.
 - The development proposed is the erection of two new dwellings and garages.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two new dwellings and garages on land adjacent to Mount House, Church Street, Ruabon, in accordance with the terms of the application, P/2011/0403, dated 8 June 2011, and the plans submitted with it, subject to the conditions set out in the Schedule below.

Main Issues

2. The main issues in this case are the effect of the proposal (a) on the character and appearance of the Ruabon Conservation Area; (b) on highway safety; and (c) on trees within the site.

Reasons

(a) Conservation Area

3. The appeal site lies within the built-up area of Ruabon, and within the Conservation Area which covers its historic core. The site itself is an area of unkempt former garden land lying between Ruabon station and Mount House, a recently-restored imposing stone-built dwelling fronting Church Street. The most obvious characteristic of the appeal site is that it lies well below the level of Church Street, being part of a significant slope which continues to fall southwards towards a stream course. To the south-west of the appeal site, two new detached houses were under construction at the time of my visit. Closer to the stream, short rows of traditional houses line the north side of Railway Terrace.
4. The Conservation Area displays a wide range of building types and materials – indeed, it might be said that this variety adds significantly to its particular character. In many

cases, buildings have had to contend with significant changes of level, which again contributes to the informal and "organic" nature of the centre of the village. This variety is evident in the immediate vicinity of the northern boundary of the appeal site: from the western side of the bridge across the railway on Church Street, the view is dominated by Mount House, with two-storey terraced houses (of different designs) beyond, the whole leading to a view of the tower of St Mary's Church. Directly opposite, the character is completely different, the land being occupied by a row of simple, single-storey alms-houses. The appeal site itself adds further contrast, since it is largely open and strongly influenced by trees, especially on its periphery.

5. Clearly, any buildings on this site must relate satisfactorily to its context, as required by Unitary Development Plan policies GDP1a) and EC7. I do not, however, share the Council's view about the way in which the present appeal proposals would be seen in practice. The dwellings would sit about 5m below the level of Church Street and, in accordance with advice from the Council's officers, they are intended to be placed at right-angles to the road. Given these two factors, I consider it unlikely that the development would be viewed longitudinally (ie, in the context of the rest of the Church Street) in any meaningful way. Only the upper third to a quarter of the side elevation of house 2 would be seen projecting above the boundary wall, and it would be set back by around 10m. In addition, since there is no footpath on the southern side of the road, most passers-by would have an even less dominant view of the scheme.
6. More generally, I consider the Council's criticisms of the design of the proposals to be vague. They are limited to the comment that "*neither the layout of the site, nor the design and appearance.....reflects or respects the character of the immediate locality*". Little detailed evidence is offered to explain or support this assertion, other than the observation that development of the site must respect the character of the properties in Church Street "*which consists of semi-detached and short terraces*". It is not clear what the implications of complying with this requirement would mean in practice.
7. The Council make no suggestion that the development would be too high at 2½ storeys, although they do appear specifically to reject the use of slate hipped roofs (paragraph 6.5 of their statement) as a matter of principle. Again, I am given no further explanation for this view, and there would also appear to be some inconsistency in their position: hipped roofs are a prominent aspect of the two new houses being built on the adjoining site which, as was stated in the report which recommended their approval (ref: P/2009/0937), is itself "prominently seen from Church Street".
8. In my opinion, and in the absence of any clear reasons to take a contrary view, the appeal scheme would broadly preserve both the character and appearance of the Conservation Area- indeed, in principle would enhance it to some extent, by securing the development of a neglected piece of land.

(b) Highways matters

9. I have described this second issue as one relating to highway safety, since lack of clarity about this was given as a reason for refusing planning permission. It is, however, apparent from the Council's appeal statement that they accept the views of their Infrastructure and Planning Manager which were that, subject to certain detailed conditions, no objection need be raised on highway safety grounds. No new evidence has been put forward to alter that position. Instead, the Council's statement reflects

an observation in the relevant officer report which suggests that the real concern here is less about highway safety than about the visual impact of the engineered ramped access into the site from Church Street.

10. I have some sympathy with this point, given the prominence of the access and its location within the Conservation Area. However, by the time of my visit it appeared to have been completed, with a tarmac surface and concrete kerbs, and I note that the Council have offered no criticism of what has been constructed. It seems to me that its location close to Mount House means that its impact from outside the site is less harmful than might otherwise be the case, and that further mitigation could (and should) be carried out by an appropriate scheme of landscaping. This is something which is capable of being dealt with by condition.

(c) Trees

11. It was confirmed at the site visit that the trees which are the focus of the Council's concern is a group in the south-east corner of the site which it is proposed to remove and which currently provide a screen between Railway Terrace and Mount House. They are not subject to any statutory protection, other than that which flows from their location within the Conservation Area. An arboricultural implication assessment was submitted with the planning application, and I have taken it that the specimens which are in dispute are those referenced 133-136 inclusive. These consist of three cherries, an elm and a sycamore, and all are described by the appellant's consultants as being in poor or only fair condition.
12. The Council do not accept this assessment, but provide no supporting evidence for their view, beyond concluding that the poor condition of some of the trees may be attributable to works carried out (at the time, I understand, without planning permission) in connection with the construction of the site access. They make reference to a further tree which has not been surveyed, but I am unclear as to precisely where this is. I have noted, however, that the appeal documents do not indicate the relationship between the trees to be retained and the proposed / recently-implemented works.
13. In my opinion, while the trees in question make a limited contribution to the character of the site, the option of retaining some or all of them should not lightly be rejected. It is difficult to assess, from what I have been given and seen, how practicable that would be, given the fact that the access has now been physically constructed. I have therefore decided to deal with the matter by applying a condition which requires the submission for the Council's consideration of details about the way the remaining trees are to be treated, and have concluded that this would meet the requirements of UDP policy EC4. This would encompass any concerns about the future health of the more significant tree group on the northern boundary of plot 2.

(d) Other matters and conclusions

14. I have noted two representations from local residents, but I do not consider that the objections they contain are so significant that they outweigh my overall conclusion about the merits of the application.
15. I have decided to allow the appeal. In that eventuality, the Council have asked for a total of 12 conditions (in addition to the statutory one) to be imposed. These cover the need for samples of materials to be submitted; detailed requirements relating to the Code for Sustainable Homes; tree protection measures; boundary treatment; and a

group aimed at ensuring the proper design and maintenance of the vehicular access and associated parking and turning areas (on this last, I have retained the specific dimensions of the visibility splays, since I have had no confirmation that what has been constructed meets them). Subject to some editing, I have imposed all these conditions, with the exception of one requiring the access drive to be properly surfaced, since I am satisfied that that has already been done.

16. A further condition would require a scheme to deal with potential contamination of the site: while the Council have given me no specific reason to impose it, I have noted an internal memorandum from the Head of Housing and Public Protection which suggests that the site's history warrants such a precaution being taken. In the absence of any objection from the appellant, I have therefore agreed to impose it.

David Kaiserman

Inspector

Schedule of Conditions

1. The development hereby permitted shall begin not later than five years from the date of this decision.
2. Prior to their use on the development, samples of all external facing and roofing materials shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details.
3. Each new dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 3 and achieve a minimum of 1 credit under category 'Ene1 - Dwelling Emission Rate' in accordance with the requirements of the Code for Sustainable Homes: Technical Guide Version 3. The development shall be carried out entirely in accordance with the approved assessment and certification.
4. Construction of either dwelling hereby permitted shall not begin until an 'Interim Certificate' has been submitted to the Local Planning Authority, certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under 'Ene1 - Dwelling Emission Rate', has been achieved for that individual dwelling or house type in accordance with the requirements of the Code for Sustainable Homes: Technical Guide Version 3.
5. Prior to the occupation of either individual dwelling hereby permitted, a Code for Sustainable Homes 'Final Certificate' shall be submitted to the Local Planning Authority certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under 'Ene1 - Dwelling Emission Rate', has been achieved for that dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide Version 3.

6. No part of the development shall commence until a scheme to deal with potential contamination at the site has been submitted to, and approved in writing by, the Local Planning Authority. This scheme shall include a phased investigation approach to identify the extent of any contamination and any measures required to remediate the site, including post-development monitoring. No part of the development shall be occupied until a Verification Report which demonstrates that the approved remedial works have been satisfactorily carried out has been submitted to, and approved in writing by, the Local Planning Authority.

7. No part of the development shall commence until an Arboricultural Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The Method Statement shall include the following:

- 1) a specification for tree protection, fencing and ground protection measures that comply with British Standard 5837:2005, together with details of all proposed tree works, including felling and pruning;
- 2) a tree protection plan showing the location of the trees to be removed, and those retained (with their crown spreads, root protection areas, construction exclusion zones, and location of protective fencing and ground protection measures accurately plotted);
- 3) a full specification for any construction works within retained tree root protection areas or construction exclusion zones, including any related sections and method for avoiding damage to retained trees;
- 4) details of general arboricultural matters, including proposed practices with regards to cement mixing, material storage and fires; the frequency of supervisory visits and procedures for notifying the findings of such visits to the Local Planning Authority.

Development shall only take place in strict accordance with the Method Statement as approved.

8. No development shall commence until a scheme of boundary treatment has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include full details of a planting / fencing scheme designed to soften the visual impact of the vehicular access to the site, together with details of a means of vehicle restraint that shall be erected at the south-western end of the driveway. The scheme as approved shall be implemented in full prior to the first occupation of the dwellings hereby granted permission and, in the case of the vehicle restraint, thereafter permanently retained.

9. The vehicular parking and turning areas as shown on approved drawing No. BO52-025 shall be fully laid out, surfaced and drained prior to first occupation of the dwellings hereby permitted. These areas shall thereafter be permanently retained and kept free of any obstruction, and made available solely for the parking and turning of vehicles at all times.

10. Prior to first use of the development hereby permitted, the vehicular access shall provide visibility splays of 2.4 metres x 33 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.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), no gate, fence, wall or other means of enclosure shall be erected, constructed or placed across the access within 5 metres of the highway boundary.