



## Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 17/01/12  
Ymweliad â safle a wnaed ar 17/01/12

**gan R.M.Poppleton JP, DipTP, DMS, MRTPI**  
**Arolygydd a benodir gan Weinidogion Cymru**  
**Dyddiad: 01/02/12**

## Appeal Decision

Hearing held on 17/01/12  
Site visit made on 17/01/12

**by R.M.Poppleton JP, DipTP, DMS, MRTPI**  
**an Inspector appointed by the Welsh Ministers**  
**Date: 01/02/12**

**Appeal Ref: APP/H6955/A/11/2160345**

**Site address: Woodland west of Lower Lodge, Frog Lane, Broughton, Threapwood, Wrexham, SY14 7AN**

**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 failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Michael Brownrigg against Wrexham County Borough Council.
- The application Ref P/2011/0178 is dated 9 March 2011.
- The development proposed is the erection of a building for the abstraction and bottling of mineral water.

### Decision

1. The appeal is dismissed and planning permission is refused.

### Main Issues

2. The application relates to the construction of a building approximately 260 square metres in area within which a bore hole would be located to enable the extraction of water from an aquifer. A parking area and access would be provided passing through the woodland to the adjoining main road. The extraction and bottling operation would employ 8 people, 6 at the site and 2 elsewhere. The proposal has attracted support from organisations such as the Country Land and Business Association and some local residents, but also objections from local parish and community councils and other local residents. Whilst not a traditional agricultural operation, the Council confirmed at the hearing that the proposed operation would fall within the definition of a rural enterprise included in Technical Advice Note No.6.
3. It was agreed that the appeal site lies in the countryside beyond the built up bounds of any settlement and lies within a Special Landscape Area (SLA) as identified in the adopted Unitary Development Plan of 2005 (UDP). Furthermore, the site adjoins the site of Lower Lodge which is a Grade II listed building. The site is also subject to a Tree Preservation Order and a Woodland Management Plan, although no trees would be removed to enable the development to occur.
4. Although interested parties have been made references to a number of matters including the effect on the aquifer, the Council confirmed that the necessary consultations with the relevant agencies have taken place and no fundamental objections have been raised. Similarly, recognising that the site has ecological

interests, appropriate surveys have been carried out and the Council and CCW are now content that there are no objections in this regard, subject to the imposition of conditions. The Council indicated that any such condition should relate to the submitted ecological method statement dated 8 April 2011.

5. Therefore the main issues distil to firstly the effect of the proposal upon local highway safety, secondly upon the listed building and thirdly, upon the character and appearance of the area.

## Reasons

6. The appeal site is served by a classified road (the B5098) that, at this point, displays a straight alignment and is generally flat. Thus, although further to the west, there is a series of tight bends, in the vicinity of the appeal site, there is good visibility in either direction. Given this and the wide verges, the suggested planning condition requiring visibility splays to be provided would be attainable without affecting the hedges. Whilst I note that interested parties have raised concerns about the traffic negotiating the tight bends, especially with regard to horse riders, the Highway Authority has not objected to the proposal.
7. I am advised that the proposal would involve two HGV vehicle movements each day and up to 12 car movements by workers, although that number could be lower if they cycled from the village. In my view, this low level of traffic would be unlikely to materially alter the nature of traffic using the local highway network. Moreover, it would be no more than could be reasonably expected at any farm activity served by this part of the highway network. Therefore, I find no compelling evidence to conclude that highway safety would be endangered by the proposal.
8. Turning to the second issue, section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have regard to the effect of the proposal upon the setting of the listed building. The UDP policy EC9 also restates this requirement. Lower Lodge stands to the northeast of the appeal site with an intervening area of overgrown garden and woodland. It is a fine brick structure with prominent gables and chimneys and also appears to hold some historical significance associated with the former estate and other listed buildings in the area.
9. The Council confirmed at the hearing that in their view, having regard to the separation distance and the intervening woodland and proposed plantings, the setting of the listed building would not be harmed to any material degree. In considering this matter, there is a distinction to be made between the tests required by section 66 and those that apply to the planning policies of the UDP relating to the third defined issue. In my view, although the proposed building would be glimpsed through the trees especially from the overgrown garden area, given the factors referred to by the Council, I too conclude that the setting of the listed building would not be materially affected to the degree that the building's significance would be harmed or diminished. Accordingly, I conclude that the presence of the listed building is not a factor that weighs against the current proposal.
10. Turning now to the third issue. The UDP policy framework is provided in policies E5 and E6. Reflecting the national objectives of encouraging the rural economy in a sustaining manner, these policies provide for some building and conversions within the countryside that would generate small-scale employment opportunities. Policy E5 deals specifically with the conversion of existing buildings and does not apply to the

current proposal, although it has relevance in respect of alternatives that may or may not be available.

11. More relevant, is policy E6. This refers to small-scale on-farm operations located within existing farm buildings subject to certain criteria being met. If it can be shown that there are no suitable buildings for such operations, the erection of a new building would be permitted provided that it would adjoin or forms a logical extension to the existing farm complex, secondly, that the building would not result in a detrimental intrusion in the landscape and thirdly, that the building would not exceed 300 square metres in area. This policy's objective of avoiding harm to the landscape expressed in its associated paragraph 7.12 and re-iterated in policy EC3, reflects that expressed in Planning Policy Wales (PPW). At paragraph 9.3.6, this states that new development in the open countryside should be strictly controlled and the fact that a building would be unobtrusive is not, by itself, a good argument in favour of permission: such development could be granted too often, to detriment of the area's character. In an area identified as being a special landscape to which policy EC5 relates, such an objective is especially important.
12. Although the overall site area exceeds 1 ha and the proposal also includes an access and parking area, the size of the proposed building meets the relevant criterion. Moreover, although interested parties refer to it as an industrial building, the Council agreed that the design of the proposed building would be appropriate for a rural area in terms of its scale and the materials to be used. I find no reason to disagree.
13. As to the other criteria, the appeal site clearly is not adjoining or closely associated with an existing farm complex. The building would be a free-standing structure within the woodland and as such, fails to meet this criterion. As to the whether it would be intrusive in the landscape (criterion b), I regard the landscape as a generally open area of countryside with a patchwork of woodlands and hedges. The general landscape is gently undulating providing expansive views across farmland to the hills beyond. I note that the applicant has augmented the woodlands by carrying out new tree planting schemes.
14. The appeal site itself comprises a small area of managed, mostly deciduous, woodland immediately adjacent to the road and is contained by fencing with open cultivated fields beyond. Currently, there are open views through the site beneath the tree canopy, although the boundary with Lower Lodge is more densely populated with the under storey and some evergreen shrubs/hedges. The proposal involves the construction of an access way and parking area comprising a duoblock type surface over a compacted sub-base. In time, grass would grow within the surface to disguise it whilst providing a firm route and parking area. I find no compelling reason to conclude that this surface would not operate as designed and that it would not merge into the general appearance of the site. As to its lighting, I find no reason to conclude that with appropriately time-limited, low-level and low-intensity, focussed-lighting of the parking area and access way (that could be ensured by way of planning conditions) the effect of light pollution within the woodland and its effects upon ecology and visual amenity, could not be mitigated.
15. Nevertheless, although the building would be clad in timber with a green plastic coated sheeted roof and despite the additional proposed planting, it would be seen from the highway. Whilst noise could be contained within the building and storage activities outside prevented, by the imposition of a condition, the operation carried out on the site would lead to an increase in general activity and disturb the site's tranquillity. Thus I conclude that the character and appearance of this parcel of

woodland would be adversely affected and as such, the proposal conflicts with this criterion of policy E6. Even if it became less obvious in time, as made clear in paragraph 9.3.6 of PPW, simply because it would be unobtrusive is not a good reason in favour of the permission in the light of the objective of restricting built development in the countryside.

16. Nevertheless, I am required to consider whether there are any material considerations that might outweigh the conflict with the Development Plan policy. In this regard, I have considered the evidence regarding the availability of an alternative suitable site. Having seen the buildings shown on the applicant's Appendix 2 and learnt that the brick structures are either converted into residential accommodation or benefit from planning permission to be so converted, I am satisfied that there are none available within the applicant's current ownership or control, that could be used for the proposed operation. I am also aware that there have been discussions in 2006 and 2008 with the Council about the use of the land to the east of building H, some of which is unkempt and some of which has been planting with new trees. At the hearing, the Council stated that such discussions had not been in the context of drawings of a proposed building and therefore had not been fully examined, although a letter from the Council dated 14 August 2006 did suggest that it would be objected to because of the SLA and nearby footpath.
17. Clearly, whether or not a particular alternative site for the proposed operation is available and suitable is not currently before me. However, the Council's putative reason for refusal in respect of the current appeal, expressed during the hearing, was that such alternatives had not been fully examined and that as such, the requirement in policy E6 that there are no other suitable sites available, has not been met. I was also advised that subject to adequate separation of the bore hole from potential sources of pollution from farm buildings, outfalls from yards etc., that the aquifer could be accessed from sites other than the current appeal site. Despite the correspondence in 2006 and meeting in 2008 noted above, these factors lead me to conclude that whilst there are no suitable buildings currently available to the applicant from which the process could operate, there is insufficient evidence to conclude that there are no suitable alternative sites available that would be a closer match to the criteria set out in policy E6.
18. Clearly, the creation of employment in the countryside in a sustainable manner is in line with national and local policy. However, as made clear in PPW and in TAN6, the attainment of that objective must be balanced with others that address the effects of development upon the character and appearance of the area. In this case, I am not convinced that the creation of 6 jobs at the site would outweigh the identified harm.
19. This leads me to conclude that I find no material considerations of such weight as to outweigh the policy objection and that, as currently proposed, the proposal would harm the character and appearance of this part of the special landscape area. The imposition of planning conditions, including those relating to nature conservation and woodland management would not overcome this objection. For this reason, the appeal is dismissed.

*R.M. Poppleton*

Inspector

## **APPEARANCES**

FOR THE APPELLANT: Brownrigg Farming

Mr David Parker of David Parker Planning  
Associates

Mr Michael Brownrigg

Mr J R N Gregory of Keene & Kelly, Solicitors

FOR THE LOCAL PLANNING AUTHORITY: Wrexham CBC

Mr Kevin Hughes – planning officer

INTERESTED PERSONS:

Mrs J Slater: Lodgebury Barn, No.1 Lodgebury  
Court, Threapwood, Nr Malpas SY14 7AZ

Mrs R Dewhurst, Broughton House, Threapwood,  
Malpas SY14 7AN

Mrs Bryson, Middle Lodge, Frog Lane,  
Threapwood, Nr Malpas, SY14 7AN

Mrs J Tilston, Lower Lodge, Frog Lane,  
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