



TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

SECTION 78 APPEAL

WRITTEN STATEMENT

Appeal by Mr Clint Shaw

Land South of Llay Road, Cefn y Bedd, Wrexham, LL12 9UG

TOWN AND COUNTRY PLANNING (REFERRED APPLICATIONS AND APPEALS
PROCEDURE) (WALES) REGULATIONS 2017

PEDW REFERENCE: CAS-03241-H5R0V7

LOCAL PLANNING AUTHORITY REFERENCE: P/2022/0681

Wrexham County Borough Council
Lambpit Street
Wrexham
LL11 1AR

1. INTRODUCTION

- 1.1 This appeal relates to the decision of Wrexham County Borough Council to refuse planning application P/2022/0681 for the following development: *“Change Of Use Of Land For Use As Christmas Tree Farm And Outdoor Recreation Centre To Include Reindeer Centre, Paddle Boarding, Water Related Activities And Extension Of Existing Lake, Creation Of Bark Footpath, Erection Of Building To Provide Office, Machine And Equipment Store, Hay/Straw Storage And Sick Bay/Maternity Bay Space For Reindeer, And Creation Of Car Park, Access And Site Landscaping”* at Land South of Llay Road, Cefn y Bedd, Wrexham, LL12 9UG.
- 1.2 Application P/2022/0681 was registered on 02/08/2022, and was subsequently refused by the Council’s Planning Committee on 06/11/2023. The reasons for refusal are as follows:
1. The development is likely to result in an increase in phosphate levels to the River Dee and Bala Lake Special Area of Conservation. The proposal is contrary to Paragraph 6.4.18 of Planning Policy Wales, Policy EC6 of the Wrexham Unitary Development Plan and Policy NE6 of the draft Local Development Plan.
 2. The development would not be provided with a safe means of pedestrian access so therefore does not accord with Policy GDP1 of the Wrexham Unitary Development Plan.
- 1.3 A copy of the decision notice has been forwarded previously as part of the Questionnaire submission. Copies of the Committee Report and Committee Addendum Report are attached at Appendices 1 and 2 respectively.

2. THE SITE AND ITS SURROUNDINGS

- 2.1 The appeal site is located outside of any defined settlement limit, and is therefore considered to be within the open countryside as per the adopted Wrexham Local Development Plan for the purposes of this appeal. The site comprises approximately 16.6 hectares of agricultural land located to the south of the B5102 public highway (Llay Road) and to the east of Park Road.
- 2.2 An approximate location plan, outlining the appeal site in red and its immediate context is provided below.



3. DETAILS OF DEVELOPMENT

- 3.1 The application sought full planning permission for the use of the site as a Christmas tree farm and outdoor recreation centre to include a 'reindeer centre', paddle boarding and water related activities. The application also proposed the erection of a building to provide an office, machine and equipment store, a hay/straw storage area and a sick/maternity bay for reindeer. The application was submitted partly in retrospect.

4. PLANNING HISTORY

- 4.1 Details of the appeal site's planning history are provided within the Committee Report, appended at Appendix 1.

5. RELEVANT PLANNING POLICY

Local Planning Policy and Guidance

- 5.1 The Development Plan for this area comprises the adopted [Wrexham Local Development Plan 2013-2018](#) (LDP), which was formally adopted by the Council on 20th December 2023.

5.2 Application P/2022/0681 was refused on 6th November 2023, and was therefore considered against the policies contained within the former Wrexham Unitary Development Plan, which has now been superseded by the LDP. However, as is evident within the Committee Report appended at Appendix 1, the proposals were also considered against the requirements of LDP policies. Given the development was assessed against LDP policies prior to its determination, the Local Planning Authority does not consider the adoption of the LDP in the intervening period alters the overall assessment of the proposals.

5.3 Within the LDP, the following policies are applicable:

- SP2 – Location of Development
- SP11 – Transport and Accessibility
- SP12 – Design Principles and Masterplanning Framework
- SP13 – Health and Wellbeing
- SP14 – Natural Environment
- SP18 – Climate Change
- SP19 – Green Infrastructure
- NE1 – International and National Nature Conservation Designations
- NE2 – Local Designations for Nature Conservation and Geological Importance
- NE3 – Trees, Woodlands and Hedgerows
- NE6 – Waste Water Treatment and River Water Quality
- DM1 – Development Management Considerations
- T1 – Managing Transport Impacts
- T2 – Active Travel

5.4 The applicable [Wrexham Local Planning Guidance Notes](#) (LPGN) are:

- 7 – Landscape & Development
- 16 – Parking Standards
- 17 – Trees & Development
- 30 – Design
- 32 – Biodiversity & Development

National Planning Policy and Guidance

5.5 National planning guidance issued in the form of [Future Wales: The National Plan 2040](#) (FW) and [Planning Policy Wales, Edition 12 2024](#) (PPW) is of relevance to this appeal. Application P/2022/0681 was determined in accordance with PPW (Edition 11), which was superseded on 7th February 2024 by PPW (Edition 12). The LPA does not consider the updated edition of PPW fundamentally changes the original assessment of the planning application.

5.6 [Technical Advice Notes](#) (TANs) are also of relevance to the appeal, including the following:

- TAN 5 – Nature Conservation & Planning

- TAN 6 – Planning for Sustainable Rural Communities
- TAN 11 – Noise
- TAN 12 – Design
- TAN 13 – Tourism
- TAN 16 – Sport, Recreation and Open Space
- TAN 18 – Transport

5.7 In addition, the following national planning documents/legislation are relevant to the appeal and the Council's case:

- Well-being of Future Generations (Wales) Act 2015
- Welsh Government Circular 016/2014 – The Use of Planning Conditions for Development Management
- Environment (Wales) Act 2016

6. THE LOCAL PLANNING AUTHORITY'S CASE

6.1 In the opinion of the Local Planning Authority, the principal issues for consideration in the determination of this appeal are as follows:

- 1) The foul drainage arrangements and whether they are likely to lead to a significant effect upon the integrity of the River Dee and Bala Lake Special Area of Conservation (SAC); and
- 2) Whether the development would be served by a safe means of pedestrian access.

6.2 The Committee Report and Committee Addendum Report are attached at Appendices 1 and 2. The Committee Report is considered to be comprehensive, and clearly states the LPA's case and the policies and guidance upon which the decision to refuse planning permission was based. It is not therefore considered necessary to repeat the considerations and arguments made in the Committee Report, which should be considered as the main basis of the LPA's case.

6.3 The sub-sections that follow seek to address specific issues relevant to the determination of this appeal, including those raised within the Appellant's Grounds of Appeal Statements.

Foul Drainage Arrangements:

6.4 The Council's main concerns regarding the foul drainage arrangements and potential impacts upon the integrity of the SAC stem from the contents of NRW's [Advice to Planning Authorities for planning applications affecting phosphorus sensitive river Special Areas of Conservation](#).

6.5 With regards the drainage field to serve the proposed building, the Council maintains that insufficient information exists to demonstrate that no other discharges to ground exist within 200 metres of the proposed drainage field location. Indeed, based upon the Council's own investigations using mapping software, whilst the exact location of

the nearest drainage fields to the application site are not known, it appears the Appellant's contention that the closest is approximately 300 metres distant is incorrect. Indeed, based upon the Council's calculations, it seems likely the foul drainage systems serving the dwellings at Hilltop, Bonny Cottage and Greenbanks at least, lie within 200 metres of the proposed drainage field.

- 6.6 It is accepted that the Council is not aware of the exact locations of the foul drainage systems serving these dwellings to the north-west of the site. However, the NRW Advice states the following:

"Where a new drainage field is proposed in close proximity to other known existing and proposed drainage fields, there is risk that the effectiveness of the drainage fields is compromised. Many private drainage systems qualifying for an exemption from Environmental Permitting have not been registered with NRW and as such there may be limited data available on the location of existing drainage fields."

In the absence of complete data, Planning Authorities are advised to use mapping/aerial photography to assess proximity to existing properties likely to have a private drainage system and consider whether further site investigation may be required. Poor operation of drainage fields can lead to increased phosphorus discharges to SAC river systems. We therefore advise Planning Authorities to consider site conditions (such as proximity to adjacent drainage fields, soil type, depth to groundwater, distance to surface water features and SAC boundary etc) to determine with certainty that existing and proposed drainage fields will operate effectively in the future and prevent any phosphorus from entering a river SAC".

- 6.7 The risks associated with having too high a density of drainage fields within the SAC catchment are therefore known. The LPA notes the submission of Dwg No: 3034-01-002 REV C, however this does not confirm a distance between the proposed drainage field and nearest existing drainage field. A further map was submitted by the Agent on 06/11/2023, however this is not a scaled plan (being a JPEG image and unscalable) and again does not confirm the location of existing drainage fields within the vicinity and does not confirm the distance between these and the proposed drainage field within the appeal site. Therefore, the LPA maintains that insufficient information has been submitted to comply with the NRW screening criteria, and therefore the LPA's conclusion that a likely significant effect upon the integrity of the SAC cannot be ruled out remains correct.
- 6.8 The Authority's Ecology Officer has also confirmed that insufficient technical information with regards 'phosphates' and foul drainage exists to enable the LPA to carry out a full HRA and Appropriate Assessment and conclude with sufficient certainty that a likely significant effect upon the integrity of the SAC can be ruled out.
- 6.9 With regards the use of the portaloos as proposed for visitors to the site, it is noted the Appellant would intend to use a licensed waste carrier to dispose of the waste produced on-site at an appropriate wastewater treatment works with sufficient phosphorus capacity and an updated environmental permit. However, the LPA maintains that insufficient legislative controls exist within the planning system (in terms of conditions and planning obligations) to ensure the waste produced on-site did not end up re-entering the SAC catchment and being disposed of at a site other than an appropriate wastewater treatment works.

Pedestrian Access:

- 6.10 Notwithstanding the contents of the Committee Report attached at Appendix 1, during the Planning Committee Meeting on 6th November 2023, members of the Planning Committee raised the following concerns with the development, leading to the second reason for refusal being attached to the decision notice:
- Concerns that the footways between the appeal site and Llay along the public highway are of insufficient width and condition to enable the safe movement of members of the public to/from the site.
 - There is insufficient space within the highway extent to enable a widening of the existing footways adjacent to the public highway.
- 6.11 It is noted the second reason for refusal references Policy GDP1 of the former Unitary Development Plan, however, given that the LDP has now been adopted, it is considered that Policy DM1 of the LDP is applicable in its place and contains similar content with regards pedestrian safety matters.

7. CONCLUSION

- 7.1 For the reasons detailed in the Committee Report, Decision Notice and in this LPA statement, the Inspector is respectfully requested to dismiss this appeal.

8. LIST OF SUGGESTED CONDITIONS

- 8.1 Should the appointed Inspector be minded to allow this appeal, Wrexham County Borough Council considers that the following conditions should be imposed:
1. The development hereby permitted shall be commenced before the expiry of five years from the date of this permission.
 2. The development shall be carried out in accordance with the following approved plans and documents:
 - Application Form [Dated: 16/06/2022]
 - 3034-01-001 – Location Plan
 - 3034-01-002 REV C
 - 3034-01-003 REV A
 - 3034-01-D02 REV C
 - 3034-01-ATR01 REV B
 - 3034-01-D03 REV B

3. No development shall commence until a detailed scheme of Net Biodiversity Benefit (NBB) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a Long-Term Management and Maintenance Plan for the NBB measures on the site.

Reason: To ensure the development delivers net benefit to biodiversity in accordance with Policy 9 of Future Wales and Paragraph 6.4.5 of Planning Policy Wales (Edition 12).

4. The NBB measures approved as part of Condition 3 shall be fully implemented prior to the first use of the development, and shall thereafter be managed and maintained in the long-term in accordance with the approved Long-Term Management and Maintenance Plan.
5. No part of the development shall commence until full details of a hard and soft landscaping scheme, together with a timescale for the implementation of works, have been submitted to and approved in writing by the Local Planning Authority.
6. The landscaping scheme submitted and approved in connection with Condition no. 5 shall be fully implemented in all respects within the agreed timescale and in strict accordance with the approved scheme.
7. The landscaping scheme as carried out in connection with Condition 6 shall be permanently retained. Any planting becoming severely damaged or seriously diseased, or is in poor physiological condition and/or are removed without the written permission of the Local Planning Authority shall be replaced with trees or shrubs and within a timescale all to be submitted to and approved in writing by the Local Planning Authority.
8. No development shall take place until a scheme to enable the provision of gigabit capable broadband infrastructure from the site boundary to the dwelling hereby permitted has been submitted to and agreed in writing by the local planning authority. The approved scheme shall be fully implemented prior to the first occupation of the dwelling.
9. Prior to the first use of the development, at least 10% of the car parking spaces shall be provided with EV charge points in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority. The EV chargers shall be retained as installed for the lifetime of the development.
10. No works shall take place (including vegetation site clearance) until a Reasonable Avoidance Measures scheme for Otter, to include an otter-friendly lighting plan has been submitted to and approved in writing by the local planning authority. The measures shall be fully implemented as approved throughout the course of the development.
11. No development shall commence until a protected species Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The Conservation Plan shall include, but not necessarily be limited to:

(i) Build upon the principles outlined in the ecological report (Bwriad / Proposal: Change of Use of Land for Use as Christmas Tree Farm and Outdoor Recreation Centre to Include Reindeer Centre Location: Land South of Llay Road, Cefn Y Bedd, Wrexham, LL12 9UG/ Leigh Ecology. April 2023)

(ii) Submission of details and associated plans concerning GCN avoidance and mitigation measures including fence design, specifications and proposed locations; consideration of access issues across fence lines (including PROW if applicable); fence monitoring and maintenance requirements; and supervised removal of barrier fences. Submission to include proposed timescales and reporting requirements

(iii) Submission of long-term site management plan (for a duration of not less than 25 years*) that includes:

- For each identified ecological feature including GCN, Otter and Bats, defined aims and objectives (including targets that can be used as key performance indicators for monitoring purposes).
- habitat management prescriptions for aquatic and terrestrial habitats.
- appropriate amphibian reasonable avoidance measures.
- contingency prescriptions if fish and/or invasive non-native species (INNS) are detected.
- site liaison, wardening, incident reporting and response arrangements.
- detail of the skills and competencies required by those undertaking the management, surveillance or other works or activities including whether they require European Protected Species licenses for the activities proposed.
- Biennial surveillance and monitoring, with results uploaded into the Wales GCN Monitoring Scheme.
- Five-year reporting requirements associated with ecological surveillance and habitat management; and
- Periodic review mechanism for the Management Plan.

(iv) Timetable for implementation demonstrating that works are aligned with the proposed development

(v) Ecological Compliance Audit, including defined key performance indicators for each identified ecological feature to evidence compliant implementation of specified ecology proposals

(vi) Persons responsible for implementing the works

The Conservation Plan shall be carried out in accordance with the approved details.

12. No development shall commence until a detailed Biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. This shall include but not be limited to:

- appropriate measures to control any INNS on site; and
- measures or actions that aim to prevent INNS being introduced to the site for the duration of construction and operational phases of the scheme.

The approved measures shall be fully implemented throughout the course of the development.

13. Prior to first use of the vehicular access hereby approved, the access shall be surfaced with hard bound materials (e.g. bituminous macadam) for a minimum distance of 10 metres behind the adjoining highway.

14. There shall be no gates or other means of enclosure across the vehicular access point within 10 metres of the highway boundary.
15. Prior to first use of the development, the proposed vehicular access shall be laid out in strict accordance with approved plan no's 3034-01-D02 REV C and 3034-01-ATR01 REV B. The visibility splays shall thereafter be permanently retained free of all obstruction in excess of 1 metre in height.