Penderfyniadau Cynllunio ac Amgylchedd Cymru
Planning & Environment Decisions Wales

Appeal Decision

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by G Hall BSc (Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 24.11.2025

Appeal reference: CAS-04299-P8Z4Y6

Site address: Land West of Garden House, Lane From A528 Cross Foxes PH to St Hilarys Church, Erbistock, Wrexham LL13 0DL

- 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 Nigel Lloyd against the decision of Wrexham County Borough Council.
- The application Ref P/2024/1661, dated 10 December 2024, was refused by notice dated 17 March 2025.
- The development proposed is demolition of existing building and erection of dwelling with associated access and parking.
- A site visit was made on 12 November 2025.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's reason for refusal alleges conflict with policies in the Wrexham Local Development Plan (LDP). However, the Council's decision to adopt the LDP was quashed by the High Court on 19 May 2025. Consequently, the development plan now comprises Future Wales (FW) and the Wrexham Unitary Development Plan 1996–2011, adopted in 2005 (UDP). The Council has identified the UDP policies it considers most relevant to the appeal, and the appellant has had the opportunity to comment on these.
3. The planning application form, decision notice, and the appellant's evidence indicate that the proposal seeks full planning permission. While the Council's Delegated Report refers to the scheme as both full and outline with all matters reserved, I am satisfied that the application is for full planning permission and have determined the appeal on that basis.
4. I have taken the description of development from the appeal form and decision notice, as these provide a more concise description of the appeal proposal.

Main Issue

5. The main issue is whether the proposed dwelling would accord with national and local policies for development in the open countryside, having particular regard to sustainable location principles and the reuse of previously developed land (PDL).

Reasons

6. The appeal site is described as a former garden centre and contains a number of buildings and structures associated with that use, including a toilet block and several greenhouses. It lies outside any defined settlement limit and therefore falls within the open countryside as identified in the UDP. The appellant also owns the land immediately adjacent to the appeal site, identified within the blue line.

7. To the east lies a residential property, The Garden House, set within extensive grounds, which the appellant states were formerly in the same ownership as the appeal site. The appeal site occupies the western end of what was historically a much larger site, and photographic evidence from 2002 illustrates the breadth of the former enterprise across the wider site, encompassing the dwelling, its gardens, and other parcels of land with various outbuildings and growing areas.

8. Immediately to the west of the access is a small cluster of buildings, including two traditional structures and a barn, and a loose group of dwellings is located along the highway to the east. The surrounding development pattern is sparse, comprising dispersed dwellings and small building groups set within predominantly agricultural land. The area is inherently rural, and its generally flat, undeveloped landscape, together with the presence of hedgerows and mature trees, contributes to an attractive rural character and appearance.

9. In seeking to meet future needs following the principles of sustainable development, whilst safeguarding the natural environment, UDP Policy PS1 directs new housing development to within defined settlement limits. UDP Policy PS4 requires development to maintain the existing settlement pattern and character and be integrated with the existing transport network to help reduce the overall need to travel and encourage the use of alternatives to the car. UDP Policy H5 permits certain exceptions within open countryside, including where the development would constitute infilling subject to the general development requirements set in UDP Policy GDP1, or where there is an essential need to house a full-time agricultural or forestry key worker.

10. Planning Policy Wales (PPW) states that new buildings in the open countryside, away from existing settlements or land allocated for development, must continue to be strictly controlled (paragraph 3.60) and that not all PDL is suitable for development, for example, because of its unsustainable location (paragraph 3.55). Technical Advice Note (TAN) 6 says that a key question for the planning authority, when identifying sites in the development plan or determining planning applications, is whether the proposed development enhances or decreases the sustainability of the community (paragraph 2.2.1).

11. Against this policy background, the proposal involves the construction of a new detached dwelling in the open countryside. No substantive evidence demonstrates that the scheme would meet any of the exceptions in UDP Policy H5 or national policy. The presence of nearby dwellings, the consideration of how a settlement boundary might be drawn, or comparisons with other settlements with settlement boundaries, does not alter the site's designation as open countryside and does not justify a departure from the spatial strategy. Accordingly, the development would conflict with Policies PS1 and PS4, which seek to focus new housing in sustainable and appropriately located settlements.

12. In considering whether the site offers a sustainable location, I note that Overton, a village approximately 2 miles away by road, provides a range of services and facilities. However, it is a significant walking or cycling distance from the appeal site and would require travel along rural roads that lack footways and lighting for much of the route. I do not consider that walking or cycling would represent safe or realistic alternatives to the private car.

Consequently, occupiers would be heavily reliant on private vehicles to access even basic day-to-day services. While I recognise that car reliance is more common in rural areas, the appellant's arguments do not persuade me that the proposal would constitute sustainable development.

13. The appellant argues that the potential to reinstate the former garden centre use on the land constitutes a fallback position which should carry material weight in the planning balance. They submit that such a use would likely generate greater vehicle movements and represent a less sustainable form of development than the proposed dwelling. In support, they refer to *Mansell v Tonbridge and Malling Borough Council [2017],* in which the Court of Appeal restated the principles governing the extent to which a fallback position may be taken into account as a material consideration.

14. The evidence before me indicates that previously, The Garden House, the appeal site, and the blue land between them, formed a single mixed-use planning unit comprising multiple interrelated commercial operations: a visitor-attracting garden centre, plant sales, a tearoom, a cut-flower business supplying local outlets, and enterprises including a market garden and a 'Veg to Table' business serving local restaurants and pubs.

15. In assessing whether the former use provides a lawful fallback, it is first necessary to determine whether that use still subsists on the appeal site as a matter of fact and degree. The evidence indicates that the activities formerly undertaken on the appeal site formed only part of the broader mixed commercial enterprise, rather than a standalone operation. Following the physical subdivision of the wider landholding, the creation of separate ownerships, and the separation from the associated visitor-related and ancillary commercial functions, the functional relationships that originally bound the land into a single planning unit have been materially changed. These changes suggest that the original planning unit has been subdivided and that the composite mixed use no longer survives in its previous form.

16. While the lawful status of the land is not the subject of this appeal, the appellant relies on the existence of a fallback position and therefore its lawfulness is a relevant factor in considering the weight to be attached to it. In the absence of clear and compelling evidence that the former garden-centre-type use operated as a discrete and self-contained use on the appeal site alone, or that the planning unit to which that mixed use related remains intact, for the purposes of this appeal, it has not been demonstrated that the previous use continues to be lawful on this part of the land.

17. Even if I were to accept that some element of the former use could technically be resumed, *Mansell* confirms that the weight to be attached to a fallback depends not only on its lawfulness but also on the real prospect of it being implemented. The appellant has provided no substantive evidence of any intention, business model, or operational arrangements to re-establish a viable garden-centre-type use on the considerably reduced landholding. Nor is it apparent how such a business could function without the dwelling, facilities, and wider landscaped grounds that formerly supported the use. On the evidence before me, the possibility of a realistic fallback position being implemented appears remote.

18. Accordingly, although the appeal site previously formed part of a wider commercial enterprise, the evidence does not establish that the former mixed use survives as a lawful fallback on this land, nor that its reactivation is a realistic possibility. Any fallback that might theoretically exist therefore carries only limited weight in favour of the proposal, and it is not a consideration that would materially alter the outcome of the planning balance.

19. The appellant has drawn attention to other planning permissions in support of their arguments. While I have had regard to these, the main issues, policy frameworks, scale, and nature of those schemes differ from the circumstances of the appeal proposal. Consequently, they have limited relevance in this case.

20. Taking all matters together, I conclude that the proposal would be contrary to national and local policies for development in the open countryside, would constitute an unsustainable form of development, and would not represent an acceptable reuse of PDL. It would therefore conflict with UDP Policies PS1, PS4, and H5, and the objectives of PPW.

Other Matters

21. The appellant refers to the possibility of converting an existing building on the site under policies for conversions outside settlement limits. While this may be a consideration in other circumstances, the current proposal is for a new dwelling, and no evidence has been provided to confirm that conversion would be acceptable. I therefore attach limited weight to this argument in determining the appeal.

22. The appellants contend that without investment and redevelopment, the appeal site would remain vacant, fall into disrepair, and could give rise to visual harm or potential anti-social behaviour. While I acknowledge these concerns, they do not outweigh the identified harm arising from the proposed development, and there is no evidence to suggest that these concerns could not be addressed through alternative measures that would avoid the harm associated with granting planning permission for a new dwelling.

23. I recognise that the proposal would make a small contribution towards local housing supply. However, given the scale of the development, this benefit would be limited and would not outweigh the harm arising from the conflict with national and local planning policy in respect of development in the open countryside.

24. Comments from Natural Resources Wales (NRW) relate to the potential effects of the proposal on the River Dee and Bala Lake Special Area of Conservation (SAC). However, I have not proceeded to carry out an assessment as to whether there would be a likely significant effect on the qualifying features of the SAC as I have found the development unacceptable on other grounds. Even if the development were acceptable in terms of its effect on the SAC, this would not outweigh my conclusions on the main issues.

Conclusion

25. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

26. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

G Hall

INSPECTOR