

Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 27/07/16
Ymweliad â safle a wnaed ar 27/07/16

gan Alwyn B Nixon BSc(Hons) MRTPI
Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 23/08/16

Appeal Decision

Hearing held on 27/07/16
Site visit made on 27/07/16

by Alwyn B Nixon BSc(Hons) MRTPI
an Inspector appointed by the Welsh Ministers
Date: 23/08/16

Appeal Ref: APP/A6835/A/16/3148776

Site address: Land at Rhyddyn Farm, Bridge End, Caergwrle, Wrexham LL12 9AY

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 & Mrs Glyn Griffiths against the decision of Flintshire County Council.
- The application Ref 054615, dated 19 November 2015, was refused by notice dated 4 April 2016.
- The development proposed is described as the erection of 4 dwellings (starter homes).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Although the description on the application and appeal forms refers to the development as comprising starter homes, no mechanism is proposed to restrict their occupancy. It was confirmed at the hearing that the dwellings would be open market housing – the reference to starter homes is intended to convey that they would be comparatively low cost dwellings. The submitted details show the proposed development to consist of 4 relatively compact 3 bedroom detached dwellings, and I have determined the appeal on this basis.
3. By the time of the hearing the appellants had entered into a section 106 planning obligation by way of unilateral undertaking relating to a financial contribution towards off-site open space, sport and recreation provision. However, the Council raised a variety of points concerning the form and wording of the submitted document. In the circumstances I allowed further time following the close of the hearing for these matters to be addressed. A fresh unilateral undertaking was subsequently prepared and executed; the Council has confirmed that whilst the revised planning obligation does not alter its wider concerns about the proposed development, it does satisfactorily address the matter of open space sport and recreation provision. I am satisfied that the new unilateral undertaking satisfies the relevant statutory tests and I have taken it into account in reaching my decision.
4. The submitted grounds of appeal stated that an application for costs against the Council would be made at the hearing. In the event, however, no such application was made.

Main Issues

5. These are: the suitability of the site and location for housing development, having regard to its relationship to existing development and to the open countryside; the proposal's impact on the setting of the Wat's Dyke scheduled ancient monument (SAM); and whether any harm in these terms and resulting conflict with the development plan is outweighed by the lack of a 5 year supply of housing land.

Reasons

Suitability of site and location

6. The main body of the site comprises part of a small field set back from the A550 as it passes through the settlement. The site also includes part of an unmade track leading from the A550, which would connect the dwellings to the highway network. The dwellings would be sited to the rear of dwellings forming part of the Queensway housing estate.
7. The development plan for the area is the adopted Flintshire Unitary Development Plan (UDP), which has now passed its end date of 2015. Work on the authority's local development plan is insufficiently advanced to have any bearing on this appeal. The site is located outside the UDP settlement boundary line for Hope/Caergwrle, which here follows the edge of the Queensway estate to meet the A550 at the entrance to the appeal site and then follows the line of the A550 southwards. The proposed development would comprised an addition to the existing built form beyond the present settlement limit, extending part way into the adjacent open field.
8. The UDP policy framework governing the location of new housing development in this area is established primarily by the combined provisions of policies STR1, GEN2 and GEN3. STR1 *New Development* sets out the overarching approach to the location of new development. It states that new development will be generally located within existing settlement boundaries, allocations, development zones, principal employment zones and brownfield sites, and will only be permitted outside these areas where it is essential to have an open countryside location. Policy GEN2 *Development Inside Settlement Boundaries* seeks to generally restrict development to sites within settlements defined by settlement boundaries, as defined on the UDP proposals map. Policy GEN3 *Development in the Open Countryside* concerns development outside settlement boundaries, in the countryside. It states that development proposals outside settlement boundaries, allocations, development zones and principal employment areas will not be permitted except in a number of specified exceptional circumstances.
9. None of the various exceptions set out in policy GEN3 whereby new dwellings in the countryside might be permitted apply here. The proposal is not for essential worker housing or an affordable housing exceptions scheme; nor does it concern the conversion or re-use of existing buildings or replacement dwellings. The proposal does not comprise small scale infill development within the terms of policy HSG5, since it exceeds the limitation of one or two dwellings contained in that policy and also does not comprise the development of a small gap in an otherwise continuously developed frontage.
10. It is thus clear that the site is not in a location where the development plan allows for new open market housing development. Rather it occupies a location defined as open countryside, which the UDP seeks to safeguard by protecting it from inappropriate

forms of development which would harm its character and appearance. These matters are not in dispute.

11. I recognise that the appeal site adjoins the settlement boundary and an established area of housing development. The scale of the extension of development beyond the settlement boundary and into the surrounding open countryside would be comparatively small. However, there is a clearly defined edge to the limit of development in this location and a sharp distinction between the built up area and the adjacent countryside which forms an attractive backdrop to the settlement. The development would relate poorly to the existing settlement form, being "tacked on" in a contrived manner behind the Queensway development and creating an awkward staggered layout of development projecting into the existing field. The poor relationship to the existing settlement form would be reinforced by the site's isolation from the highway network, requiring the use of an unadopted track leading some 75 metres from the A550 in order to provide access to the proposed dwellings.
12. The appellants have drawn attention to the recently-built medical centre on land to the south of the proposed access track and to the planning permission subsequently granted for two dwellings on land to the south of the medical centre. Both of these sites likewise lie outside the settlement boundary. However, the medical centre development was plainly approved on the basis of an overriding community need for that facility, sufficient to outweigh the settlement limit and countryside encroachment objections to the proposal. It involved a different kind of development, raising different planning considerations. I therefore do not regard that decision as carrying material weight in favour of this case. Although it has extended the limit of development beyond the settlement boundary in the locality, the dwellings now proposed would lie further back from the A550 than the medical centre and would create a clear incursion into the open land lying further to the east. The site of the two dwellings to the south approved following the construction of the medical centre accords with the provisions of UDP policy HSG5 concerning small scale infill development; the circumstances of that development again are clearly different. Neither of these developments provide good argument for permitting the appeal proposal.
13. I recognise that the site is located on the edge of a sizeable settlement with a range of facilities and is a sustainable location for housing in accessibility terms. The settlement is one where steady growth was envisaged by the UDP, and the rate of growth through the plan period has been within the upper limit envisaged. However, the proposal would fail to deliver well planned development which would integrate properly with the existing built form. Whilst the resulting extension of housing out from the present settlement edge would not be particularly visible from the A550, it would be evident from the footpath forming part of the Wat's Dyke Way Heritage Trail, which follows the line of the dyke just to the east. Although sight of the new houses would be broken to some extent by trees, the resulting seemingly random protrusion of built form into the open field would be apparent from the trail.
14. I find no merit in the argument advanced that the proposed development would provide a defensible limit to the spread of development in this location. The limit of the existing Queensway development already provides a perfectly good defensible limit. In contrast, the proposed development would require new boundary works part way across the existing field, where none exists at present, in order to create a new defensible limit.

15. In summary, I conclude that the proposal would relate poorly to the existing settlement form, consequently appearing to be awkwardly attached to the settlement edge and protruding randomly into the surrounding countryside. This would be contrary to design principles clearly set down in UDP policy GEN1 *General Requirements for Development*. The resulting harm to the character and appearance of the area and erosion of the open countryside weighs against the proposal.

SAM setting

16. The proposed development would lie some 30m to the west of SAM FL 119 (Wat's Dyke north of Rhyddyn Farm). The scheduled area encompasses a significant section of the surviving dyke structure. It runs roughly north-south and broadly parallel to the staggered line of the proposed dwellings. PPW confirms that the desirability of preserving an ancient monument and its setting is a material consideration in the determination of development proposals.
17. The comments of Clwyd-Powys Archaeological Trust (CPAT) indicate earlier discussions about the effect of the proposal on the setting of the SAM, and note that the appeal scheme is a revised scheme which attempts to reduce such impact. The CPAT comments make a number of observations concerning the setting of the SAM and the proposal's effect on this, but defer to the views of Cadw as the statutory advisor on such matters.
18. Cadw's assessment of the proposal notes that at present this section of the dyke is one of the few extant stretches to retain its semi-rural setting within an area of pasture, although this has been encroached on by the existing Queensway housing development. It goes on to say that as a west facing monument key views are looking west from the dyke across the landscape or former territory that it was built to command, facing east towards (the) dyke across the pasture field forming the development site and along the line of the surviving earthwork to the north.
19. Cadw note that changes have been made to the scheme in order to reduce the impact on the adjacent monument, and acknowledge that the proposal retains a grassy corridor between the access road and the dyke. They also observe that views from the monument to the west have previously been compromised by the existing housing development. I also acknowledge these matters. Nonetheless, Cadw's assessment concludes that whilst the proposed development would not have a significant adverse impact on the setting of this stretch of Wat's Dyke, it still represents the incremental infill of the surviving open ground to the west of the monument and encroachment into the key views identified.
20. I accept that Cadw's response does not amount to outright objection to the proposal as now amended. However its concerns about infill of the surviving open ground to the west of the monument and encroachment into key views were borne out by my own observations of the site. UDP policy HE6 *Scheduled Ancient Monuments and other Nationally Important Archeological Sites* states that development that would remove, damage or obscure a schedule ancient monument or its setting will not be permitted. Notwithstanding Cadw's view that the development would not have a significant adverse impact on the setting of this part of the dyke, I conclude that the development would nevertheless cause harm to the setting of the SAM, and that this renders the proposal contrary to UDP policy HE6. This consideration weighs against the proposed development.

Housing land supply

21. There is no dispute that Flintshire does not currently have an adequate supply of available housing land. The authority had an estimated land supply of 3.7 years as at April 2014 and is unlikely to be able to demonstrate a 5 year land supply until the LDP is adopted, which is still some way off. Given the importance of ensuring that adequate land is made available to meet the need for new housing, the shortfall in housing land supply is a significant material consideration.
22. The proposed development would make a contribution (4 units) towards addressing the current shortfall in housing land supply in Flintshire. Paragraph 6.2 of Technical Advice Note (TAN) 1 *Joint Housing Land Availability Studies* confirms that where the current study shows a land supply below the 5-year requirement the need to increase supply should be given significant weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies.
23. Appeal decision APP/A6835/A/15/3139343 has been drawn to my attention, where the Inspector granted permission for a single dwelling on a site outside a settlement boundary elsewhere in Flintshire on the basis that the need to increase housing land supply outweighed the conflict with development plan and national policies. However, in that appeal the Inspector did not identify any harm that would result from the development. That is not the case here. In this instance the harm and policy conflict I have identified in respect of the first two issues needs to be weighed in the overall balance.

Overall balance

24. The need to ensure an adequate housing land supply is an important consideration. Paragraph 6.2 of TAN 1 makes clear that significant weight should be given to this where the development proposed is otherwise policy compliant. In the particular circumstances of this case I have concluded that although the appeal site adjoins a sizeable settlement with local facilities, the form and layout of the proposal would relate poorly to its surroundings, harm the character of the countryside and furthermore would harm the setting of the nearby SAM. The proposed development would conflict with development plan policies in respect of these matters. Setting these factors against the contribution which the proposal would make to increasing housing land supply, I find that the harm arising and conflict with the development plan is not outweighed by the proposal's contribution towards achieving adequate housing delivery in this case.

Conclusions

25. Having taken account of all matters raised I have concluded overall that the appeal should not succeed, for the reasons set out above.

Alwyn B Nixon

Inspector

APPEARANCES

FOR THE APPELLANT:

John Williams	Planning Consultant
David McChesney	Architect

FOR THE LOCAL PLANNING AUTHORITY:

Philip Moren	Planning Consultant
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INTERESTED PERSONS:

Cllr Tim Newhouse	Local Ward Member, Flintshire County Council
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DOCUMENTS

- 1 LPA comments on submitted Unilateral Undertaking
- 2 Plan indicating extent of SAM and former indicative line of withdrawn Hope-Caergwrle bypass
- 3 Plan showing location of recently approved site for 2 dwellings
- 4 Appeal decision APP/A6835/A/15/3139343
- 5 Amended executed section 106 obligation by way of unilateral undertaking (submitted after the hearing)
- 6 LPA's confirmation of no further comments in respect of the amended unilateral undertaking