

Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 20/05/15
Ymweliad â safle a wnaed ar 20/05/15

**gan Declan Beggan BSc (Hons) DipTP
DipMan MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 03/07/15

Appeal Decision

Hearing held on 20/05/15
Site visit made on 20/05/15

**by Declan Beggan BSc (Hons) DipTP
DipMan MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 03/07/15

Appeal Ref: APP/H6955/A/14/2229480

**Site address: Land Opposite St. Peters Close, Off Llay New Road, Rhosrobin
Wrexham, LL11 4RB**

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 Castlemead Group Ltd against the decision of Wrexham County Borough Council.
- The application Ref GWE P/2014/0480, dated 1 July 2014, was refused by notice dated 3 November 2014.
- The development is the erection of 117 dwellings, including provision of roundabout to provide access, new internal access roads, public open space and retention of existing footpath route.

Decision

1. The appeal is dismissed.

Background

2. The appeal site is located in open countryside adjacent to, but outside, the settlement boundary of Rhosrobin. It lies within a Green Barrier as designated by the adopted Wrexham Unitary Development Plan 1996-2011 (UDP), which separates Old Rhosrobin, New Rhosrobin and Pandy.
3. The site is roughly rectangular in shape and extends to approximately 4.74 hectares of land that historically has been in agricultural use although has not been put to that purpose for some time. The site is grassed over and split into four parcels of land that are separated by a combination of trees, hedges and post and wire fencing. An unmade public footpath bisects the site in an approximate east-west direction. The site is bounded by Wrexham cemetery to the north, with agricultural land to the north-west, residential development to the south, Llay New Road to the west, whilst to the north east are a small group of dwellings, and the south east borders railway lines beyond which are agricultural fields. Whilst in proximity to the settlement boundary of Rhosrobin it nonetheless retains its rural character.
4. The proposed development is for 117 dwellings, including provision of a roundabout to provide access, new internal access roads, public open space and the retention of an

existing footpath route. 25 % or 29 dwellings would be provided for affordable purposes, with an additional contribution for payment in lieu of a proportion of an affordable dwelling. The scheme would provide for a variety of open space throughout the site equating to some 1.004 hectares. The existing footpath would be retained and upgraded. The agricultural land to the north-west, which is outside of the application site and equates to 1.106 hectares is proposed to be dedicated to nature conservation.

5. On the day of the hearing the Appellant submitted a Section 106 Unilateral Undertaking that makes provision for 29 affordable dwellings, a financial contribution in order to secure the full 25% of affordable housing requirement, provision for the management and maintenance of on-site open space, and the long term management and maintenance of off-site habitat mitigation.
6. The application was considered by the Council's Development Control Committee on 3 November 2014 when Members resolved, contrary to officers recommendation, to refuse planning permission for the scheme due to it being located outside the defined settlement limits and within a designated green barrier, contrary to policies in the UDP.

Main Issues

7. I consider the main issues to be:

- whether the development is inappropriate development in a green barrier, and if so, whether any very exceptional circumstances exist to clearly outweigh this harm;
- the effect of the development on the character and appearance of the area; and
- the effect of the loss of agricultural land.

Reasons

Development in the Green Barrier

8. The site lies within a green barrier as designated in the UDP. Policy EC1 of the UDP refers to development in green barriers only being granted planning permission if the proposal is for agriculture, forestry, outdoor sport and recreation, cemeteries and other uses which maintain its openness and do not conflict with the purpose of including land within it.
9. Green barriers have not got the permanence of the green belt and are subject to review as part of the development plan process. It was argued that Planning Policy Wales Edition 7 July 2014 (PPW) acknowledges that circumstances will change over time to ensure that sufficient development land is made available, therefore policy EC1 should be afforded limited weight as it relates to an out of date UDP, and has not been reviewed in line with national policy to determine whether it still serves the purposes for which it was intended. It is maintained that PPW presumes in favour of sustainable development where development plan policies are out of date.
10. I note the concerns raised by the Inspector into the initial Examination of the Wrexham Local Development Plan (LDP) in regards to the Council's approach to green wedges which did not have adequate regard to national policy. Nonetheless, the fact is the site is within a designated green barrier as defined by the UDP, and whilst that may change in the future within the recommenced LDP, that plan is at an early stage

of preparation and is not expected to be adopted until sometime after 2018. The LDP is therefore afforded little weight in this process.

11. The Council cited two recent appeal decisions¹ where the green barrier designation was upheld, and it was argued those decisions did not suggest policy EC1 was out of date.
12. Whilst the UDP plan period expired in 2011, policy EC1 is consistent with PPW. Where reference is made to green wedges, these have effectively the same meaning as green barriers in this regard. PPW states a presumption against inappropriate development, with substantial weight to be attached to any harmful impact which a development would have on a green wedge/barrier designation. It confirms that inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations would clearly outweigh the harm.
13. The proposed development does not fall into any of the categories of development deemed not to be inappropriate in the green barrier in PPW and policy EC1 of the UDP. The main parties agree that the proposal would represent inappropriate development in the green barrier.
14. Paragraph 4.8.18 of PPW is quite clear, that other forms of development would be inappropriate development unless they maintain the openness of the Green Belt or green wedge and do not conflict with the purposes of including land within it.
15. Notwithstanding that part of the site would be set aside for public open space, the fact remains that a substantial part would be developed over, which would unavoidably and significantly reduce its openness. Therefore the proposed development would not maintain the openness of the green barrier and as a result constitutes inappropriate development, and is therefore contrary to policy EC1 of the UDP and PPW.
16. The Appellant argues the site does not perform a significant green barrier function due to its enclosed position relative to existing nearby development, and that in any event a green wedge will always be retained to the north of the site. One of the purposes of the green barrier/wedge according to PPW and Policy EC1 of the UDP is to prevent coalescence of urban areas and villages with other settlements. In this instance it serves to prevent coalescence of the adjacent settlements of, Old and New Rhosrobin, and Pandy. The green barrier in proximity of the site extends over a wide arc from the south east to the north and west, and it serves to constrain the urban villages of Old and New Rhosrobin and Pandy. The development of the site would result in the distinction between the villages being lost and would therefore be contrary to national and local policies that seek to prevent the coalescence of settlements.
17. I also consider the development would represent an unnecessary and undesirable encroachment into the countryside thereby conflicting with one of the purposes of including land within the green barrier/wedge. The development, therefore, amounts to inappropriate development in the green barrier/wedge on this basis as well.
18. In conclusion, the development constitutes inappropriate development in the green barrier and is therefore contrary to Policy EC1 of the UDP and PPW.

¹ Ref APP/H6955/A/13/2196178 & APP/H6955/A/14/2220097

Very Exceptional Circumstances

19. The Appellant argues that PPW presumes in favour of sustainable development where development plan policies are outdated or superseded by other material considerations, and that national policy requires Local Planning Authorities to provide a 5 year supply of housing land. It is maintained the development of the site would bring significant planning and community benefits due to its sustainable location on the edge of an existing built up area negating the need to extend infrastructure to rural areas, it would supply much needed housing to the County with 29 of those houses being affordable, permanently secure land for wildlife and habitat purposes, provide significant green spaces throughout the development, upgrade an existing public right of way, assist in highway safety in the area, would bring about economic benefits by securing local jobs in the construction industry and spending in local shops, in addition to supporting local services and facilities. It is argued these constitute very special circumstances needed to outweigh any harm to the green barrier.

Sustainable development, five year land supply and affordable housing

20. It is a long standing planning policy position that the countryside should be safeguarded from uncontrolled and sporadic development, with development primarily directed to existing settlements; otherwise unrestrained encroachment of the countryside would occur.
21. Policy PS1 of the UDP seeks to direct development for housing to within defined settlement limits, whilst policy PS2 refers to development not detrimentally affecting the countryside. The Appellant argues both of these policies should be given limited weight due to the lack of five year housing land supply, and the fact that it is inevitable such development will have to take place outside existing settlement boundaries to meet such need. The Council argue that as the site lies outside defined settlement limits it does not accord with policies PS1 and PS2.
22. Notwithstanding the Appellant's view that the proposed development is located in a sustainable location in regards to its position relative to the settlement boundary, has access to, and would support local services and facilities, and benefits from good transport links, I do not consider these would overcome the fact that the site is located in open countryside. Chapter 4 of PPW is concerned with planning for sustainability and whilst it presumes in favour of sustainable development, it also stipulates that building in the open countryside must continue to be strictly controlled. For the reasons given above, I do not consider that the proposal would be a sustainable form of development in the context of PPW.
23. PPW requires local planning authorities to ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing. For land to be regarded as genuinely available it must be a site included in a Joint Housing Land Availability Study (JHLAS). There is no dispute between the parties regarding a deficiency in the 5 year housing land supply as required by PPW; currently down to 3.1 years as stated in the most recent JHLAS of 2014.
24. Technical Advice Note 1: Joint Housing Land Availability Studies (TAN 1) advises that where land supply is below the 5 year requirement 'the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with the development plan and national planning policies'. The Council argue the Appellant has not presented any compelling

reason to make an exception to the adopted UDP policies and that it does not consider the lack of a five year land supply, by itself, is a valid reason to grant planning permission.

25. The lack of a 5 year housing land supply weighs heavily in favour of the proposed development. Also 29 dwellings for affordable needs and an affordable contribution, also weighs in its favour. I acknowledge the Council's continued failure to meet housing land supply and that the LDP was withdrawn in part, due to a significant shortfall in the supply of housing being planned, nonetheless, whilst the UDP plan period expired in 2011, it still needs to be read as a whole and the lack of a 5 year housing land supply should not be used to justify development in otherwise inappropriate locations such as the appeal site. The benefits from the proposal in terms of the contribution to housing land supply does not outweigh the considerable conflict with the development plan and national planning policy, and the balance clearly falls in favour of dismissing the appeal.

Other benefits

26. I acknowledge the scheme would bring about benefits for wildlife and habitat purposes, provide significant green spaces throughout the development, upgrade an existing public right of way and assist in highway safety in the area, however, these benefits do not outweigh the considerable conflict with the development plan and national planning policy.
27. I recognise that PPW encourages economic development, but this has to be weighed against the UDP and PPW policy in relation to green barrier/wedge policies. The arguments put forward on grounds of economic benefit would not diminish the substantial weight against the development by reason of inappropriateness.
28. I have considered individually and cumulatively these other considerations and these do not clearly outweigh the harm by reason of inappropriateness. In conclusion the development is contrary to Policy EC1 of the UDP and PPW.

Character and Appearance

29. The Appellant argues the site is well screened from vantage points in the locality, is enclosed by existing local development to which it relates to and does not project into an area of unbounded open countryside. The Council argue that in heading towards the site, once the A483 is crossed, the impression is one of leaving a built up area behind to be replaced by a rural environment; if the site were developed this rural impression would be eroded.
30. I observed views into the site from the nearby public highway which identified it as a rural landscape, with corresponding rural views from within the site looking outwards. Contrary to the Appellant's opinion that the scale of the change would be limited, and that any adverse effects on the landscape would be low or slight, I consider the built development would be obvious and would have an adverse effect that would be substantial for the site itself and medium for the wider landscape, thereby detracting from the existing rural character of the area.
31. Whilst being in proximity of other built development, the site does serve an important purpose in the visual transition from the adjacent urban edge to open countryside. Irrespective of the retention of parts of the landscaped boundary or additional planting, nevertheless, development of fields would detract from and, in my opinion, unacceptably harm the open character and appearance of the area thereby conflicting

with Strategic Policy PS1, which refers to new development for housing being directed to within defined settlement limits.

Agricultural Land

32. An Agricultural Land Classification (ALC) for the site, and the adjacent land to be dedicated to nature conservation was carried out in accordance with MAFF's guidance and criteria². It classified the soil as being made of 4.8 ha or 75% of the overall land as being Grade 3a, and 1.6 ha or 25% being Grade 3b. Grade 3a land is described as very good agricultural land, whilst Grade 3b is classed as moderate quality agricultural land. Whilst the classification relates to an area larger than the appeal site, nonetheless, the submitted details do appear to indicate the majority of the site is at least Grade 3a land. The assessment stated that as the site is not of the 'Best Most Versatile' land, and has restricted access, it is unlikely to be used in arable production.
33. Whilst not forming part of the Council's reason for refusal both parties at the hearing were asked to give their views on the loss of agricultural land. Policy EC2 of the UDP only permits development on agricultural land of grades 1, 2 or 3a if it does not lead to the irreversible loss of that land.
34. PPW states that the best and most versatile agricultural land, which includes Grade 3a, should be conserved as a finite resource for the future and that land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable.
35. The lack of a 5 year housing land supply and failure to meet the UDP's housing target could represent an overriding need, however policy EC2 does refer to higher quality land only being developed if there is no other lower quality sites available. At the hearing the Council confirmed that the bulk of available brownfield land has already come forward for development over the duration of the UDP and due to development pressures within the County, the majority of new development sites are anticipated to be on greenfield sites, with the bulk of them focussed on Wrexham and the northern part of the County.
36. In addressing the 5 year land supply shortfall, I appreciate it is likely that the Council will require the release of some greenfield sites adjacent to existing settlements, however, there is no evidence before me that this could not be achieved using lower grade agricultural land elsewhere. I conclude the proposal conflicts with policy EC2 of the UDP and PPW.

Other Matters

37. Interested parties raised objections in regards to the scheme's drainage feeding into local drains that were already overloaded. The Appellant's surface water drainage report recommended the site be drained via infiltration techniques. Neither Natural Resources Wales, nor Welsh Water raised any objections to proposed development on drainage grounds and I have no reason to take a different opinion.
38. Objections have also been raised that there are not enough services locally to cope with the increase in population the scheme would bring about, however, I note the

² Agricultural Land Classification of England and Wales. Guidance and criteria for grading the quality of agricultural land. MAFF. 1988

Council's Education Department did not raise any objections to the proposed development, nor am I aware of any objections or concerns raised in regards to capacity issues from local health practices or the local health board.

39. Objectors raised issues relating to highway safety, effects on wildlife and the existing public right of way. I am satisfied from my inspection of the site and reading of the submitted technical reports and responses from statutory consultees that the development could be acceptably managed in regards to these issues via appropriately worded planning conditions had I been minded to allow the appeal. Reference has been made to the potential for detriment to residential amenity due to construction traffic; however, I am satisfied that this matter could be adequately regulated by means of an appropriately worded planning condition, whilst devaluation of property is not itself a material consideration as it is a matter of private, rather than public interest.
40. Whilst the Welsh Spatial Plan does envisage Wrexham as being a key hub, however such growth cannot be at the expense of the designated green barrier, the character and appearance of the area, and higher quality agricultural land.

Overall Conclusion

41. I conclude that the development is inappropriate development in the green barrier and very exceptional circumstances do not exist to clearly outweigh this harm. In addition the development would cause unacceptable harm to the character and appearance of the area and result in the loss of higher quality agricultural land. After taking account of all the evidence before me, and for the reasons given above, I conclude that the appeal should be dismissed.

Declan Beggan

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr N Thorns BSc (Hons) DipTP MRTPI

Appellant's Agent

Mr R Shackleton

Director for Castlemead Group Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Phillips MSc MRTPI

Planning Officer

THIRD PARTIES

Mr S Griffin MCIOB

S.G. Estates

Ms A Gray

Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Council's notification letter and list of those notified
- 2 Copy of Inspector's Report into Preliminary Findings of the Wrexham County Borough Council Local Development Plan
3. Copy of UDP Policies H7 and CLF6
4. Extract of plans of UDP indicating green barrier designation in vicinity of appeal site
5. Copies of appeal decisions, Ref APP/H6955/A/13/2196178 & APP/H6955/A/14/2220097
- 6 Signed Section 106 Planning Obligation, dated 20 May 2015
7. Appellant's written submission regarding an application for costs