

Penderfyniad ar Apêl

Gwrandawriad a gynhaliwyd ar 16 & 17/06/15
Ymweliad safle a wnaed ar 17/06/15

**gan Emyr Jones BSc(Hons) CEng
MICE MCMI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 03/07/15

Appeal Decision

Hearing held on 16 & 17/06/15
Site visit made on 17/06/15

**by Emyr Jones BSc(Hons) CEng MICE
MCMI**

an Inspector appointed by the Welsh Ministers

Date: 03/07/15

Appeal Ref: APP/H6955/A/14/2229577

Site address: Land at Pont Adam Crescent, Ruabon, Wrexham LL14 6EG

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 outline planning permission.
- The appeal is made by the Castlemead Group Ltd. against the decision of Wrexham County Borough Council.
- The application Ref RUA P/2014/0241, dated 7 April 2014, was refused by notice dated 1 September 2014.
- The development proposed is the erection of 49 dwellings including access.

Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues in this case to be:
 - (a) Whether the proposal constitutes inappropriate development within the Green Barrier and, if so, whether any harm to the Green Barrier is clearly outweighed by other considerations so as to amount to the very exceptional circumstances necessary to justify the development;
 - (b) Whether the proposal accords with planning policies that seek to strictly control new development outside settlement boundaries;
 - (c) Whether the proposal would result in the unacceptable loss of best and most versatile agricultural land; and,
 - (d) The effect of the additional traffic likely to be generated by the proposal on highway safety on the B5097.

Reasons

Green Barrier

3. The site lies within the Green Barrier, as shown on *Wrexham Unitary Development Plan's* (UDP) Proposals Map Inset 6. The proposal is not for agriculture, forestry, an essential facility for outdoor sport and recreation, or a cemetery and it would not

maintain the openness of the Green Barrier. It, therefore, conflicts with UDP policy EC1.

4. The purposes of a Green Barrier include preventing the coalescence of urban areas and villages with other settlements. The proposal would effectively result in Ruabon reaching the northern side of the A539 for a short length and the settlement boundary of Acrefair/Cefn Mawr already reaches the southern side of the A539 at locations to the west and to the east of a triangular area of land opposite the site boundary with the A539. This would result in only a very small gap between the two settlements at this location, thereby conflicting with one of the purposes of including land within the Green Barrier.
5. However, the triangular area referred to above, the tree screening on the site's southern boundary, and the landscaped grounds of an adjacent property would still contribute to the perception of a visual break. Of greater significance is the fact that the Council has resolved to grant outline planning permission, subject to a Section 106 planning obligation, for a large residential and retail development on land at Ruabon Park. That would effectively result in coalescence of the two settlements and I have no reason to believe that permission will not be granted in due course.
6. The principal parties accepted that Green Barriers are the same as the green wedges referred to in *Planning Policy Wales* (PPW). PPW states that the construction of new buildings in a locally designated green wedge is inappropriate development unless it is for one of five purposes listed, none of which are relevant to the appeal proposal. PPW applies a presumption against such development and notes that inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the green wedge. I will consider whether very exceptional circumstances exist in my Overall balance below.
7. It should also be remembered that Green Barriers/wedges do not have the permanence of Green Belts and should be reviewed as part of the development plan review process. The UDP only covers the period 1996-2011 and it appears that Wrexham will not have an adopted Local Development Plan (LDP) in place until 2018 at the earliest. Furthermore, the Council accepts that it will have to release suitable Green Barrier sites to address the current significant shortfall in housing land supply (see Housing land supply section below).

Development outside settlement boundaries

8. The site lies outside the settlement boundary for Ruabon, as shown on the UDP Proposals Map Inset 6; as a result it must be considered as being in the countryside. As the proposal does not constitute one of the exceptions permitted by UDP policy H5, it conflicts with that policy.
9. Policy H5 is designed to prevent new housing in the form of isolated dwellings, the consolidation of sporadic groups, or the extension of ribbon development in the countryside as such housing would result in a loss of visual quality and landscape character and adversely affect agriculture.
10. The site is bounded by residential development at Pont Adam Crescent to the north, a playground and a railway line to the south east, the A539 to the south and a detached house in landscaped grounds to the west. These represent clear and defensible boundaries such that the site does not project into an area of unbounded countryside and developing it would be a natural rounding off of the settlement. Views of the site

from the A539 are constrained by the existing tree screening on the site's southern boundary and its elevation above the road. From the railway line, views are again restricted by tree cover and level difference. Public views from the Offa's Dyke public footpath are limited by the landscaped grounds of the detached house to the west.

11. The proposed density would be higher than at Pont Adam Crescent, but there is considerable variation in the village and the proposed density would not in my view be excessive. The design of the individual dwellings would be considered at the reserved matters stage.
12. As a result, any loss of visual quality or landscape character would be limited. The effect on agriculture is considered below. Additionally, the Council accepts the need to use appropriate greenfield sites outside existing settlement boundaries to satisfy the existing housing need (see Housing land supply section below).

Agricultural land

13. The site falls within Agricultural Land Classification 3a and the proposal would result in its irreversible loss such that the proposal conflicts with UDP policy EC2. PPW also states that the best and most versatile agricultural land, including that in grade 3a, should be conserved as a finite resource for the future with considerable weight being given to protecting such land from development. Nevertheless, given that the only access is through a housing estate and the site is not adjoined by other agricultural land, its agricultural potential is very limited and it is unlikely to be used for arable production. I am, therefore, of the opinion that its loss to fulfil a pressing need for more housing (see Housing land supply section below) would not be unacceptable.

Highway safety

14. Vehicular access to the site would be gained from the B5097, through the existing residential development at Pont Adam Crescent. Most of the vehicular traffic generated by the proposal would be likely to use the section of the B5097 on Church Street and Pont Adam, between its junction with the B5605 in the centre of Ruabon and the two entries to Pont Adam Crescent.
15. The relevant committee report notes that the roads within the existing housing estate are suitable in terms of width and layout to accommodate the traffic that would be generated by the development. It also states that, subject to the replacement of an existing pedestrian guardrail, visibility at the junction of Pont Adam Crescent and the B5097 would also be adequate. Notwithstanding the presence of parked cars at certain times of the day, I take no issue with these statements.
16. The carriageway widths on Church Street and Pont Adam are too narrow in places for two vehicles to pass, forward visibility is restricted in certain locations, and kerbed footways are not available on many sections. Where such footways are provided, they are generally narrow. Church Street and Pont Adam also serve as the main pedestrian and vehicular route to the secondary school at Ysgol Rhiwabon. During my visits to the site, I witnessed pupils walking in the carriageway, because there was no footway, or the footway width was inadequate to allow a group to walk together, or to pass pedestrians walking in the opposite direction. I also saw vehicles mounting the footway to let others travelling in the opposite direction through.
17. Accident data shows a single recorded personal injury accident on the B5097 between the centre of the village and Pont Adam Crescent since 2005. Whilst that does not in itself indicate a particular problem, the circumstances were a 12 year old boy walking

half on the road and half on the available footway being clipped by a vehicle at 08:30. My observations above suggest that there is a high potential for comparable incidents to take place again and a significant increase in vehicular traffic at either end of the school day could result in that potential being realized.

18. On the basis of TRICS Database information, using 85th percentile values for robustness, it is estimated that 49 dwellings would generate two-way movements of 41 vehicles per hour in the morning peak hour and 38 in the evening peak hour. The appellants have also derived trip rate generation figures for the existing Pont Adam Crescent development from turning count surveys carried out in January 2015. Applying these to a development of 49 dwellings would result in an additional 22 movements during the morning peak hour and 20 in the evening peak hour.
19. Although both the existing and proposed developments feature family sized dwellings, it would appear that a relatively high proportion of the occupiers of the existing development are over 65 and this age group is less likely to use their cars during peak hours. I also note that the surveys were not carried out during one of the neutral months of March, September or October. I, therefore, conclude that the proposal would generate up to 41 two-way movements during the morning peak hour and marginally less during the evening peak hour.
20. Nonetheless, a proportion of these (the turning count surveys suggest a figure of around 11%) would use the B5097 to the north west of the Pont Adam Crescent entries past Ysgol Rhiwabon, rather than that to the south east to/from the centre of the village. Whilst the resultant figure would average out at 1 additional vehicle every 1.6 minutes or so, I observed that traffic tends to come in waves of several vehicles together followed by a lull.
21. Automatic Traffic Counter (ATC) data from October 2014 shows considerable daily fluctuations in weekday peak hour flows on the B5605. Tuesday, Thursday and Friday morning values are in the 230-243 range, reducing to 195 on Wednesday and increasing to 295 on Monday. Other than possibly weather, there is no apparent explanation for such a variation, but the Monday figure compares well with the 289 derived from the turning count surveys. Where such fluctuations exist, it is more difficult to judge the impact of development on the basis of a percentage impact figure and an increase of say 37 (41 reduced to allow for those travelling past Ysgol Rhiwabon) on top of 243 would still be less than 295.
22. However, applying the 37 to the highest figure of 295 would represent a 12.5% increase, which would be significant. In my view, around 37 additional morning peak hour movements, which would coincide with the time when Ysgol Rhiwabon pupils would be using the route to walk to school, would be prejudicial to pedestrian safety on Church Street and Pont Adam. As a result, the proposal conflicts with UDP policy GDP1.
23. The proposal would incorporate a footpath link to the A539 and the distance to the centre of the village using this route would be shorter than using the B5605 for the proposed residents. It would also benefit some existing residents wishing to walk to the train station or to the leisure and employment uses at Acrefair/Cefn Mawr, but owing to the longer distance they would be unlikely to use it to access facilities in Ruabon other than the station. I have no information on the number of pupils from Acrefair/Cefn Mawr that walk to Ysgol Rhiwabon, but for those that do a shorter route already exists via the Offa's Dyke public footpath. On this basis, I conclude that there

would be very little change in the volume of morning peak hour pedestrian traffic on the B5605 as a result of the footpath link.

24. Additional concerns regarding the impact of construction traffic could be addressed through a Construction Environment Management Plan, secured by condition. This could cover such matters as avoiding deliveries at the start and end of the school day and heavier vehicles approaching from the north west to avoid the bridge which is subject to a 7.5 tonne weight limit.
25. Council highway officers also object to an alternative proposal for 36 dwellings, but that is not before me and it would not be appropriate for me to comment on the impact of the additional traffic likely to be generated by such a proposal.

Housing land supply

26. The latest *Joint Housing Land Availability Study* (JHLAS) (base date 1 April 2014) shows that Wrexham only has a housing land supply of 3.1 years. This is well below the 5-year supply required by PPW and the figure has been steadily declining over recent years.
27. The Welsh Government's advance notice of changes to *Technical Advice Note 1: Joint Housing Land Availability Studies* (TAN 1) states that only local planning authorities with an adopted LDP or an adopted UDP which is still within the plan period will be able to undertake a JHLAS and thus be able to demonstrate that they have a 5-year housing land supply. On this basis, Wrexham is no longer able to demonstrate whether or not it has a 5-year supply and must be considered not to have such a supply.
28. Where a 5-year land supply does not exist, TAN 1 indicates that the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies. The above JHLAS notes that the Council will give appropriate consideration to any applications that may be submitted for residential development outside of existing settlements, but the need to increase the 5 year supply will not override the need to take account of all other planning constraints and material considerations. Any applications will be carefully considered on their individual merits together with the potential contribution that such development can make to the overall housing land supply.

Other considerations

29. Interested persons express concern regarding the potential impact upon community infrastructure. Insofar as schools are concerned, the Education Department advise that following alterations at Maes y Llan School there is adequate local primary school capacity to accommodate children from the proposed dwellings, but require a financial contribution towards secondary school provision. The appellants were content to make such a provision and this was reflected in the Unilateral Undertaking dated 16 June 2015.
30. Nevertheless, it became apparent that five or more planning obligations have already been entered into on or after 6 April 2010 in respect of secondary education at Ruabon. Since 6 April 2015, the *Community Infrastructure Levy Regulations* (as amended) prohibit the Council from seeking any further such contributions and any obligation offering the same cannot constitute a reason for granting planning permission.

31. This then raises the issue of whether any lack of room at Ysgol Rhiwabon justifies dismissal of the appeal. Data submitted to the Hearing shows that there are currently 33 surplus places available (capacity of 655 with 632 on the roll). Furthermore, a January 2015 Estyn report refers to 591 pupils in the school representing a significant fall from the previous inspection in 2009 when there were 806 pupils on roll. Examining numbers by school year also shows a downward trend over time.
32. There is, therefore, no evidence of capacity issues at Ysgol Rhiwabon and a financial contribution is not necessary to make the development acceptable in planning terms. As a result, the inability to seek such a contribution does not justify dismissing the appeal. The appellants submitted a revised Unilateral Undertaking dated 17 June 2015 omitting the education contribution of the previous version.
33. The relevant committee report states that there is no UDP or Local Planning Guidance Notes that impose a requirement for developments to provide or make contributions towards other infrastructure such as health care facilities. I also note that there are no objections from the health authority or local medical/dental practices. Concerns are also raised regarding the capacity of the main sewer, but there is no objection in that respect from Dŵr Cymru/Welsh Water.
34. Natural Resources Wales had objected on the basis of a potential impact on bats. Nevertheless, in its response to the Welsh Government dated 23 January 2015, it states that it has further reviewed the proposal and believes that the issues previously raised could be dealt with by way of conditions.

Unilateral Undertaking

35. The revised Unilateral Undertaking dated 17 June 2015 provides for the future management of the public open space that would form part of the approved layout and includes provision in respect of affordable housing. I am satisfied that these are necessary to comply with UDP policies CLF5 and H7 respectively, as supplemented by Local Planning Guidance Notes 10 and 28 respectively, and to make the development acceptable in planning terms. I am also content that these provisions are directly related to the development and fairly and reasonably related in scale and kind to it. As a result, they can be given weight in my decision.

Overall balance

36. Insofar as the Green Barrier issue is concerned, the harm needs to be weighed against the urgent need to increase housing land supply. The Council acknowledges that it will have to release suitable Green Barrier sites to address the significant shortfall in housing land supply, there has been a considerable delay in reviewing Green Barriers as part of the development plan review process, and there are particular circumstances in this case as described in paragraph 5 above. As a result, I accept that there are very exceptional circumstances sufficient to outweigh the Green Barrier objections to the development.
37. Given that the harm to visual quality and landscape character would be limited for the reasons previously set out; this is also outweighed by the urgent need to increase housing land supply. Insofar as Agricultural Land Quality is concerned, I have already concluded that its loss to fulfil a pressing need for more housing would not be unacceptable.
38. Nonetheless, I have also identified harm to pedestrian safety on Church Street and Pont Adam and I am of the opinion that the benefits of the proposal, including its

contribution to the housing supply shortfall and provision of affordable housing, are not sufficient to outweigh that harm.

39. For the reasons given above I conclude that the appeal should be dismissed.

E Jones

Inspector

Richborough Estates

APPEARANCES

FOR THE APPELLANTS:

Mr N Thorns BSc(Hons) DipTP MRTPI	Nigel Thorns Planning Consultancy Ltd.
Mr M Hughes BEng MCIHT	Axis
Mr R Shackleton	Castlemead Group Ltd.
Mr J Felton (part day 2 only)	Setfords Solicitors

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Phillips MSc MRTPI	Wrexham County Borough Council
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INTERESTED PERSONS:

Mr R Bowen	Local resident
Mr S & Mrs C Perry (day 1 only)	Local residents
Mr E & Mrs J Comer (day 1 only)	Local residents
Mr J Davies (day 1 only)	Local resident
Mr M Williams (day 1 only)	Local resident
Mr J Griffiths (day 1 only)	Local resident
Mrs LI Edwards (day 1 only)	Local resident
Mrs A Owens (day 1 only)	Local resident

DOCUMENTS

Document 1	Council's Notification of Hearing
Document 2	Wrexham Unitary Development Plan
Document 3	Ruabon Park – Illustrative Site Masterplan
Document 4	Highway consultation response in respect of alternative proposal for 36 dwellings
Document 5	Unilateral Undertaking dated 16 June 2015
Document 6	Appeal Decision APP/A6835/A/14/2226412
Document 7	Flintshire County Council Certificate of Decision 051482
Document 8	Estyn report on Ysgol Rhiwabon January 2015
Document 9	Unilateral Undertaking dated 17 June 2015
Document 10	Letter from Mrs M O'Neill

Documents 1-3 were submitted by the Council and the appellants submitted Documents 3-9

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