

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 17/11/2020

gan K Sheffield, BA (Hons) DipTP
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 9th December 2020

Appeal Decision

Site visit made on 17/11/2020

by K Sheffield, BA (Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 9th December 2020

Appeal Ref: APP/H6955/A/20/3249986

Site address: Land west of Top Road, Summerhill, Wrexham, LL11 4SP

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 Macbryde Homes against the decision of Wrexham County Borough Council.
- The application Ref: P/2017/0651 dated 04/07/2017, was refused by notice dated 03/02/2020.
- The development proposed is the erection of 82 dwellings (including provision of affordable housing), new access, realignment and improvement to Top Road and formation of public open space.

Decision

1. The appeal is dismissed.

Procedural Matter

2. A Statement of Common Ground and a S106 Agreement have been submitted as part of the appeal. I have had regard to both documents in reaching my decision.

Main Issues

3. The main issues are
 - Whether the principle of development is compliant with the planning policy framework;
 - The effect of the proposed development upon the purposes and openness of the green barrier and whether any such harm would be clearly outweighed by very exceptional circumstances; and
 - The effect of the development on highway safety.

Reasons

Principle of the development

4. The appeal site comprises greenfield land located on the western side of Top Road at its junction with Summerhill Road and Bottom Road. Whilst there is residential development to the north, south and east, the appeal site lies outside but adjacent to the settlement limit of Gwersyllt and within the green barrier as identified in the Wrexham Unitary Development Plan 1996 - 2011 (the UDP), adopted in 2005. For the purposes of the adopted development plan the appeal proposal would represent development within the countryside.

5. Policy PS1 of the UDP directs development for housing to areas within defined settlement limits. Policy H5 of the UDP expands on Policy PS1 by allowing new dwellings outside defined settlement limits subject to compliance with certain listed criteria. None of the exceptions in Policy H5 apply here and the proposed development therefore conflicts with the UDP in that regard.
6. The housing requirement, strategy and settlement boundaries set out in the UDP are based on evidence of housing need which is long out of date and there is no dispute that the UDP is time expired. Although it remains the development plan for the area, given its age the UDP attracts less than full weight in the determination of the appeal. Nevertheless, I find that the conflict of the proposed development with Policies PS1 and H5 of the UDP carries significant weight against the appeal.

Green Barrier

7. The site forms part of the green barrier between the defined settlements of Gwersyllt and Broughton. Policy EC1 of the UDP only permits development within green barriers if it is for *"agriculture, forestry, essential facilities for outdoor sport and recreation, cemeteries and other uses of land which maintain the openness of the green barrier and do not conflict with the purpose of including land within it"*.
8. For the purposes of national policy, the designation of green barrier is synonymous with the term green wedge. Edition 10 of Planning Policy Wales (PPW) makes a presumption against inappropriate development in green wedges. The circumstances identified in PPW¹ under which buildings in a green wedge may not be inappropriate include those set out in Policy EC1 of the UDP. The proposal does not fall within any of the specific uses listed in Policy EC1 or PPW.
9. Other forms of development are allowed in the green barrier where openness is maintained and there would be no conflict with the purposes of the designation. According to PPW openness and permanence are essential characteristics of Green Belts and green wedges are stated to have the same purpose as Green Belts². Whilst not defined in PPW, openness is generally accepted to be the absence of urban sprawl and encroachment into the countryside. The erection of 82 dwellings would result in a significant amount of built development which would fail to maintain the openness of the site.
10. The purposes of the green barrier set out in the UDP reflect those in PPW. They include: to prevent the coalescence of urban areas and villages with other settlements; assist in safeguarding the countryside from encroachment; and to protect the setting of an urban area. The location of the site on the edge of the settlement is significant in safeguarding the countryside from encroachment and in preventing the coalescence of Gwersyllt and Broughton.
11. The evidence therefore leads me to conclude that the proposal would constitute inappropriate development within the green barrier which would also fail to maintain openness and conflict with the purposes of including land within it, contrary to Policy EC1 of the UDP. This carries substantial weight against the appeal.
12. According to paragraph 3.7 of PPW 10 permission for inappropriate development should only be granted in very exceptional circumstances where other considerations

¹ PPW, paragraph 3.71

² PPW, paragraphs 3.61 and 3.64

clearly outweigh the harm which such development would do to the green barrier. Exceptional circumstances identified by the Appellant include the lack of an up-to-date development plan, housing land supply, housing delivery, affordable housing need, the role and function of the green barrier, landscape and visual impact, agricultural land quality, deliverability of the site and comparable developments.

13. It has already been noted that the UDP is time expired. The emerging Wrexham Local Development Plan 2013 – 2028 (LDP) is currently undergoing examination and its adoption is anticipated during 2021. In the LDP the appeal site remains outside the settlement limit for Gwersyllt and within a green wedge. Therefore, if the LDP is adopted in its current form, the appeal proposal would continue to represent development within the countryside.
14. In order for the LDP to be found sound, additional land may have to be allocated for housing and the appeal site is on a reserve list of sites identified by the Council as land capable of delivery without any fundamental constraints. However, certainty over the content of the LDP will only be achieved when the Examining Inspectors' issue their report. Until then inclusion on the reserve list does not provide any assurance that the appeal site will be allocated in the LDP. The LDP therefore offers no support in favour of the appeal in this respect.
15. The changes to PPW and the revocation of Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies have not reduced the importance of delivering new housing, but affect the way delivery is planned, measured and monitored. At appeal the matter to be considered is that of past housing delivery measured against the planned trajectory in the development plan rather than future housing supply measured against the five-year supply figure.
16. As the LDP is undergoing examination Welsh Government advocates the use of the Average Annual Requirement (AAR) methodology for monitoring purposes. The LDP identifies a requirement for 7750 homes over the plan period which would translate into an AAR of 517 dwellings. According to the Council the annual rate of completion over the period 2013-2019 has been approximately 50% of the annual housing requirement.
17. The extent of the shortfall is therefore significant both in terms of the amount and length of time the Council has suffered from an inadequate housing land supply. Moreover, it will only be when the LDP is adopted that the Council will be able to demonstrate that it can provide a supply to meet its identified housing requirement. Whilst the date for the adoption of the LDP has slipped beyond that set out in the delivery agreement, the Council should have an adopted plan in place within the next 12 months. This is a not long relative to the whole LDP process. I consider that the likelihood of a plan-led solution to the shortfall in housing land supply within a relatively short time scale means that the weight to be given to under delivery is significant but does not of itself justify the grant of planning permission in this case.
18. There is an identified need for affordable housing in the local area the provision of 20 affordable dwellings as part of the development would contribute towards that need. However, as the number of units proposed is the number required to satisfy Policy H7 of the UDP, I do not consider that the proposal would offer any additional benefit in this respect.
19. Given the existing developments to the north and south of the appeal site, it is accepted that the proposal could be judged as a logical extension to the settlement. It is also noted that the proposed westward building line of the development would not

extend any closer to Broughton than the existing development to the north. However, the development would result in the extension further south of a very narrow section of the green barrier between Gwersyllt and Broughton and north of the appeal site is very narrow. Although the nature of the landscape between the site boundary and Broughton may provide some protection from development, I am nevertheless concerned that the appeal site plays an important role in the function of the green barrier and to allow its development would further erode the distinction between the two settlements.

20. The Landscape and Visual Appraisal (LVA) submitted as part of the planning application concluded that the development would not represent a significant and harmful intrusion into the wider landscape. Notwithstanding the objection to the impact of the development on the green barrier, the Council has no objection to the development in respect of its effect on the landscape. Whilst I have no reason to reach a different conclusion, the need to ensure development will be well integrated into its surroundings is an expectation of all developments.
21. The appeal site comprises Grade 2 and 3a agricultural land and the parties are agreed that it constitutes Best and Most Versatile (BMV) agricultural land. To this end, regard must be given to Policy EC2 of the UDP and paragraph 3.55 of PPW which seeks to protect Grade 1, 2 and 3a agricultural land from development unless there is an 'overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable'. Whilst there is a clear need to increase housing land supply, there is no substantive evidence which demonstrates that land in lower agricultural grades is not available. On this basis the proposal conflicts with Policy EC2 of the UDP and PPW.
22. I have noted the Appellant is in a position to be able to make an early start on the development with completion within a couple of years. I am therefore satisfied that the site is deliverable.
23. The Appellant has drawn my attention to several appeals which bear similarities to the case before me. All place significant weight on the need to increase housing land supply and consider this outweighs the offence they cause to the development plan. However, there is a significant difference between some of these cases in respect of the progress of the emerging LDP and in others the green barrier is not an issue. In the case before me a plan led solution to the housing land supply should be in place in a few months rather than in several years. I consider this to be a substantial difference between the appeal and the other cases cited in evidence.
24. Although the shortfall in housing land supply and the deliverability of the development carry some weight in favour of the appeal, the status of the site in the emerging LDP, loss of BMV agricultural land and the contribution the site makes to the role and function of the green barrier carry weight against it. The remaining matters are neutral. On balance I find that the other considerations in this case fail to clearly outweigh the identified harm to the green barrier and the very exceptional circumstances necessary to justify the development do not exist.

Highway safety

25. The development would result in increased vehicular and pedestrian traffic on the local highway network where Top Road and Summerhill Road currently lack adequate footways. In order to address this issue the proposal includes the realignment of the carriageway and the provision of footways along the site frontage with Top Road, the improvement of its junction with Summerhill Road and Bottom Road, and the

provision of a footway along Summerhill Road between the site and the existing footway close to Wheatsheaf Lane to the south. The Council's concerns are limited to the provision of the footway along Summerhill Road.

26. To provide the footway the width of the road would be reduced to approximately 5.5 metres. Whilst a road of this width is acceptable in principle, much of this section of Summerhill Road is bounded by a stone wall set close to the edge of the carriageway. The Council contends that this would result in vehicles being driven some distance from the wall and as a consequence the useable road width would be reduced to 4.8 metres. However, the stone wall is a characteristic of other parts of Summerhill Road and there is no substantive evidence to demonstrate the effect the wall has on the line taken by drivers.
27. The width of the proposed footway would vary, in parts it would be 0.9 metres wide. This is below the recognised standard where an adult and child or two adults could be accommodated side by side, but it is sufficient for pedestrians with walking aids and wheelchair users. As demonstrated by the submitted pedestrian survey, there are at present people who are choosing to walk along the carriageway of Summerhill Road. It is reasonable to assume that pedestrians will continue to do so irrespective of whether or not the development goes ahead. Whilst it may not be possible for a parent and child to walk side by side, I consider it to be far safer for them to be able to walk clear of the road albeit in single file.
28. On this basis I conclude that the proposed development would represent a significant improvement in terms of pedestrian provision and highway safety, in accord with Policy GDP1(d) of the UDP and the guidance given in Technical Advice Note 18: Transport³ which seek to ensure safe and convenient pedestrian and vehicular access to and from the site, both on site and in the nearby locality.
29. As part of the appeal the Appellant has submitted an alternative option which would provide a wider footway and a reduced road width. However, the variation of applications after the notice of appeal is only allowed in respect of correctable errors. There is also the matter of prejudice of the Council and interested parties to consider. I have therefore had no regard to the alternative scheme in reaching my decision.

Planning Balance and Recommendation

30. The proposal would be inappropriate development within the Green Barrier and no very exceptional circumstances have been found to exist which clearly outweigh the harm. Whilst I have found that the development would not be detrimental to highway safety, this does not carry sufficient weight to justify the development.
31. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal be dismissed.
32. In reaching my decision I have considered 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 the Welsh Ministers' well-being objective to build better environments.

K. Sheffield

INSPECTOR

³ Paragraphs 3.4 and 6.2