



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 01/10/13
Ymweliad â safle a wnaed ar 01/10/13

gan **Kay Sheffield BA(Hons) DipTP
MRTPI**

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 14 Tachwedd 2013

Appeal Decision

Hearing held on 01/10/13
Site visit made on 01/10/13

by **Kay Sheffield BA(Hons) DipTP MRTPI**

an Inspector appointed by the Welsh Ministers
Date: 14 November 2013

Appeal Ref: APP/H6955/A/13/2200722

**Site address: Land to the south of Barn Cottage, Holt Road, Bowling Bank,
Wrexham, LL13 9RN**

**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 Nigel Copeland against the decision of Wrexham County Borough Council.
 - The application Ref P/2012/0783, dated 17 October 2012, was refused by notice dated 7 January 2013.
 - The development proposed is the erection of a dwelling.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The submitted Statement of Common Ground (SoCG) indicated that amendments made to the scheme during the course of the appeal had overcome the Council's concerns regarding the effect of the development on the character and appearance of the area and highway safety. The Council confirmed that if the amendments listed in the SoCG had been submitted during the course of the application further consultation would not have been necessary before a decision had been reached. However, the Council's consideration of the amendments did not include the reduction in the size of the site due to the change in the position of the southern boundary shown on Drawing No. H/03 Rev A. Taking this additional change into account the Council indicated at the hearing that it would have been necessary for further consultation to have taken place before a decision could have been reached.
3. I advised the parties that in the absence of any consultation on the proposed amendments I considered that the Council and other interested persons would be prejudiced if I based my decision on the amended scheme submitted as part of the appeal. This was reinforced during the site visit when it was found that the fence marking the southern boundary of the site was not in the position shown on either the original or amended plans. I have therefore determined the appeal on the plans submitted with the application and on which the Council reached its decision.

Main Issues

4. The main issues are whether the proposal would accord with national and local policies which govern residential development in the open countryside and its effect on the character and appearance of the area, highway safety and the living conditions of future occupants of the proposed dwelling with regard to overshadowing.

Reasons

Residential development in the open countryside

5. The appeal site is located in open countryside and lies within a linear development of residential properties on the western side of Holt Road. The appeal site is situated between Barn Cottage, the northernmost dwelling in the line, and The Saplings. The latter has only recently been constructed despite planning permission having originally been granted in 1990 and the appeal site previously formed part of the plot.
6. Although Policy H5 of the Wrexham Unitary Development Plan, 2005 (the UDP) restricts new dwellings in the countryside, it allows infilling which it defines as the development of no more than two dwellings in a small gap within a well developed built frontage. This generally accords with Planning Policy Wales which supports sensitive filling in of small gaps depending on the character of the surroundings as well as the pattern of development in the area. Further guidance in respect of infill development is given in the Council's Local Planning Guidance Note No 13: *Housing in the Countryside* (LPGN13) and although the parties agreed that the proposal generally complied with the criteria set out in LPGN13, there was dispute over whether or not the site constituted a small gap within a well developed frontage.
7. Barn Cottage is separated from the appeal site by a fairly generous side garden which would contrast with the limited distance between the appeal property and The Saplings due to their siting close to the common boundary between them. The side garden to The Saplings creates a greater space between the dwelling and its neighbour to the south, Plum Tree House and there is further variation in the distance between the latter and the properties to the south which include the barns and farmhouse of Plum Tree Farm and Hillview. Beyond Hillview there is a vacant field followed by the village hall and its car park. The built development continues to the south of the car park with a tight group of four detached dwellings and further properties with side gardens before a further tight knit group which includes the school. There are, therefore, varying degrees of separation between the dwellings forming the linear development within which the appeal site lies.
8. There was dispute between the parties as to the whether the appeal proposal should be considered in the context of the whole of the frontage from Barn Cottage through to the properties around the school, as put forward by the Council, or as advocated by the appellant as far south as Hillview. The longer frontage advocated by the Council contains gaps of approximately 80 metres and 50 metres to either side of the village hall which are significantly greater than the gaps formed by the side gardens of the dwellings and visually present substantial breaks within the street scene. I consider that visually these gaps, which are only separated by the village hall, effectively divide the frontage into two and on this basis the appeal proposal should be considered in the context of the frontage from Barn Cottage through to Hillview.
9. Although within the frontage from Barn Cottage to Hillview the distances between the properties vary, they constitute the side gardens to the properties. I consider that the nature of these gaps and their association with the properties to which they belong

convey the character and appearance of a fully developed frontage when viewed in the context of the street scene. I am also satisfied that the size of the site is not out of character with others in the area and that it would also form part of a group of five or more dwellings, as required by LPGN13. On this basis I consider that the appeal site constitutes a small gap within a well developed built frontage and that the proposed development would therefore consist of infill development in compliance with Policies PS1 and H5 of the UDP.

10. I note that the Inspector on an appeal¹ brought to my attention by the appellant came to a similar conclusion with regard to the part side gardens played within the street scene. I have had regard to the appeal decision² brought to my attention by the Council in respect of the land to the south of Hillview. In his decision the Inspector examined the spaces between dwellings and whilst variation was recognised the decision to dismiss the appeal was based on the conclusion that the gap could not be considered small as it was wider than most gardens and he could not be persuaded that the site could only accommodate two dwellings as a similar sized frontage nearby accommodated four. The gap in the appeal before me is quite small in comparison and is only large enough for one dwelling.
11. I have also had regard to the applications for infill development referred to by the appellant and in particular that on land adjoining 4 Marshley, Isycoed³, a short distance to the north of the appeal site and which I viewed during the site visit. Although the application was recommended for refusal by officers, Council Members took a contrary view and considered it constituted infill development within a well developed built frontage. The frontage within which the site lies bears some similarities to the current appeal as it also contains varying sized gaps between properties and although a degree of similarity exists between this case and the appeal before me, the individual merits of the case, and the others brought to my attention, differ and little weight can be attributed to any comparisons drawn.

Effect on the character and appearance of the area

12. The buildings in the vicinity of the appeal site are not characterised by any particular age or the use of one particular type of material, but their form is typified by strong gable side elevations, some with gable frontages and small gable dormers. Although the height of the proposed dwelling takes account of the differing heights of the properties to either side, the clipped gables and a low eaves line would appear incongruous in the street scene.
13. The Council confirmed that the proposed amendments to the design listed in the SoCG would overcome its objections and I agree that the revised scheme would be more in keeping with the area. Nevertheless I must determine the appeal on the basis of the original drawings and I conclude that the proposed dwelling would be out of keeping with its surroundings to the detriment of the character and appearance of the area and contrary to Policies PS2 and GDP1 of the UDP.

¹ Appeal ref: APP/H6955/A/05/1179556 dated 26 July 2005

² Appeal ref: APP/H6955/A/09/2112041 dated 7 December 2009

³ Application ref: P/2007/0476

Highway safety

14. Although the speed limit outside the site is 60mph, it reduces to 30mph immediately to the south and as a consequence the Council considered that the speed of traffic as it passes the site would be in the region of 40mph. In refusing planning permission and in the light of the advice in Technical Advice Note 18: *Transport*, the Council considered that visibility splays of 2.4 metres by 120 metres in both directions were required and which could not be met within land within the control of the appellant or the highway authority.
15. However, the appellant was of the view that it would be more appropriate to use the standards set out in Manual for Streets 2 (MfS2) which states that a more accurate assessment of visibility splay can be made by measuring to the nearside edge of the vehicle wheel track. The Council agreed in the SoCG that the use of MfS2 was appropriate and on the evidence before me I have no reason to conclude otherwise.
16. Drawing No. H/03 Rev A, submitted as part of the appeal, indicates visibility splays of 2.4 metres by 120 metres to the north and 75 metres to the south. Whilst splays of these dimensions would meet the standards set out in MfS2, there was no dispute that the actual width of the footway was approximately 1.2 metres and not 2.4 metres as shown on the drawing. During the course of the hearing the parties agreed that the reduced width of the footway would result in visibility splays of approximately 81 metres and 77 metres to the north and south respectively which would still meet the standards set out in MfS2.
17. However, the conclusion in respect of visibility splays was based on the drawings and in addition to the error found in the position of the boundary between the site and The Saplings, the width of the footway was found to be 1.4 metres when measured during the site visit. Whilst these errors may not unduly affect the available level of visibility, they raise an issue over whether or not the position of the access shown on the submitted drawings in either the original or revised schemes is correctly represented and cast doubt over the actual visibility splays which could be provided.
18. I therefore conclude that insufficient evidence has been submitted to confirm that the required visibility splays could be provided and on this basis the development would fail to provide a safe and satisfactory access, contrary to Policy GDP1 of the UDP.

Effect on living conditions

19. Of the three trees on the site, two are covered by a Tree Preservation Order⁴. All three trees are on the western boundary of the site and are proposed to be retained as part of the development. Whilst the appellant contends that the roots to the protected trees do not encroach beyond the ditch on the boundary, I have no evidence of this. I therefore have to base my assessment of the proposal on the submitted information regarding the extent of the canopy of the protected trees and their respective root protection areas. The footprint of the dwelling is shown to encroach within the root protection area of one of the protected trees and the canopy of both with the potential to cast shade over the dwelling and part of the garden.
20. I share the Council's concerns regarding the effect of the shadowing from the trees on the living conditions of future occupants as the internal layout shown in the original

⁴ Wrexham County Borough Council, Community of Isycoed (Land adjacent to Barn Cottage, Bowling Bank, Wrexham) Tree Preservation Order No. 191, 2012.

application included windows to main habitable rooms in the rear elevation at ground and first floor levels. I acknowledge the difference of opinion between the expert witnesses for both parties with regard to the life expectancy of the protected trees and the potential for future growth. I also note that crown lifting could increase the amount of light entering the dwelling. Nevertheless I remain concerned over the level of overshadowing which the trees in their current form could give rise to and the consequent pressure for the trees to be lopped, topped or even felled, to the detriment of the character of the area.

21. I have noted on the amended plans submitted as part of the appeal that the internal arrangement of the dwelling has been altered. However, windows to main habitable rooms remain in the rear elevation at ground floor level and the potential for overshadowing remains. It also became evident during the hearing that the protected trees were not accurately plotted on the site layout plan and I consider that this matter needs to be addressed in order for the effect of the development on the protected trees to be fully assessed.
22. I am aware that the neighbouring dwelling has a protected tree close to the windows serving main habitable rooms and I observed the effect this had on light entering the affected rooms. Nevertheless this does not overcome the concerns I have identified regarding the appeal before me, which I have treated on its merits.
23. I therefore conclude that the development would be detrimental to the living conditions of future occupants by reason of overshadowing from the protected trees which contribute to the character and appearance of the area and could potentially give rise to pressure for their lopping or removal, contrary to Policies PS2, GDP1 and EC4 of the UDP.

Other material considerations

24. Whilst there is no evidence that the development would harm the local Great Crested Newt population, appropriate measures need to be taken to ensure the site is free from them. I am aware that although appropriate fencing was in place during the construction of The Saplings, it has been breached in recent months and the consequences of this would need to be addressed. However, this is a matter which could be satisfactorily overcome by way of a suitably worded condition.
25. Concerns have been raised by a local resident to the effect of the development on surface water drainage. However, I have no definitive evidence of flooding in the area or that it would be exacerbated by the development.

Conclusions

26. Whilst I have concluded that the proposal would constitute infill development this is nevertheless outweighed by the concerns regarding the effect of the development on the character and appearance of the area, highway safety and the living conditions of future occupants of the proposed dwelling. For the reasons given above, and having had regard to all other matters raised, the appeal is therefore dismissed.

Kay Sheffield

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr N Copeland	The appellant
Mr G Kellett MRTPI	Of Real Planning, Agent for the appellant
Mr D Hinde	Of Monkey Business Arboriculture

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Forster BSc MCD	Planning Officer
Mr M Simpson M.Arbo.A.	Arboricultural Officer

DOCUMENTS

- 1 The Council's notification letter regarding the arrangements for the hearing dated 9 September 2013 and circulation list.
- 2 Revised drawing Nos. H/01 Rev A; H/02 Rev A and H/03 Rev A.
- 3 Local Planning Guidance Note 21: Space around Dwellings.
- 4 Wording of the Council's standard condition ZP06 the protection of amenity from nuisance.