

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **7<sup>TH</sup> JUNE 2017**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **APPEAL BY MR. E. DAVIES AGAINST THE  
DECISION OF FLINTSHIRE COUNTY COUNCIL TO  
REFUSE OUTLINE PLANNING PERMISSION FOR  
THE ERECTION OF A DWELLING AT LAND AT  
PAPERMILL LANE & OLD PAPER MILL LANE,  
OAKENHOLT – DISMISSED.**

**1.00 APPLICATION NUMBER**

1.01 055447

**2.00 APPLICANT**

2.01 Mr. E. Davies

**3.00 SITE**

3.01 Land at Paper Mill Lane & Old Paper Mill Lane,  
Oakenholt, CH6 5TD

**4.00 APPLICATION VALID DATE**

4.01 24<sup>th</sup> May 2016

**5.00 PURPOSE OF REPORT**

5.01 To inform Members of the Inspector's decision into the refusal to grant outline planning permission for the erection of a dwelling at land at Paper Mill Lane and Old Paper Mill Lane, Oakenholt, CH6 5TD. The application was refused by delegated powers, with the appeal dealt with by way of a hearing and was **DISMISSED**. The Inspector was Joanne Burston.

**6.00 REPORT**

6.01 Background

Members may recall that this application was refused on 18<sup>th</sup> July 2016 by delegated powers on the basis that the proposals were inappropriate development in the green barrier and would detrimentally affect the openness and visual amenity of the green

barrier. In addition a Coal Mining Risk Assessment had not been submitted in order for the local planning authority to assess whether the stability of land from previous mine workings would be able to support a dwelling.

6.02 The Coal Mining Risk Assessment was later submitted with the Coal Authority withdrawing their objections to the application.

6.03 Issues

The Inspector considered that the main issues were whether or not the proposal amounted to inappropriate development in the green barrier, its effect on the openness and purposes of the green barrier, its effects on the character and appearance of the area; its effect on highway safety and whether there are very exceptional circumstances that outweigh the harm.

6.04 Inappropriate Development within Green Barrier

Paragraph 4.8.12 of PPW states that “the general policies controlling development in the countryside apply in green wedges” (or as in this case Green Barriers), “but there is, in addition, a general presumption against development which is inappropriate in relation to the purposes of the designation”. The circumstances under which buildings in a Green Barrier may not be inappropriate are identified in paragraph 4.8.16. The appellant asserted that the appeal proposal should be regarded as ‘limited infilling’.

6.05 UDP Policy GEN4 ‘Green Barriers’ sets out that development within Green Barriers will only be permitted where it comprises certain specified types of development, and one of these is “limited housing infill development to meet proven local housing need or affordable housing exception schemes”. The supporting text states that “limited infill housing development comprising one or two dwellings within a clearly defined group of dwellings, or affordable housing exception schemes on the edge of existing settlements, provided that the development would not unacceptably harm the openness of the green barrier”.

6.06 The appeal site is a broadly triangular shaped parcel of land, located at the junction of Paper Mill Lane and Old Paper Mill Lane. To the north is a detached bungalow and then a terrace of two storey dwellings. To the east and west, on the opposite side of the lanes are further dwellings. To the south is agricultural land. The appeal site itself currently consists of two garages, located towards the northern boundary and an area of grass and scrub used for vehicle parking bounded to the west and southwest by mature hedging and trees.

6.07 The proposed dwelling would be sited broadly in line with the neighbouring dwelling ‘Wentworth Lodge’ to the north, however the Inspector did not regard the proposal as representing a typical form

of infill development. Although there is some further development on the east side of Paper Mill Lane, it is neither a continuously developed frontage nor a focus of dwellings. This means that the development of the site for residential purposes would constitute an encroachment of development into the countryside.

- 6.08 It was not part of the appellant's case that the dwelling would meet either a proven local housing need to this particular settlement or area, or comprise an affordable housing exception scheme which are requirements of UDP Policy GEN4. Additionally for completeness the Inspector considered the approach set out in the supporting text to UDP Policy GEN4 "provided that the development would not unacceptably harm the openness of the green barrier". Given the findings on openness, as set out below, the development would still therefore be inappropriate.
- 6.09 The appeal proposal would not meet the requirements of Policy GEN4 and would amount to inappropriate development in the Green Barrier. PPW provides a presumption against inappropriate development in a Green Barrier and says that substantial weight should be attributed to any harmful impact on the Green Barrier and that planning permission should not be granted for inappropriate development except in very exceptional circumstances where other considerations clearly outweigh the harm to the Green Barrier. That is the balance to be considered in the overall conclusions below.
- 6.10 Openness & Purposes of the Green Barrier  
Openness and permanence are recognised in paragraph 4.8.5 of PPW as the most important attributes of green belts and although local designations such as green barriers do not convey the permanence of a green belt, openness is still considered an important attribute.
- 6.11 The proposal would result in the removal of the existing garages and as such the appeal site is not wholly undeveloped. Nevertheless, the developed portion of the site would increase. The Inspector considered that the erection of a dwelling in this location, including any domestic paraphernalia, would have a considerably greater impact on the openness of the green barrier than the existing, much less intrusive, development within the site.
- 6.12 It was accepted that the erosion of openness in this individual case is small and would not extend beyond the limit of the existing settlement, nonetheless, if allowed such developments could cumulatively significantly erode the openness of the green barrier over time. Therefore, although the loss of openness would only be small in this case, it would harm the visual amenities, permanence and purpose of the green barrier and thus warrants substantial weight as set out in PPW.

6.13 Character & Appearance

Paragraph 9.2.22 of PPW states that “Many parts of the Countryside have isolated groups of dwellings. Sensitive filling in of small gaps, or minor extensions to such groups, in particular for affordable housing to meet local need, may be acceptable, but much depends upon the character of the surroundings”. The appeal site is largely overgrown and somewhat unkempt, nevertheless it is part of the spacious setting of this settlement. It provides an important role in the gradual transition from the open countryside to the built up form that defines the settlement edge, which taken together with the gardens of 11 & 12 Paper Mill Lane provides a sense of openness, making a positive contribution to the character of the area.

6.14 The Inspector accepted that part of the site is developed, however the proposal would result in a considerably more intensive use and development of the site than existing. The erection of a dwelling as shown on the illustrative plan would result in a significant change to the site’s overall character and appearance and the important contribution that it currently makes to the local area. Accordingly, it is considered that the development proposed would be materially detrimental to the appearance of the site and the local area and would detract from its existing largely spacious character.

6.15 Reference was made to the landscape character of the area, with tree belts concealing buildings. In this regard the Inspector acknowledged that trees are an important part of the streetscene in this location. Those within the appeal site, particularly those on its boundaries, contribute positively to the overall verdant appearance of the area and enhance the rural character of this road. The appellant stated at the hearing that the hedge retained and reinforced the hedge and a low boundary wall constructed to the site frontage, and the Inspector was satisfied that this could be effectively controlled via a reserved matter submission.

6.16 Nevertheless, although the screening would materially reduce the visual effect of the proposed development in this sensitive location, this screening is a natural feature and, therefore, not a permanent one. Furthermore, the existence of screening is not a good justification to allow a development that would cause harm.

6.17 Overall, the Inspector concluded that the retention of the trees and hedge and the replacement and supplementary planting, would not outweigh the harm identified above to the character and appearance of the area that would arise from the proposal and, as such and for these reasons, the proposal would be unacceptably harmful. Therefore, it would be contrary to UDP Policies GEN4; and HSG5, which, amongst other matters, seek to ensure that development within the green barrier would not unacceptably harm the open character and appearance of the Green Barrier. Whilst reference was made to UDP Policies HSG4 and HSG11, these policies relate to the

development of 'rural workers dwellings' and 'affordable housing in rural areas' and were not relevant in this case.

6.18 Other Considerations

One of the 'other considerations' advanced by the appellant was that the Council does not have a five year housing land supply. In such circumstances paragraph 6.2 of Technical Advice Note 1: Joint Housing Land Availability Studies states that the need to increase supply "*should be given considerable weight when dealing with planning applications, provided that the development would otherwise comply with national planning policies*". Although it is recognised that the lack of housing land carries significant weight, the site's current purpose and function as part of a Green Barrier is still relevant and material to the consideration of the appeal, particularly where, as in this case, the contribution to housing supply would be extremely modest.

6.19 The site is well located for public transport and services. There are bus stops within walking distance of the site, with regular services to nearby centres. The Inspector accepted that the proposal would generate investment and jobs in the area during construction, and future residents would be likely to support local services and businesses. It was acknowledged that the site would meet one of the PPW objectives to minimise the demand for travel, especially by private car. Nevertheless, this objective could be met by a development located outside the Green Belt. Accordingly this matter attracted only limited weight.

6.20 The Inspector noted the appellant's comments that the appeal site should be considered as previously developed land in that it historically formed part of the garden to the neighbouring property and that garages are still present on the site. Nonetheless, even if the appeal site were to be treated as previously developed land, PPW Paragraph 4.9.1 indicates that not all previously developed land is suitable for development. This may be for example, because of its location. Furthermore, whilst the land may be considered as curtilage this does not mean that the whole of the curtilage should be redeveloped. In any event, the development would introduce considerable changes to the appearance of the site and the surroundings. It would further compound the influence of the urbanising features hereabouts, which is detrimental to the intrinsic value and character of the countryside in this location. Accordingly, the Inspector attached moderate weight to this matter.

6.21 Attention had been drawn to other appeal and local authority planning decisions in the surrounding area. The Inspector did not have full details of those schemes, however from the description of the sites and the context given within the decisions, the Inspector was not satisfied that these other cases are directly comparable with the proposal before her and, as such, the Inspector gave them only very

limited weight. In any event, the existence of development elsewhere is not a good reason to allow a proposal that would cause harm.

Whether Very Exceptional Circumstances Exist Sufficient to Clearly Outweigh the Harm by Reason of Inappropriateness and Any Other Harm.

- 6.22 It was concluded above that the proposed development would amount to inappropriate development in the Green Barrier and so substantial weight should be attributed to any harm to the Green Barrier. The proposal would be detrimental to the openness of the Green Barrier, which is its most important attribute. In accordance with national policy, the Inspector attributed substantial weight to this matter. It was also concluded that the proposed scheme would be harmful to the rural character and appearance of the area, but the Inspector only attributed moderate weight to this.
- 6.23 In this case the Inspector had found that the proposal would not comply with the relevant UDP policies and whilst UDP Policy STR1 indicates that development within the open countryside may be permitted where it is essential to have an open countryside location; no evidence had been submitted to demonstrate that the proposed housing unit is justified by virtue of its rural location or would meet a proven local need.
- 6.24 On the positive side, the scheme would provide some benefits, though for the reasons explained above the Inspector attributed only modest weight to these. However, even if the Inspector were to attribute greater weight to all of the benefits they would still fall far short of amounting to very exceptional circumstances sufficient to clearly outweigh the harm to the Green Barrier due to inappropriateness, loss of openness and the moderate harm to the character and appearance of the area.

**7.00 CONCLUSION**

- 7.01 The Inspector considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under Section 3 of the Well-Being of Future Generations (Wales) Act 2015 (“the WBFG Act”). In reaching this decision, the Inspector took into account the ways of working set out at Section 5 of the WBFG Act. In particular, that by allowing inappropriate development in the Green Barrier would run counter to the sustainable development aims that the WBFG Act seeks to promote.
- 7.02 Accordingly, the Inspector concluded that, on balance, the proposal would be contrary to development plan and national policies. The adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits and therefore the appeal was

**DISMISSED.**

**LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

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