



Penderfyniad ar yr Apêl

Appeal Decision

Ymweliad â safle a wnaed ar 26/03/13

Site visit made on 26/03/13

gan Gareth A. Rennie BSc(Hons) DipTP
Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 24/5/13

by Gareth A. Rennie BSc(Hons) DipTP
an Inspector appointed by the Welsh Ministers
Date: 24/5/13

Appeal Ref: APP/A6835/A/12/2189944

Site address: Warren Dingle Farm, Mold Road, Penyffordd, Chester, CH4 0AB

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 failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Jonathon Barton against Flintshire County Council.
 - The application Ref 049721, is dated 1 May 2012.
 - The development proposed is one planet development – erection of one dwelling and agricultural buildings with associated works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal is against the failure of the Local Planning Authority (LPA) to determine an application for planning permission within the statutory period. However the LPA have indicated the grounds on which they would have refused the application.
3. These are that the Council do not consider that the Management Plan (MP) meets the requirements set out in the national guidance to justify the exceptional nature of the development or to provide a basis for ongoing monitoring and review. The Council do not consider that it has been conclusively shown that the proposed development would provide for the basic needs of the family.
4. I have used the description of the development as registered by the Council rather than that which appears on the application form as I consider it more properly describes the development.

Main Issue

5. The main issue in this case is the impact of the proposal on policies designed to control the provision of housing and protect the countryside.

Reasons

6. Policy HSG4 of the Flintshire Unitary Development Plan (UDP) says that new dwellings in open countryside will only be permitted subject to certain criteria. These include that new agricultural dwellings will only be permitted subject to a proven functional and financial need being established. It refers in this respect to National Planning Guidance within Technical Advice Note 6 – *Planning for Sustainable Rural Communities* (TAN 6). This guidance presents a series of tests that should be satisfied.
7. In this case the application includes for the development of an agricultural dwelling but within the auspices of One Planet Development (OPD). TAN 6 defines OPD as development that through its low impact either enhances or does not significantly diminish environmental quality. It says that OPD can take different forms but that OPD located in the open countryside should, over a reasonable length of time (no more than 5 years), provide for the minimum needs of the inhabitants' in terms of income, food, energy and waste assimilation.
8. TAN 6 also says that planning applications for OPD located in open countryside need to be supported by robust evidence. In particular it says that applications for such development should be accompanied by a MP produced by a competent person or persons and that this should be the basis of a legal agreement relating to the occupation of the site. It also states that the MP should cover the following areas; a business and improvement plan, ecological footprint analysis, carbon analysis, biodiversity and landscape assessment, a community impact assessment, and a transport assessment and travel plan. Further detailed guidance is contained within TAN 6 Practice Guidance on OPD (PG).
9. TAN 6 generally supports such development but the thrust of the guidance and the associated PG is that there should be a proper justification for such development supported by robust evidence.
10. The appellant has provided a business plan which provides a broad indication of the current business and how it is to be developed. Even so, it lacks detail within the accounts and the basis on which the projected accounts have been calculated. The food requirements of the family are not specifically quantified against the amounts of produce grown or the surplus.
11. Moreover, the business plan is dependant to a certain extent on land that is outwith the appeal site. It is indicated that additional land is rented at Ashfield Farm in Neston for the production of hay, additional vegetables, and cereal crops and that vegetables are to be sold in part from Ashfield Farm.
12. It is unclear what proportion of the family's food needs are met from this arrangement and whether without this arrangement the appeal site is in itself capable of supporting the family's needs. I accept that the agricultural appraisal submitted suggests that there is sufficient land within the appeal site to satisfy a family's need but this should be specifically quantified within the MP.
13. I am also unclear about the role of volunteers within the proposal, and how their needs in terms of food, or their contribution to the food needs of the family would be allocated. PG states that the produce grown and reared on the site (that meets the minimum food and basic income needs of the occupants) must be the result of the labours of the occupants of the site and not that of hired hands.

14. I do not share the Council's concerns about the use of polytunnels as part of the production strategy and consider that their impact on the character and appearance of the area would be no more that with a similar conventional agricultural holding. There is however a lack of information as to whether they would be zero Carbon in both construction and use, as is the case with other agricultural buildings on the site. The objective of ODP is to achieve Zero Carbon status as a whole.
15. There is also a lack of detail and quantified evidence concerning the water requirements of the family and holding and whether these can be met from rainwater harvesting or abstraction on the site as a whole. Similarly, the seeming dependence on various energy sources within the life of the MP is not quantified.
16. In addition, the agricultural assessment submitted as part of this appeal appears to be making the case for a dwelling in terms the requirements of TAN 6 for an established agricultural enterprise. Whilst this seeks to establish both a functional and financial need for a dwelling on the site it is unclear how this relates to the requirements for OPD.
17. In this case the appellant has provided a good deal of the evidence required and whilst I acknowledge that the publication of the PG post dates the application there remain a number of weaknesses within that evidence that as a whole does not comply with the requirements of the PG.
18. In addition to the matters noted above I broadly agree with the comments made within the assessment commissioned by the Council. I acknowledge that there are few examples of such development or of the process of completing a MP. Nevertheless, the PG represents clear guidance as to the scope and detail of the evidence that is required.
19. The MP is a prerequisite in these types of development and should adequately address the qualifying criteria contained in the PG together with providing an acceptable monitoring process based on clearly stated indicators. I consider that such detail should not be the subject of conditions or that for instance assessment of materials and construction of the proposed dwelling should be provided at some notional 'design stage'.
20. I agree that in this case the appellant has shown that some of the requirements of TAN 6 are capable of being satisfied and it may be that the a OPD may be achievable on the site. Even so the proposal lacks detail and a clear strategy for their achievement and development. The appellant has produced a draft s106 agreement under the Act¹. This is not complete however, and I consider that the MP in its current form does not represent an acceptable basis for such an agreement.
21. Overall, whilst the appellant has outlined a laudable proposal for OPD in this case, the MP lacks a clear and coherent strategy and structure that binds the individual assessments and reports together, and has a resilient and measurable monitoring process. The MP lacks detail in the key aspects that I have identified and as a result the evidence is insufficiently robust to satisfy the requirements of TAN 6 and the guidance contained within the PG.

¹ the Town and Country Planning Act 1990

22. For these reasons the proposal conflicts with the requirements of national guidance contained within TAN6. TAN 6 says where this cannot be demonstrated, proposals should be considered against policies which seek to control development in the open countryside. The proposal also therefore conflicts with policy HSG4 of the UDP.
23. Consequently for the reasons given above and having considered all other matters raised I conclude that the appeal should be dismissed.

Gareth A. Rennie

Inspector