

APPENDIX B

APPEALS SUMMARY 1st March – 1st September 2018

APPEALS ALLOWED

1. APPLICATION NO. 01/2017/0999

SITE ADDRESS: 63 Trewen, Denbigh

PROPOSAL: First floor extension

BASIS OF REFUSAL: Unacceptable degree of overshadowing of windows and overbearing impact on rear elevation of adjoining property (64 Trewen).

TYPE OF APPEAL: Written representations

COSTS AWARDED AGAINST COUNCIL: N/a

ISSUES OF NOTE

The Inspector considered the main issue was the effect of the proposal on the living conditions of the occupants of the neighbouring property, 64 Trewen, by virtue of overshadowing and outlook.

Inspector's conclusions:

On balance concluded that the proposed development would not harm the living conditions of the occupants of 64 Trewen. Assessed the 45 degree guide and accepted the Council's assessment that this would be infringed, but having regard to the extent of infringement and the fact that the extension would not interrupt sunlight or cast shadow over the property for much of the day, did not conclude the extension would cause significant issues with No. 64. Agreed with the Council that the future insertion of any additional windows in the extension should be controlled

2. APPLICATION NO. 45/2017/0677

SITE ADDRESS: 50 Bath Street, Rhyl

PROPOSAL: Change of use from dwelling to family assessment centre.

BASIS OF REFUSAL: Loss of single occupancy dwelling and impact on housing mix in the area; adverse cumulative impact of an additional support service use in the area along with potential negative impacts on the vulnerable users of the property.

TYPE OF APPEAL: Written representations

ISSUES OF NOTE

The Inspector considered the main issues to be:-

Whether the proposal would cause the unacceptable loss of a unit of residential accommodation; and, The effect of the proposal on the character of the surrounding area, on the future residents living conditions, and on the provision of local services.

Inspector's conclusions:

The loss of a single family dwelling within the locality would not materially alter the housing mix within the area, nor undermine the aims of policy BSC1, policy RD1 or national planning policy. As it was the loss of just one unit this would not have a major impact.

The proposed development would not materially alter the character of the area; there is no substantive evidence that the proposal would perpetuate a negative perception of the area, be detrimental to the area's character, or undermine planning policies.

APPEALS DISMISSED

3. APPLICATION NO. 20/2017/0148

SITE ADDRESS: The Chalet, The Watermill, Pwllglas

PROPOSAL: Replacement of a residential caravan with a single replacement dwelling and garage

BASIS OF REFUSAL: Unacceptable in principle, undermining planning policies relating to new development outside established settlements (planning policies BSC8, BSC9 and RD 4), conflicting with principles of settlement planning and sustainable development,

TYPE OF APPEAL: Written representations

COSTS AWARDED AGAINST COUNCIL: N/a

ISSUES OF NOTE

The Inspector considered the main issue was whether there are other material considerations sufficient to outweigh any conflict with local and national planning policies.

Inspector's conclusions:

The development conflicts with local and national planning policies. The Certificate of Lawful Development establish the use of land as a caravan site for the stationing of one static caravan for all year round residential occupation. A caravan is not regarded as a building for the purposes of applying LDP Policy RD 4. National policy and the development plan seek to control residential development outside settlement boundaries. Other material considerations are insufficient to outweigh the conflict with important local and national planning policies.

Postscript / practice points

The Inspector's decision reaffirms the important distinction to be made that a caravan cannot be considered a dwelling for purposes of the replacement dwellings policy.

4. APPLICATION NO. 14/2017/0487

SITE ADDRESS: Coed yr Hengoed, Bontuchel, Ruthin

PROPOSAL: Deletion of conditions 3, 4, 5 and 6 of planning permission 14/2017/0487, requiring approval of lighting, restricting external storage, provision of planting, and restricting sound amplification systems and playing of music.

TYPE OF APPEAL: Written representations

ISSUES OF NOTE

The Inspector considered the main issue was whether the disputed conditions are reasonable and necessary.

Inspector's conclusions:

Condition 3 (external lighting) - the imposition of the condition is reasonable and necessary. Condition retained.

Condition 4 (Restrictions on external storage) – the condition is varied to delete reference to storage of external storage.

Condition 5 (Requirement for submission of planting scheme) - the imposition of the condition is reasonable and necessary. Condition retained.

Condition 6 (Restriction on sound amplification systems and playing of music) – imposition of the condition is unreasonable. Condition deleted.

5. APPLICATION NO. 43/2017/1212

SITE ADDRESS: 8 Birch Grove, Preststyn

PROPOSAL: First floor extension above a single storey ground floor extension previously approved by way of a Proposed Lawful Development Certificate.

BASIS OF REFUSAL: Unacceptably overbearing impact on adjoining properties

TYPE OF APPEAL: Householder

COSTS AWARDED AGAINST COUNCIL: N/A

ISSUES OF NOTE

The Inspector considered the main issues to be:

- The effect of the proposed development on the living conditions of the occupiers of Nos 8 and 10 Birch Grove in relation to visual impact resulting from the poor design of the new window serving bedroom 3 causing overlooking between windows.
- The use of a planning condition to modify the proposed development was contrary to paragraph 4.13 of the Welsh Government Circular- *The Use of Planning Conditions for Development Management* (WGC 016/2014) which states “a condition modifying the development cannot be imposed if it would make the development permitted substantially different from that comprised in the application...”. The Inspector considered the modification sought by the condition would be a substantial modification and could not be imposed.

Inspector's conclusions:

The Inspector did not consider there would be unacceptable impact on drainage, the living conditions of the occupiers of Nos 6 and 10 in relation to visual impact, nor would it lead to an unacceptable loss of direct sunlight to these properties. There would be overlooking potential from the proposed side bedroom window (bedroom 3), leading to unacceptable loss of privacy in relation to No.10 - a matter it was not considered could be addressed through imposition of a condition.

The Inspector considered the proposal conflicts with policy as it is of poor design that would fail to provide satisfactory living conditions for the occupiers of No.8 due to visual impact, and for the occupiers of Nos. 8 and 10 due to overlooking between windows.