



## Appeal Decision

Site visit made on 26 September 2023

by **G Sibley MPLAN MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 8<sup>th</sup> January 2024**

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**Appeal Ref: APP/L3245/W/23/3319142**

**Land adjacent to Tyn-y-Wern, Hengoed, Oswestry SY10 7EP**

- 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 Mrs Gwyneth Edwards against the decision of Shropshire Council.
  - The application Ref 22/05708/FUL, dated 19 December 2022, was refused by notice dated 17 February 2023.
  - The development proposed is erection of 3 stables, tack room/feed store and hay store, formation of hard standing and alterations to existing field.
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### Decision

1. The appeal is allowed and planning permission is granted for erection of 3 stables, tack room/feed store and hay store, formation of hard standing and alterations to existing field at land adjacent to Tyn-y-Wern, Hengoed, Oswestry SY10 7EP in accordance with the terms of the application, Ref 22/05708/FUL, dated 19 December 2022, subject to the conditions contained in the schedule at the end of this decision.

### Preliminary Matter

2. Following the issuing of the council's decision notice the National Planning Policy Framework (the Framework) has been updated. As the updates do not fundamentally alter that part referred to by the parties, it has not been necessary to consult them further.

### Main Issue

3. The main issue is the effect of the proposed development upon the character and appearance of the area.

### Reasons

4. The proposal is for stabling and associated development within the countryside as defined in the Shropshire Local Development Framework: Adopted Core Strategy (CS). Policy CS5 of the CS seeks to support leisure and recreation proposals which require a countryside location, where proposals are in accordance with other policies that seek to protect character and appearance. The policy is consistent with the Framework where it supports leisure development that respects the character of the countryside.
5. The appeal site comprises an undeveloped field located in the open countryside. Next to the site is a dwelling which is set back a considerable distance from the road and this is accessed via a long driveway with a gate set back from the road. The road itself is relatively narrow and bound by tall hedgerows. Within the wider area there are buildings of various design

sporadically located and in a variety of uses. Given the undulating landscape these existing buildings can be seen from public roads and footpaths. The hedges and narrow rural lane leading to the appeal site, together with open, undeveloped fields and sporadically placed buildings provide an attractive landscape with a traditional open, rural character and appearance.

6. The appeal site is a large open field with the frontage to the road defined by a well-established boundary hedge. Notwithstanding the substantial hedge to the front boundary, the open field affords long distance views over it of the wider countryside.
7. Buildings associated with equestrian uses are typically required to be located in countryside locations which normally provide appropriate space, facilities, grassland and environment for horses. As such, equestrian buildings generally do not appear out of character in the countryside. The proposed timber stable block would be a U-shaped single storey building with a shallow pitched roof. The building would be modestly sized and located close to the road. It would be visible from the road above the hedge line and from the vehicular access but given its modest size and siting towards the edge of the field it would not be prominent or inconsistent with the surrounding rural character. In addition, the hardstanding would be modest in size and visually insignificant in the context of the wider open field with little visibility from the road or adjacent land.
8. Nevertheless, conditions requiring visibility splays and an increased radii have been suggested by the council. The effect of such conditions would be the reduction in the height of the hedge for a significant distance in both directions. If these were imposed, the hedge would no longer replicate the relatively high hedge rows that run along the site frontage and attention would be drawn to the appeal site and the proposed development. In this respect, I note the Parish Council's concerns about the effect of reducing the height of the hedge.
9. The proposed access arrangements would set the gate back from the roadside. This would allow a vehicle with a trailer to be parked within the site without overhanging the road. Having exited the site in a vehicle via the existing access, when looking in the same direction as the access to Tyn-y-Wern I note that I was able to see for a significant distance because of the vehicular access to that dwelling. In the opposite direction, there was sufficient visibility to see oncoming road users for a moderate distance. The larger proposed access would also provide more space for manoeuvrability when entering and exiting the site.
10. Taking into consideration the proposed use, existing visibility and proposed larger access, there is no substantive evidence that the significant visibility splays and increased radii would be necessary in this instance to serve the modest development with limited traffic generation. As such I see no reason to impose the suggested visibility splay and radii conditions.
11. Consequently, for the reasons I have set out the design, use and siting of the building would not harm the character and appearance of the area. Therefore, the proposal would accord with Policies CS5, CS6 and CS17 of the CS and Policies MD7b and MD12 of the Shropshire Council Site Allocations and Management of Development Plan. These seek, amongst other matters, to ensure development protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character. They also support

Leisure proposals which require a countryside location. Additionally, the proposal would accord with the Framework insofar as it seeks to ensure developments are sympathetic to local character, including the surrounding built environment and landscape setting.

### **Other Matters**

12. I have been directed to applications for similar development that have either been refused or approved in the local authority area. Given that this scheme was refused based on the effect of the proposal upon the character and appearance of this area, the matter is specific to this site, as was the case for those other schemes. As such my conclusions on this matter are not necessarily comparable to other sites.

### **Conditions**

13. I have considered the planning conditions suggested by the council and the appellant, having regard to the tests set out in the Framework. Where appropriate, I have amended the wording to ensure they are reasonable given the scale of the development and site context and to ensure that they meet all other Framework tests for conditions.
14. Further to the statutory commencement condition, it is necessary in the interest of certainty that the development is carried out in accordance with the approved plans.
15. Whilst not suggested by the council a materials condition is necessary in the interest of the character and appearance of this countryside location.
16. A condition requiring a scheme of surface and foul water drainage is necessary to ensure the satisfactory drainage of the site in an area identified as at risk of surface water flooding. The appellant has agreed to the condition being pre-commencement which is necessary to ensure a satisfactory drainage system can be achieved.
17. A condition securing the provision of the bird and bat boxes is necessary to secure ecological enhancements to the site.
18. A condition requiring the access is laid out prior to the use of the stables is necessary in the interest of highway safety. For the reasons I have set out earlier specific visibility splay, and radii requirements are not necessary or reasonable conditions.
19. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. A condition was suggested to restrict permitted development rights to install floodlighting. The site is in the open countryside and includes the installation of a bat box and artificial lighting could affect the habitability of it which could affect a protected species. The site is also located close to a dwelling where external lighting could affect the occupiers' living conditions. Accordingly, it is necessary to control the installation of external lighting which would include floodlighting. However, a condition controlling external lighting would serve the same purpose as restricting permitted development rights.
20. Given the location of the site in the open countryside, if it was used for commercial purposes the use of the site would be substantively intensified.

Accordingly, in the interest of highway safety, as well as the living conditions of the neighbouring occupiers a condition requiring that the stables shall only be for private use is necessary and reasonable.

**Conclusion**

21. For the reasons given above I conclude that the proposed development would accord with the development plan as a whole. Therefore, the appeal is allowed.

*G Sibley*

INSPECTOR

### Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: DWG No. TYW/PP/01; DWG No. TYW/PP/02; DWG No. TYW/PP/03; and DWG No. TYW/PP/04.
- 3) No development shall be carried out until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development hereby approved is brought into use and retained thereafter.
- 4) No development shall be carried out above slab level until full details of all materials and finishes to be employed in the implementation of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
- 5) The access shown on DWG No. TYW/PP/03 shall be satisfactorily completed and laid out prior to the use of the stables hereby permitted commencing and shall thereafter be maintained at all times for that purpose.
- 6) Prior to the development hereby approved being brought into use the makes, models and locations of the bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:
  - A minimum of 1 external woodcrete bat box, integrated bat brick or other roosting opportunity (such as raised timber cladding), suitable for nursery or summer roosting for small crevice dwelling bat species.
  - A minimum of 2 swallow nesting cups.
  - A minimum of 1 open-fronted nest box suitable for robins.
  - A minimum of 1 wren nest (wren specific).

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall be installed prior to the building being brought into use and thereafter be maintained for the lifetime of the development.
- 7) Details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority before the development hereby permitted is brought into use. The development shall be carried out in accordance with the approved details and retained thereafter and no other external lighting shall be installed.
- 8) The development hereby permitted shall be used solely in connection with the private keeping of horses for the personal enjoyment of the owners of the site and no commercial use, including livery, riding lessons or schooling purposes shall take place at the site.