



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 21 Medi 2021

gan N Jones, BA(Hons) MSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 16/12/2021

Appeal Decision

Site visit made on 21 September 2021

by N Jones, BA(Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 16/12/2021

Appeal Ref: APP/H6955/A/21/3277435

Site address: 31 Holyrood Crescent, Rhosddu, Wrexham, LL11 2EN

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 Ian Bolshaw against the decision of Wrexham County Borough Council.
- The development proposed is change of use from A1 (Shop) to A3 (Food and Drink) with associated parking provision.

Decision

1. The appeal is allowed and planning permission is granted for the change of use from A1 (Shop) to A3 (Food and Drink) with associated parking provision at 31 Holyrood Crescent, Rhosddu, Wrexham, LL11 2EN in accordance with the terms of the application, ref:WRR P/2020/0898, dated 23 December 2020, subject to the conditions set out in the attached Annex.

Application for Costs

2. An application for costs was made by Mr Ian Bolshaw against Wrexham County Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appeal form identifies the appeal site as 31-33 Holyrood Crescent. The application form and appeal proposal clearly relate to 31 Holyrood Crescent as does the Council's decision notice. I have referred to the site as such in the banner heading above and have determined the appeal on that basis.
4. The Wrexham Unitary Development Plan 1996 – 2011 (UDP) remains the adopted development plan for the area despite being beyond its time. The Council's approved Planning Guidance Notes 9 'Hot Food Take-Aways' (LPGN 9) and 16 'Parking Standards' (LPGN 16) predate Planning Policy Wales 11 (PPW), with LPGN 9 also predating Welsh Government's Technical Advice Note 4 'Retail and Commercial Development'. However, insofar as the main issue is concerned, the relevant local policies are consistent with national planning guidance.
5. The development is identified as potentially capable of increasing the levels of phosphates discharged into the catchment of the River Dee and Bala Lake Riverine Special Area of Conservation (SAC). Both parties to this appeal agree that sufficient capacity exists in the Five Fords Waste Water Treatment Works to accommodate the development. Given that the proposal

involves a change from A1 to A3 use with no access by customers to any facilities, it is unlikely to increase discharge rates. The proposal is therefore screened out of Appropriate Assessment under The Conservation of Habitats and Species Regulations 2017.

Main Issue

6. The main issue is the effect on highway safety.

Reasons

7. The site is the end property in a parade of 4 single-storey retail units opening onto a pavement and set within a predominantly residential area. There is a short access road to the front of the units together with a hardstanding area opposite, encircled by a pavement and accommodating a bus stop on East Avenue. The units have a service area to their rear, with access to both sides of the units. No 31 was being used as a barber's shop at the time of my visit. The surrounding roads are not subject to any parking restrictions and cars were parked on some of the surrounding streets.
8. UDP Policy GDP 1 requires safe and convenient pedestrian and vehicular access to and from development sites. LPGN 9 lists aspects to be considered when assessing the impact of hot food take-away proposals on the safety of pedestrians and road users. These include the existing use of the site, existing traffic conditions, the accessibility of the site, and the availability of easily accessible parking. UDP Policy T8 states that development granted planning permission will be required to provide parking spaces either on site or nearby, in accordance with the Council's current parking standards. The current standards are set out in LPGN 16.
9. An earlier application for a similar proposal was dismissed on appeal in 2020 (APP/H6955/A/19/3241117) as it would have represented an increase in parking demand when compared to the existing use of the unit. The appeal before me differs to the earlier application as a detailed layout is provided indicating that only 12m² of customer space would be made available in the unit.
10. For an A3 use, LPGN 16 specifies 1 car parking space per 4m² public floor space, giving a total of 3 parking spaces required for the proposal. This is a lesser requirement than the 4 spaces specified for the existing A1 use, applying the same standards. I acknowledge the physical constraints of the parking area in the rear service yard, however having regard to the lawful use of the site and by reference to the Council's own parking standards, the proposal would not intensify existing parking demand. In particular, I did not observe any significant congestion at my site visit and whilst I appreciate that highway conditions can vary throughout the day, there is no evidence such as parking surveys or photographs that identify any significant highway safety issues. The appeal site is also a convenient walking distance from the adjoining residential area and there are public transport facilities nearby. It is therefore accessible by means other than the private car.
11. The Council refers to a significant increase in traffic generation, but any use of the site would result in traffic and parking demand. In this case, there is little information that demonstrates that the traffic generated by the development would be significantly in excess of an A1 use. I accept that hot food takeaways can generate short stay parking with associated indiscriminate parking behaviour but this can also be the case for an A1 use, such as a convenience store. Moreover, the highway authority has no objection to the proposal on parking, access or highway safety grounds and I have been given no substantive evidence to disagree with this assessment.
12. Taking all of the above into consideration, I conclude that the proposal would not cause harm to highway safety interests and it would accord with Policies GDP 1 and T8 of the UDP and the advice in LPGN 9.

Other Matters

13. I note the proximity of the appeal site to Rhosddu Primary School, and the advice in LPGN 9 that new hot food take-aways should not be located within 400m of the boundary of a school. Given the opening hours proposed, pupils would be unable to purchase meals when travelling to and

from school. I consider the risk unlikely of pupils of primary school age having the means and opportunity of being able to place telephone orders during lunchtime, given their age and normal supervision expected at a school. In any case, deliveries being made through the adjoining fence would be impracticable due to the dense planting on the school side of the palisade fence. I do not therefore consider that the circumstances of this case pose a risk of harm as identified in LPGN 9 that would lead me to dismiss the appeal.

14. Residents have referred to the potential for traffic impacts, litter, noise and disturbance, odour and anti-social behaviour as a result of the proposal. For the reasons given above, I do not consider that unacceptable traffic impacts would occur. The Inspector, in determining the earlier appeal, concluded that other matters raised could be dealt with by conditions and, from my own observations and the evidence before me, I reach the same conclusion.

Conditions

15. The Council has suggested conditions which I have considered in the light of Circular 016/2014 The Use of Planning Conditions for Development Management ('the Circular'). I have included a condition limiting customer floorspace for clarity as my conclusions on the highway safety impacts of the development are based on the 12m² floorspace given in the application. I have included a condition on the hours of operation but have amended the wording in line with the model condition set out in the Circular, to allow for opening up and closing of the premises. I have also imposed a condition requiring approval of the details of an extraction system and a condition requiring details of refuse storage in the interests of residential and general amenity. A condition limiting the noise from extraction equipment is unnecessary. It would duplicate other controls, as would a condition requiring the installation of a grease trap. Having regard to my findings on highway safety and parking, a condition to require the site to be laid out in accordance with the approved site layout prior to first use is not necessary.

Conclusions

16. In reaching my decision I have taken into account the requirements of sections 3 and 5 of the Well-being of Future Generations (Wales) Act 2015. I consider this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Minister's wellbeing objectives as required by section 8 of the Act.
17. For the above reasons and having regard to all other matters raised, the appeal is allowed.

Nia Jones

INSPECTOR

Annexe attached to Appeal Decision APP/H6955/A/21/3277435

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than five years from the date of this decision.
Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Layout Plan drawing number R&B-HC-03; Proposed Site Plan & Elevations drawing number R&B-HC-02.
Reason: To ensure the development is carried out in accordance with the approved plans attached to this permission.
- 3) The space available for customer use within the building shall not exceed 12m² as shown on drawing R&B-HC-02 (UDP Policy GDP1).
Reason: To define the scope of the permission in the interests of highway safety (UDP Policy T8).
- 4) Customers are not permitted on the premises outside the hours of 11.30 to 14.00 and 16.30 to 22.30 Monday to Saturday, and at no time on Sunday.
Reason: To define the scope of the permission to safeguard local amenity (UDP Policy GDP1).
- 5) Details of the equipment to control the emission of fumes and odour from the premises shall be submitted to and approved in writing by the local planning authority. The equipment shall be installed in accordance with the approved details prior to the first use of the development hereby permitted. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the approved details for as long as the use continues.
Reason: To ensure that appropriate plant is installed and maintained to satisfactorily deal with the emissions generated in the interests of residential amenity (UDP Policy GDP1).
- 6) Details of a refuse storage scheme shall be submitted to and approved in writing by the local planning authority. The refuse storage scheme shall be provided in accordance with the approved details before the use hereby permitted begins and shall thereafter be retained in the approved form for as long as the use continues.
Reason: In the interests of the amenities of the area (UDP Policy GDP1).