
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 7/11/18

gan Iwan Lloyd BA BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 17/12/2018

Appeal Decision

Site visit made on 7/11/18

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 17/12/2018

Appeal Ref: APP/H6955/A/18/3210179

Site address: Gwersyllt Newsagents, Hope Street, Gwersyllt, Wrexham LL11 4HT

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 & Mrs Mathews against the decision of Wrexham County Borough Council.
 - The application Ref GWE P/2018/0439, dated 30/05/2018, was refused by notice dated 30/07/2018.
 - The development proposed is change of use from existing retail unit to hot food outlet.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from existing retail unit to hot food outlet at Gwersyllt Newsagents, Hope Street, Gwersyllt, Wrexham LL11 4HT in accordance with the terms of the application, Ref GWE P/2018/0439, dated 30/05/2018, and the plans submitted with it, subject to the following conditions:
 - 1) The development shall begin not later than five years from the date of this decision.
 - 2) The development shall be carried out in accordance with the following approved plans and documents: [M097/002 Revision A and M097/003 Revision A].
 - 3) No development shall commence until a scheme for an extraction system to control the emission of fumes and odour from the premises and the noise rating generated by the equipment relative to background noise levels at nearby noise sensitive premises have been submitted to, and approved in writing by the local planning authority. The extraction system shall be implemented as approved prior to the first use of the development and 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.
 - 4) The use shall not be carried out outside the hours of 16:00 to 22:00 Tuesday to Saturday and Sunday. The use shall not be open to customers at any time on Mondays.
 - 5) The occupancy of the residential accommodation located on the ground and first floor of the building shall be limited to a person solely or mainly employed or last employed in the business occupying the premises edged red on drawing no.
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M097/003 Revision A, or a widow, widower or civil partner of such a person, or any resident dependents.

Main Issues

2. These are; the effect of the proposal on the living conditions of nearby residents in relation to noise and disturbance and, the effect of the proposal on highway safety.

Reasons

Living conditions

3. The appeal site is an existing newsagents located on the south side of Hope Street and opposite Gwersyllt Railway Station and a food supermarket. The site is within the settlement boundary and Gwersyllt District Shopping Centre as defined by the Wrexham Unitary Development Plan (UDP). The proposal would be to change the use of the existing ground floor retail shop to a hot food take-away. The proposed opening times would be 16:00 to 22:00hrs Tuesday to Sunday and closed on Mondays.
4. The appeal property adjoins residential properties to the south and west. A vehicular access passes alongside the appeal building serving houses to the rear and to the east of the site situated next to the railway line. Beehive House faces the front of the appeal building and forecourt with a gable fronting a cul-de-sac road and turning area. Residential properties behind Beehive House are laid out in a parallel line and extend in depth to the south backing onto Emerson House and Beecroft. A narrow lane from the cul-de-sac road serves Beehive Villas between Beehive House and Horseshoe Cottage. Hope Street has been re-aligned resulting in a dead-end section of road, junction and turning area. The houses in the area adjacent to the appeal building are clustered in a tight knit configuration served by narrow single width driveways and accesses.
5. The proposed use would utilise the shop floor, office and store rooms retaining a link at ground floor to the remainder of the residential property. The dwelling associated with the shop would remain as part of the proposed use. The customer serving area would utilise the shop floor and food would be prepared in the side annex now the store. An extractor unit would be situated to the rear of the annex with a flue pipe extending above the eaves of the main building.
6. The rear ground floor rooms of the property including the outbuildings and first floor accommodation would remain in residential use. This part of the property would be unaltered next to the access lane and properties situated to the rear of the appeal premises. The existing shop opens in the early hours and closes around 17:30hrs on weekdays. Similar opening hours takes place on weekends closing around midday. The existing shop has no limit restriction on its opening and closing times. The proposal would change the existing opening and closing times to late afternoon to evening, closing at 22:00hrs.
7. At this time of evening the supermarket opposite would close. The appeal site is situated near a busy road junction, a railway line, station and car park and a supermarket and its car park. A public house is situated on the other side of the A541. Background noise levels in the evening are unlikely to be low in the context of the area. The proposed shopfront of the premises faces out onto Hope Street a busy road which provides an alternative route to north Wrexham and Llay. Given the proposed early closing hours of 22:00hrs the proposed development is unlikely to cause additional noise or disturbance over and above the background activity I have

described above. The closing time of the premises would coincide with the supermarket. Furthermore, the existing shop has no restriction on opening and closing and a different operator may choose to open much later than the existing shop owner.

8. The residential component of the building would be retained and this acts as a buffer between the properties to the rear and the proposal site. No objection has been raised from Public Protection to the development subject to the imposition of planning conditions controlling the extractor plant equipment in terms of odour and noise.
9. The proposed early closing time would not in my opinion result in greater levels of disturbance. Activity and traffic movements are likely to reduce after 22:00hrs when the supermarket and the proposed development would close. Before this time, cars that are parked in the turning area dead-end road which are associated with the proposed use are unlikely to have a significant impact given the background noise/disturbance activity in the general area. I consider that the residual impact of the proposal has not been shown to be distinguishable or harmful to living conditions over and above the background activity that takes place in the area up to 22:00hrs in the evening. All other elements of the development including concerns about litter/vermin and anti-social behaviour are matters controlled by other legislation.
10. In all, I consider that the proposal would not harm the living conditions of nearby residents in relation to noise and disturbance. The proposal would not conflict with UDP Policy GDP1 (f).

Highway safety

11. Local Planning Guidance Note 16: Parking Standards seeks a maximum requirement of 5 spaces for the proposal. The existing shop requires 4 spaces and one space is provided. Whilst the existing shop operates at different times to the proposed development the demand for parking would be similar. There would be no significant difference in between the existing and proposed uses when comparing the impact of cars parking on the turning area on the dead-end section of Hope Street. If there are problems then the Council would have taken action on this short stretch of road and imposed parking restrictions. The highway safety consequences when comparing the shop and the take-away uses would be similar, and there is no compelling evidence from traffic incident reports to show that the junction and the parking demand is causing a problem.
12. The parking demand from the proposed use would not markedly increase over the existing use otherwise there would have been a significantly different parking requirement brought about through the parking guidance note. The car parks opposite the site are operated by a commercial retailer and the rail transport network. Currently there are no obvious restrictions for people to park for a very short duration in these car parks whilst collecting food from the premises. Likewise, this situation would be similar in relation to the existing shop use. These car parks are conveniently placed for the appeal premises. Although there is no control over the future use of these car parks they are nonetheless currently available.
13. I note the suggestion that the operators of the car parks could introduce parking enforcement measures. However, I have no information on whether there is a realistic prospect of this occurring and the situation can only be assessed at the time of this appeal. In any event, the parking demand arising from the proposed use would be short in duration and any car parking restrictions imposed is unlikely to limit shoppers or rail passenger users and those visiting the appeal premises for this limited

period of stay. I therefore consider that the location of the adjacent car parks would provide an alternative for customers to park their vehicles whilst collecting their meals from the proposed take-away use. In my view, the use of these adjacent car parks by customers of the appeal premises would not endanger highway safety.

14. I acknowledge that the driveway alongside the shop has on occasions been blocked by the parking of vehicles whilst customers visit the shop. There is a possibility that this would occur with the proposed use. However, no parking restrictions have been imposed to restrict this from occurring. This situation of blocking the access driveway could occur in any event whether the proposal were to be implemented or not, and I do not consider that the situation would be made worse by the appeal development in relation to the issue of highway safety.
15. I therefore conclude that the proposal would not harm highway safety, and would not conflict with UDP Policies GDP1 (d) and T8.
16. I have considered the suggested conditions in the light of Circular WGC 016/2014 'The Use of Planning Conditions for Development Management'. No comment has been made by the appellants in relation these suggested conditions. The first two conditions define the scope of the permission. The third condition has been revised slightly by ensuring that noise information is provided against background noise in accordance with a scheme to be agreed by the local planning authority. Conditions 3 to 5 are imposed in the interests of the living conditions of nearby residents in relation to noise and disturbance.
17. I have 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 my decision, I have taken into account the ways of working set out at section 5 of the WBFG Act and I consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.
18. I conclude that the appeal should succeed.

Iwan Lloyd

INSPECTOR