

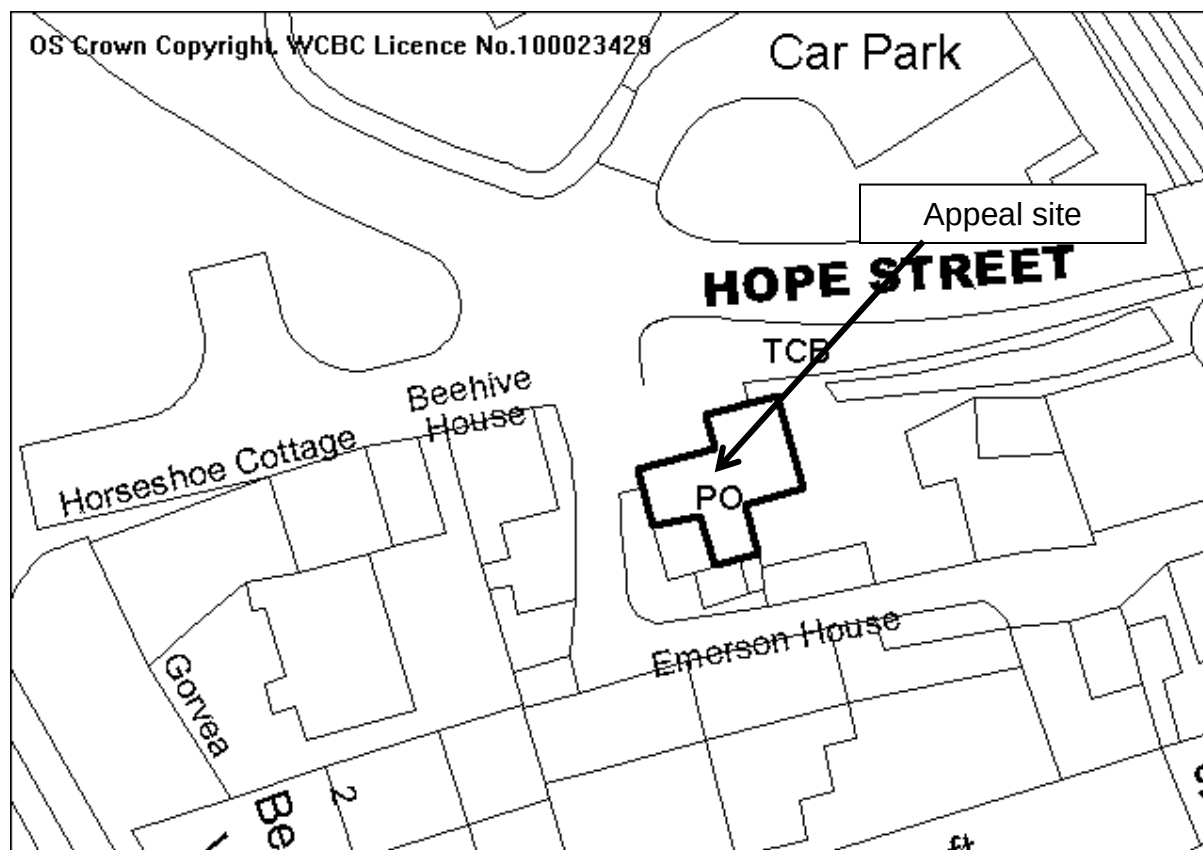
**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 APPEAL AT
GWERSYLLT NEWSAGENTS HOPE STREET GWERSYLLT**

COUNCIL'S STATEMENT OF CASE

**PLANNING REF: P/2018/0439
PINS REF: 3210179**

1.0 THE SITE

- 1.1 The appeal site is located on the south side of Hope Street in Gwersyllt opposite the entrance to the car park to Gwersyllt railway station.



2.0 PROPOSAL

- 2.1 The appellant is proposing to change the use of the existing ground floor retail floor space to a hot food takeaway.

3.0 DEVELOPMENT PLAN

- 3.1 The appeal site lies within settlement limit and Gwersyllt District Shopping Centre. Unitary Development Plan policies GDP1, S5 and T8 are applicable.
- 3.2 The following supplementary planning guidance notes are also applicable:
- Local Planning Guidance Note 9: Hot Food Takeaways
 - Local Planning Guidance Note 16: Parking.

4.0 COUNCIL'S CASE

Amenity

- 4.1 The planning application form submitted to the Council on behalf of the appellants suggested that the opening times are 8:30-17:30 Monday-Saturday and 10:00 to 16:00 Sundays and Bank holidays. However the appellants

advised the case officer during a site visit that the opening times are in fact 5:00-17:30 Monday-Friday, 5:00-12:30 Saturdays, 5:00 to 11:30 Sundays and 5:00 to 10:00 on Bank Holidays. It is on the basis of the latter that the Council determined the application. The proposed opening times are 16:00 to 22:00 Tuesday to Sunday. It is not proposed to open the takeaway on Mondays.

- 4.2 It is accepted that the existing shop use has the potential to give rise to disturbance to neighbouring properties early in the morning; however the Council does not accept this as a valid reason to support the proposed change of use. The development will bring about a material change in the nature and timing of activity in the vicinity of the site and neighbouring properties, giving rise to far greater levels of activity in the evenings, principally as a result of people arriving by car to pick up food orders.
- 4.3 The opening hours of the existing shop are not restricted by planning condition so the premises could open later should the existing or a future occupier decide to do so. However the prospects of this occurring seem to be fairly low. The Design and Access Statement submitted with the application states that whilst it is currently on the market *"there has been no interest to purchase the property and keep the use of the building as retail"*. In any case, the proposed use has the potential to be a more intensive one than a retail unit.
- 4.4 Given the minimal provision of off-street parking at the premises (covered in more detail below) it is likely that many of the visitors to the proposed takeaway will park in the dead end section of Hope Street immediately to the west of the site. This is likely to result in unacceptable levels of disturbance to neighbouring properties, in particular the occupiers of Beehive House and Horseshoe Cottage as a result of the noise of vehicles arriving, departing and doors being opened and closed.
- 4.5 It is not inconceivable that some visitors to the takeaway may attempt to park across or in the private driveway that passes between the application site and Beehive Cottages and serves as means of access to a number of other neighbouring properties. This would prove disruptive, not only for the reasons outlined above but also inconvenient as a result of vehicular access to neighbouring properties being impeded.
- 4.6 It is appreciated that the Lidl supermarket on the opposite side of Hope Street also opens until 10pm, however the site benefits from its own car park and there is a far greater degree of separation between it and neighbouring residential properties. The operation of the supermarket is therefore far less likely to impact upon the residential amenity.
- 4.7 In addition to Lidl the site is also located close to Gwersyllt railway station and a relatively short distance from a public house. Whilst these will result in there being a degree of activity in the general vicinity during the evenings, as with Lidl there is a far greater degree of separation between them and the residential properties adjacent to the appeal site. Vehicular movements to/from those sites will not travel directly past the residential properties

adjacent to the appeal site and it is also unlikely that all pedestrians travelling from them will pass directly adjacent to those properties.

- 4.8 The appellant's property includes residential accommodation adjoining and above the commercial floor space. Were this occupied separately to the proposed takeaway then future residents would also be adversely affected by the matters discussed above. However the submitted plans confirm that an internal access is to remain, suggesting that residential accommodation could be occupied by an employee of the business and therefore someone less likely to be adversely affected by the operation of the takeaway. It would be possible to impose an occupancy restriction on the residential accommodation to ensure that was the case by way of a condition.
- 4.9 Whilst this type of use has the potential to cause disruption by way of cooking odours, plans have been submitted showing the provision of an extraction flue. Subject to the installation of extraction and odour control measures being secured by condition, the Council is of the view that odour could be effectively controlled

Parking

- 4.10 The LPG16 maximum parking provision for the extant use is 4 spaces compared to 5 for the proposed use. There is only 1 off-street parking space immediately in front of the premises.
- 4.11 Whilst it is possible some customers may choose to walk to the site or use home delivery services if available takeaways are generally heavily reliant on car borne trade and there is no reason to believe that the appeal proposals will be any different.
- 4.12 The Council contends that it highly likely that many visitors to the site will park in the dead end section of Hope Street to the west of the site, as customers to the shop appear to do at present. The increased demand for parking arising from the development has the potential to increase incidences of two vehicles parking in the turning head provided in the dead end section of Hope Street. This would prevent other vehicles from being able to turn and increase the risk of vehicles attempting to reverse out onto traffic travelling along the through section of Hope Street. In addition there is also the potential for some customers to try to park along the through section of Hope Street, impeding the free flow of traffic. Were either to occur it would have a detrimental impact upon highway safety.
- 4.13 It is recognised that the Lidl supermarket car park and the Gwersyllt Railway station car park are close to the site. The appellants agent has also drew the Council's attention to fact that the car park serving the Dodds Lane shopping centre lies in the vicinity of the site. However it is the Council's view that customers of takeaways will generally try to park as close to a takeaway premises as possible. The Dodds Lane shopping centre is a 200m walk from the site, therefore it is unlikely that customers of the proposed takeaway would choose to park there.

- 4.14 The Lidl and railway station car parks lie outside of the appellant's control and are provided specifically for customers to the supermarket and for rail users respectively. They are not public car parks and their owners/occupiers are able to implement enforcement measures to prevent their use by the visitors to other premises should they choose to. There is also no way of ensuring that visitors to the takeaway use one of the two car parks. They can therefore not be relied upon as alternative locations for customers of the proposed business to park at.

5.0 CONCLUSION

- 5.1 The development is likely to prove prejudicial to the standard of amenity afforded to the occupiers of neighbouring properties as well as to highway safety. The proposals therefore conflict with policies GPD1 and T8 of the Wrexham Unitary Development Plan. The Council respectfully requests the appeal be dismissed.

Suggested Conditions

Condition 01

The development hereby permitted shall be commenced before the expiry of five years from the date of this permission.

Reason

To comply with Section 91(3) of the Town and Country Planning Act, 1990.

Condition 02

The development shall be carried out in strict accordance with drawings nos. M097/002 Revision A and M097/003 Revision A.

Reason

To define the scope of the planning permission

Condition 03

Development shall not commence until full details of an extraction system, which shall contain a functioning fumes / odour filtration mechanism, shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as approved prior to the first use of the premises, and the equipment installed shall thereafter be operated and maintained in accordance with the manufacturer's instructions.

Reason

To protect the standard of amenity afforded to the occupiers of neighbouring properties.

Condition 04

The premises shall not be open to customers outside the hours of 16.00 to 22.00 Tuesday – Sunday. The use shall not be open to customers at any time on Mondays.

Reason

To protect the standard of amenity afforded to the occupiers of neighbouring properties.

Condition 05

The occupancy of the residential accommodation located in 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. M097/003 Revision A, or a widow, widower or civil partner of such a person, or any resident dependents.

Reason

To protect the standard of amenity afforded occupiers of the residential accommodation in the building.