

**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 APPEAL AT 6
BROOK STREET, WREXHAM.**

COUNCILS STATEMENT OF CASE

PLANNING REF: P/2015/0524

PINS REF: 3141501

1.0 Proposal

- 1.1 Variation of condition 02 of planning permission P/2003/0608 to allow hot food to be sold for consumption off the premises. P/2003/0608 allowed a restaurant but prevented hot food and drinks being sold for consumption off the premises

2.0 Development Plan

- 2.1 Within Wrexham Town Centre shopping area. Policy GDP 1 (d) of the Wrexham Unitary Development plan refers. Local Planning Guidance Note no 9 Restaurants, Public Houses and Hot Food Takeaways is also applicable

3.0 Relevant Planning History

- 3.1 P/2004/1296 - Relaxation of condition 02 of planning permission to allow for home delivery and takeout of food. Refused 26/11/2004.
- 3.2 P/2003/0608 – Change of use to restaurant (retaining some newsagent services). Granted 21/07/03

4.0 Councils Reasons for refusal

- 4.1 01 The proposed development does not make adequate provision for the parking of vehicles clear off the highway
- 4.2 02 The establishment of such a development in this location would be incompatible with through traffic interests and a potential source of danger to road users and pedestrians. The proposals as such would be contrary to Policy GDP1 (d) of the Wrexham Unitary Development Plan and Local Guidance Note No.9 Restaurants, Public Houses and Hot Food Takeaways.

5.0 Councils Case/appellants comments

- 5.1 Key to the Councils concerns is the location of the premises which was also reflected in a previous refusal (P/2004/1296). The proposed development is located on Brook Street which is a busy classified road with high levels of traffic during the day and into the evening. The site is located in close proximity to the busy four arm signalised junction of Brook Street/Town Hill/ St.Giles Way and Bridge Street.
- 5.2 Brook Street is subject to a traffic regulation order imposing no waiting/no loading at any time. The site has no off street parking provision within the curtilage of the site. Whilst there are a limited number of 30 minute waiting bays further along Brook Street and Town

Hill, these spaces are already heavily used by existing shop owners/customers/members of the public.

- 5.3 Takeaways tend to attract a high proportion of car borne and short stay customers without adequate accessible parking. Given its location indiscriminate parking and interruption to the flow of traffic along the adjoining highway would be likely to affect traffic flows and increase highway and pedestrian safety. The Council do not consider that providing a delivery service would prevent car borne customers and passing trade, from calling at the premises.
- 5.4 The appellant considers the Council has failed to take into account the terms of the proposal and is not seeking to offer a takeaway service but providing a home delivery service so that customers need not visit the premises. Deliveries would be made by drivers employed by the appellant and would use nearby car parks. Ordered food would be taken to the delivery vehicles in the car park and delivered to the customers. The appellant has suggested that a condition could be imposed to prevent parking outside of the premises but this would not be enforceable from a planning perspective and whilst I am aware of the double yellow lines to the front of the premises they would not deter indiscriminate parking with inclement weather or falling behind with deliveries. The proposal is clear but the Council do not consider that planning conditions could control parking arrangements. I am conscious the appellant has indicated that customer's awareness of a delivery service would minimise the likelihood of customers visiting the site (planning submission to accompany the application) and as in the Appellants Grounds of Appeal reference is made to not encouraging customers to visit the premises. Whilst a delivery service may reduce numbers picking up food, I consider it would be unlikely that the appellant would prevent customers from using the take away and wishing to buy food from the premises, with the likely indiscriminate parking disrupting traffic flows and increasing highway danger in the vicinity.
- 5.5 Whilst I understand the applicants current opening hours are 11.00pm to 5.00am Thursday to Sunday Morning and the appellant refers to traffic being light during this time, parking demand through part of this period would still be significant with staff requirements in the area, taxis and other vehicles dropping off/picking up. Hours of operation could also change in the future.

6.0 Conclusion

- 6.1 The scheme proposed is not acceptable from a highway perspective with the premises located on a busy classified road close to a 4 arm signalized junction . A previous permission P/2003/0608 in allowing a restaurant recognized the significant level of traffic flows on Brook Street and the likelihood of indiscriminate parking associated with a takeaway and hence the condition preventing the sale of food from the

premises. A subsequent application for home delivery and takeout of food was refused by the Council-P/2004/1296. With regard to this application, the Council do not consider that a condition could address parking issues and delivery vehicles would be likely to park in close proximity and within the vicinity of the premises, which would interrupt the flow of traffic and increase highway and pedestrian danger.

- 6.2 Whilst the appellant has indicated that the delivery of food would minimise the likelihood of customers visiting the premises, The Council do not consider that the applicant would be likely to prevent customers from buying food from his premises. For this reason and those set out above, the Inspector is respectfully requested to dismiss this appeal.

7.0 Recommended Conditions.

- 7.1 Given the nature of the proposal I do not consider that development could be made acceptable by virtue of planning conditions. Apart from the standard 5 year condition for commencement, any other conditions would not overcome the reasons for refusal or meet the relevant requirements in the appropriate Circular.