



Penderfyniad ar yr Apêl

Appeal Decision

Ymweliad â safle a wnaed ar 09/12/11

Site visit made on 09/12/11

gan **David Fitzsimon MRTPI**

by **David Fitzsimon MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

an Inspector appointed by the Welsh Ministers

Dyddiad: 29/12/11

Date: 29/12/11

Appeal Ref: APP/H6955/A/11/2160262

Site address: Tyn y Capel, Church Road, Minera, Wrexham LL11 3DA

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 Keith Roberts against the decision of Wrexham County Borough Council.
- The application Ref MIN P/2011/0363, dated 12 May 2011, was refused by notice dated 25 July 2011.
- The development proposed is the change of use of commercial floorspace to residential accommodation for the building adjacent to the Tyn y Capel. Change of use of the ground floor at the Tyn y Capel to Use Class D2 – Day Centre. Change of use of first floor accommodation to Use Class B1 – Offices. Use Class A3 – catering business to be a consequential use to the building. Proposed extension to the existing entrance.

Procedural Matter

1. The public house has closed and whilst the building has subsequently been used as a day centre, it was not being used for this purpose at the time of my visit. None of the physical alterations proposed had been undertaken.
2. Notwithstanding the description above which is taken from the application form, the development proposed also includes several other physical alterations. These include the removal of an existing glazed structure which links Tyn y Capel to the adjoining building (which has an extant planning permission to be converted to residential accommodation), a single storey extension, and the conversion of an existing dining area to toilets. I have considered the appeal on the basis that the description of the development should include these elements.

Decision

3. The appeal is dismissed in so far as it relates to the change of use of the ground floor of Tyn y Capel to Use Class D2 - day centre with Use Class A3 to be a consequential use.
4. The appeal is allowed in so far as it relates to the change of use of commercial floorspace to residential accommodation for the building adjacent to Tyn y Capel, the removal of an existing structure which links Tyn y Capel to the adjoining building, a single storey extension, the conversion of an existing dining area to toilets and the change of use of first floor accommodation to Use Class B1 –offices at Tyn y Capel, Church Road, Minera, Wrexham LL11 3DA. Planning permission is granted in accordance with the terms of the application Ref MIN P/2011/0363, dated 12 May

2011 and the relevant elements of the plans submitted, subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of five years from the date of this decision.
- 2) The materials to be used in the construction of the external surfaces of the extensions and alterations hereby permitted shall match those of the existing building.

Main Issues

5. The main issues in this case are whether the proposal accords with the Council's policies which seek to retain community facilities and protect the social and economic fabric of the locality, and whether it would preserve or enhance the character or appearance of the Minera Conservation Area.

Reasons

6. The appeal relates to a public house (PH) within the rural village of Minera. Policy S9 of the adopted Wrexham Unitary Development Plan 1996-2011 (UDP) indicates that the loss of commercial facilities outside of the town centre and district shopping centres of the county will only be permitted where the use is no longer viable and all reasonable attempts to sell or let the business over a 12 month period have proved unsuccessful, the building is in a derelict or unsightly condition and the proposal would bring about substantial environmental improvements, or the loss of the facility would not prove detrimental to the social and economic fabric of its locality. The justification to this policy explains that the loss of village facilities such as public houses can detrimentally affect local residents' quality of life and create a need to travel to facilities further away.
7. It is not suggested that the proposal would bring about substantial environmental improvements to a building which is in a derelict or unsightly condition. The appellant does, however, argue that the establishment is a '*destination*' PH and that the poor trading figures over the last few years indicates that it is not commercially viable. Whilst the accounts are not disputed, this factor does not, in itself, demonstrate that the PH is incapable of being commercially viable. Furthermore, whilst I note that the PH has been marketed since July 2011, this is well short of the 12 month period required by policy S9 of the UDP. On this basis, the appellant has failed to demonstrate that the business is not a commercially viable proposition.
8. I am mindful that the proposal to change the use of the existing PH has generated extensive local concern and collective interest has been expressed in running it as a local co-operative. Whilst the appellant has expressed an unwillingness to lease the PH, this is a strong indication to me that a social need for it exists. Whilst the appellant argues that the PH might be profitable if this amount of local concern had translated into footfall, the reasoning behind why this has not happened in recent times is not for me to speculate. I am also mindful of the presence of another PH within the village, but this has a very different setting and it is some distance from the appeal site, as are other similar facilities within neighbouring Coedpoeth.
9. The appellant argues that the use of the appeal property could lawfully change from a PH to a range of other uses within classes A1, A2 or A3 as defined by the Town and Country Planning (Use Classes Order) 1987 (as amended), and that the public house cannot be forced to trade. Nevertheless, these scenarios are beyond my control and

they could be used to justify the loss of any village PH. Moreover, a planning application has been made and these considerations are not of sufficient weight to persuade me that the proposal should be determined other than in accordance with the relevant policies of the development plan.

10. The appellant also argues that the change of use to a day centre would provide a community facility for local elderly people and it would provide job opportunities. The appellant has explained, however, that some of the elderly people who used the day centre when it was operational were brought by mini-bus from as far as Chirk and Gresford. Moreover, the day centre has relocated from the appeal property, along with all associated jobs. The proposed use of the ground floor would therefore not enhance local residents' quality of life or promote sustainable patterns of travel.
11. For these reasons, I conclude that in the absence of compelling evidence to the contrary, the loss of the PH would harm the social and economic fabric of the locality. As such, it conflicts with the requirements of the development plan policy highlighted above.

Character and appearance

12. The Council considers the proposed physical alterations, along with the use of the first floor as office accommodation to be acceptable in design terms and I agree.
13. On this basis, I am satisfied that the physical alterations proposed would at least preserve the character and appearance of the Minera Conservation Area. In this respect, the appeal proposal accords with the statutory requirement imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Other matters

14. The physical alterations described above and the office use at first floor level would in no way prevent the use of the ground floor of the main building as a PH from being retained. On this basis, it is possible to issue a split decision.
15. The Council has not suggested any conditions in the event that the appeal is successful. In addition to the standard condition which limits the lifespan of the planning permission, I consider it necessary, however, to impose a condition to ensure that the external materials of the proposed extension appropriately match those of the host building. I have considered the need for a condition to limit the use of the first floor office space, but this is not required given that the property is served by a good sized car park, and the Council's Highway Officer has raised no safety concerns.
16. In partly allowing the appeal, I shall impose conditions accordingly.

David Fitzsimon

INSPECTOR