



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 19/10/11
Ymweliad â safle a wnaed ar 19/10/11

gan Gareth A. Rennie BSc (Hons) DipTP
Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 19/12/11

Appeal Decision

Hearing held on 19/10/11
Site visit made on 19/10/11

by Gareth A. Rennie BSc (Hons) DipTP
an Inspector appointed by the Welsh Ministers
Date: 19/12/11

Appeal Ref: APP/H6955/A/11/2156164

Site address: Jelly Totz, Mazda House, Market Street, Wrexham, LL13 8BY

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 grant of planning permission subject to conditions.
- The appeal is made by Mr Stephen Williams against the decision of Wrexham County Borough Council.
- The application Ref WRC P/2010/1077, dated 22 December 2010, was approved on 7 February 2011 and planning permission was granted subject to conditions.
- The development permitted is the use of part of first floor as a taxi administration office.
- The condition in dispute is No 2. which states that: 'Prior to first use of the development, the highway fronting the existing vehicular access to be closed as part of this application shall be re-instated to full height footway in accordance with construction details which have been submitted to and approved in writing by the Local Planning Authority'.
- The reason given for the condition is: 'In the interests of highway safety'.

Appeal Ref: APP/H6955/A/11/2156167

Site address: Jelly Totz, Mazda House, Market Street, Wrexham, LL13 8BY

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 grant of planning permission subject to conditions.
- The appeal is made by Mr Stephen Williams against the decision of Wrexham County Borough Council.
- The application Ref WRC P/2010/0931, dated 20 October 2010, was approved on 7 February 2011 and planning permission was granted subject to conditions.
- The development permitted is the change of use of part of building to café/takeaway and increased hours of opening.
- The condition in dispute is No 2. which states that: 'Prior to first use of the development, the highway fronting the existing vehicular access to be closed as part of this application shall be reinstated to full height footway in accordance with construction details which have been submitted to and approved in writing by the Local Planning Authority'.
- The reason given for the condition is: 'In the interests of highway safety'.

Decision

Appeal A

1. The appeal is allowed and the planning permission Ref WRC P/2010/1077 for use of part of first floor as a taxi administration office at Jelly Totz, Mazda House, Market

Street Wrexham, LL13 8BY granted on 7 February 2011 by Wrexham County Borough Council, is varied by deleting condition 2.

Appeal B

2. The appeal is allowed and the planning permission Ref WRC P/2010/0931 for the change of use of part of building to café/takeaway and increased hours of opening at Jelly Totz, Mazda House, Market Street Wrexham, LL13 8BY granted on 7 February 2011 by Wrexham County Borough Council, is varied by deleting condition 2.

Main Issue

3. The main issue in these cases is the effect of deleting the disputed conditions on road safety.

Reasons

4. The appellant objects to the conditions to the above permissions that require the reinstatement of a full height kerb at two locations outside the appeal premises. The appellant has therefore requested that the conditions be deleted.
5. In both cases the Local Planning Authority (LPA) maintains that the uses permitted would encourage parking outside the appeal premises and that the existing dropped kerbs would permit vehicles to mount the pavement and park in that area.
6. Market Street benefits from parking restrictions preventing parking, loading or unloading for most of its length, and there is a speed limit of 30mph that applies. I consider that the restrictions would be sufficient to prevent parking within the carriageway without harm to road safety. In addition there is a large public car park within easy walking distance of the appeal premises. I recognise that the LPA have stated that there is a finite provision for parking but I would conclude that the current facility off Market Street could provide sufficient provision for the parking needs of these developments.
7. I also note that whilst some of the premises and properties along Market Street have dedicated parking spaces, some do not, and road safety along the street does not seem to suffer as a result. The appeal site is well connected to the public transport network with bus stops directly outside and it is likely that many users of the café would use public transport as a result. There are also a good deal of parking opportunities close to the appeal premises which would allow customers and taxi's to park away from the site but within close proximity. In particular the current parking restrictions are significantly limiting, and a sufficient safeguard.
8. In addition in the case of Appeal A the Taxi Office is intended as an administrative office only and is not one where customers would normally wait for a taxi to become available. Customers using the wider facilities of the appeal premises would be expected to book a taxi by phone and this would be the situation whether or not a taxi office were located at the premises. Its location on the first floor also means that the office is physically removed from the area of dropped kerbs and has no direct connection with them or their use. There is also a degree of contradiction in this case with the Council's position and an inconsistency with condition 3 which appears to allow parking outside the premises for the dropping off or picking up of customers.
9. I acknowledge that the presence of tables and chairs on the pavement area and the attractiveness of the site for families and those with small children might increase potential conflict. Nonetheless, I consider overall that the tables and chairs would

discourage any parking and that there are sufficient safeguards from the parking restrictions in force over the area. I consider that in Appeal B there is little that would increase the risk to road safety from the operation of the development, or encourage parking on the pavement via the dropped kerbs.

10. I therefore conclude that condition 2 in both cases is unnecessary and unnecessarily restrictive in its present form, having regard to highway safety. Allowing the dropped kerbs to be retained would not lead to conflict with policy GDP1 and T8 of the Wrexham Unitary Development Plan, the Council's Local Planning Guidance Note 8 – *Private Hire Vehicles* or national planning guidance contained within Technical Advice Note 18 - *Transport*. Therefore, for the reasons given above and having regard to all other matters raised, the appeals should succeed. I will vary the permissions by deleting the disputed conditions, taking account of Circular 35/95 *The Use of Conditions in Planning Permissions*. I am retaining the other conditions on the original permissions.

Gareth A. Rennie

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Glyn Roberts Appellant's Agent

FOR THE LOCAL PLANNING AUTHORITY:

Simon Greenland Planning Officer

Phil Palmer Development Control Engineer

DOCUMENTS

1 Letter of Notification

PLANS

A Application Plans