



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 28/02/11

gan Iwan Lloyd BA BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 07/03/11

Appeal Decision

Site visit made on 28/02/11

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 07/03/11

Appeal Ref: APP/H6955/A/10/2139456

Site address: The Old Gospel Hall, Church St, Rhos, Wrexham LL14 2BN

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 Mike Jones against the decision of Wrexham County Borough Council.
- The application Ref RHO P/2010/0715, dated 19 August 2010, was approved on 4 October 2010 and planning permission was granted subject to conditions.
- The development permitted is alterations to part of building to form garage/store (in retrospect).
- The conditions in dispute are Nos. 2 and 5 which state that: "No taxis/private hire vehicles shall be parked in the car park" (No. 2) and "The garage shall not be used for motor vehicle repairs or servicing" (No. 5).
- The reasons given for the conditions are: "To safeguard the amenities of the locality" (No. 2) and "To protect the amenities of the occupiers of nearby properties" (No. 5).

Decision

1. I allow the appeal in part, in so far as it relates to condition no. 5, and vary the planning permission Ref RHO P/2010/0715 for alterations to part of building to form garage/store at The Old Gospel Hall, Church St, Rhos, Wrexham LL14 2BN granted on 4 October 2010 by Wrexham County Borough Council, deleting condition No. 5 and substituting for it the following condition:
 - 5a) No motor vehicle repairs or servicing shall be permitted to take place within the garage other than the repairs or servicing of one taxi/private hire vehicle used in connection with the business. No machinery shall be operated, no process shall be carried out within the garage outside the following times 09:00hrs to 18:00hrs on Monday to Friday, and 09:00hrs to 1200hrs on Saturdays with no work carried out on Sundays and Bank Holidays. The repair and servicing of the taxi/private hire vehicle shall only take place within the garage building and the garage doors shall be closed at all times during the repairs and servicing.

Background and Main Issues

2. Planning permission has been granted for alterations of part of the building to form a garage/store. The Appellant objects to the conditions that prevent parking of taxis/private hire vehicles in the car park and the repairs or servicing of motor vehicles in the garage. The alterations to the building have taken place. Planning permission has also been granted in 2005 under reference (P/2005/1084) for a taxi office in the other part of the building, but subject to similar restrictions which are

disputed in this appeal. This part of the building is used as an office to contact taxi drivers and to direct them to their customers.

3. The main issues in this case are the implications that the removal/variation of the conditions would have on highway safety and the living conditions of nearby residents in relation to noise and disturbance.

Reasons

4. The appeal building is single storey with forecourt parking and access onto Church Street. The area is predominantly residential in character apart from a take away use at No. 10 Church Street. The floor area of the building comprises an office, utility and garage/store. The Council distinguishes non-operational taxi/private hire offices to operational ones in its Local Planning Guidance Note No. 8 (LPG 8) *Private Hire Vehicles*. The Council has determined the former planning permission in 2005 on the basis of a non-operational office in that it prevents the provision of on-site bookings, waiting and drivers' rest rooms and similarly restricts drivers of taxis and private hire vehicles from parking in the car park in front of the premises. These conditions are imposed on the planning permission the subject of this appeal under conditions nos. 2 and 3.
5. The Appellant argues that condition no. 2 prevents him from parking his own private hire vehicle in the car park when he visits the premises to carry out day to day duties of managing the business. The contention is that condition no. 2 contradicts condition no. 4 which states that "*the car park shall at all times be kept free of obstruction and be made available for parking purposes in connection with the proposed business use*". The Appellant therefore requests that he is allowed to park his own business/private hire vehicle within the car park as suggested by condition no. 4.
6. However, a relaxation of condition no. 2 would alter the premise of the planning permission considered under this appeal and the preceding planning permission for the taxi office. This is because it would change the emphasis from a non-operational taxi office to one which could allow a taxi/private hire vehicle to park and pick-up or wait for customers. As one particular vehicle under the Appellant's request could not be distinguishable in precise and enforceable terms to another taxi/private hire vehicle then the outcome would be a different form of development to the one which was expressly granted permission. One taxi/private hire vehicle parked on the site could be switched for another and not be in breach of the suggested condition put forward by the Appellant. Furthermore, the parked taxi/private hire vehicle could be used to facilitate a point for picking up customers which would be at odds with either planning permission.
7. I note the concern about the contradiction between condition no. 2 and condition no. 4, but it could equally be argued that should the Appellant park his vehicle in the car park which happened to be a private hire vehicle then he would be complying with condition no. 4. I doubt that the Council would unreasonably enforce such a matter if upon investigation it transpired that the private hire vehicle parked there was owned and used by the Appellant to visit the premises to carry out management duties. I do not consider condition no. 2 is unreasonable or that it fails the tests of Circular 35/95.
8. However, should condition no. 2 be removed or varied then, due to the confined nature of the site, the on-street parking restrictions in place, and the location of properties around, the unrestricted flow of taxis at any time from the premises would

adversely impact the living conditions of nearby residents in terms of noise and disturbance and cause problems to the free flow of traffic on Church Street.

9. I therefore conclude that the implications of removal/variation of the condition would harm highway safety and the living conditions of nearby residents in relation to noise and disturbance. The removal of the condition or the Appellant's suggested variation of the condition conflicts with LPG 8 and policy GDP1 (f) of the Wrexham Unitary Development Plan (UDP).
10. In relation to condition no. 5, the Appellant seeks to carry out minor servicing and repairs to vehicles associated with the business within the garage. The Appellant seeks a variation to allow one vehicle to be repaired at any given time within specified hours and that during such repairs the garage doors would be shut.
11. Since the hours of work would coincide with normal office hours and only one vehicle associated with the business use could be repaired, with the garage doors shut, these operational controls would minimise noise and disturbance or any adverse highway impact to an acceptable degree. There is no compelling evidence to suggest that with these controls in place harm would be caused to living conditions or highway safety. The number, type and location of vehicles repaired at any given time would be controlled together with measures restricting work times. I therefore consider such a condition reasonable, precise and enforceable in relation to Circular 35/95 tests. The substituted condition is imposed in the interests of living conditions of nearby residents and in the interests of highway safety.
12. I find a variation to condition no. 5 along these lines would not conflict with UDP policies GDP1, T8 and LPG 8. I therefore conclude that the implications of variation of the condition would not harm highway safety and the living conditions of nearby residents in relation to noise and disturbance.

Conclusions

13. Although I find that condition no. 2 should not be removed or varied, I find in favour of the Appellant in relation to condition no. 5. The planning permission is therefore varied and the appeal should succeed in part. I will vary the permission by deleting the disputed condition and substituting another.
14. I have taken account of representations from the Community Council, but for the reasons given these do not alter my conclusion on the main issues.

Iwan Lloyd

INSPECTOR