



Penderfyniad ar Apêl

Ymweliad safle a wnaed ar 31/01/11

**gan Emyr Jones BSc(Hons) CEng
MICE MCMI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 15/02/11

Appeal Decision

Site visit made on 31/01/11

**by Emyr Jones BSc(Hons) CEng MICE
MCMI**

an Inspector appointed by the Welsh Ministers

Date: 15/02/11

Appeal Ref: APP/H6955/A/10/2134277

Site address: Unit 4, Rivulet Road, Wrexham LL13 8DT

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 Cain Wynne against the decision of Wrexham County Borough Council.
- The application Ref P/2010/0454, dated 18 May 2010, was refused by notice dated 5 July 2010.
- The development proposed is use as a body building gym in retrospect.

Decision

1. I dismiss the appeal.

Procedural matters

2. As the proposal has already been implemented, I will consider the appeal as having been made under Section 73A of the *Town and Country Planning Act 1990*, as amended, which relates to planning permission for development already carried out.
3. The body building gym is located on the ground floor with a boxing facility on the first floor. In view of the description on the application, the Council determined the application on the basis that the use applied for is confined to the ground floor only. The appellant has not disputed this interpretation or objected to the Council's suggested condition limiting any permission to the ground floor only. I will, therefore, determine the appeal on that basis.

Main Issue

4. I consider the main issue in this case to be whether the proposal includes adequate provision for the parking of vehicles clear of the public highway.

Reasons

5. The Council's *Local Planning Guidance Note No 16: Parking* (LPGN 16), requires a D2 Assembly & Leisure use to have a maximum parking provision of 1 space per 15m² gross floor area. The Council's states that this would equate to 12 spaces in this case, but it also cites a ground floor area of 162m² which would only require 11 spaces. The building is fronted by a small area of hardstanding that could accommodate 1 vehicle parked parallel to Rivulet Road. The Council considers that the car park immediately to the west of the gym building on land within the application site could only

accommodate 6 cars plus turning space. Whilst no proposed layout has been submitted, I consider that this may be slightly conservative such that at least 7 spaces could be provided in total.

6. According to LPGN 16, where the maximum is not provided the developer will be required to show the scale of the journeys to the site and, if these journeys exceed proposed parking provision, how the resulting shortfall will be catered for. In this case, the site is close to the town centre and is accessible by public transport, walking and cycling, although it is not close to any public car parks. A high proportion of current users walk, jog or cycle to reach the facility, but a few are still likely to travel by private car, particularly in inclement weather. Furthermore, the site currently operates at a low level of membership and any future intensification of use would in all probability result in some additional traffic generation.
7. On balance, in the particular circumstances of this case, I am of the view that dedicated parking provision on the adjacent area to the west of the building, as well as the hardstanding fronting it, would be sufficient to cater for the likely demand. However, the area to the west is also used by a neighbouring car repair business and no information is provided as to how that would be catered for despite a request from the Council for clarification on the use, layout and management of this part of the site. Without this information there is a strong possibility that the proposal would displace existing parking onto roads in the immediate area. As a result, I am not satisfied that the proposal would make adequate provision for the parking of vehicles clear of the public highway and it conflicts with *Wrexham Unitary Development Plan* policy T8.
8. As part of the appeal, the appellant suggested that, if necessary, additional parking could be provided on land off Hightown Road in the same ownership. The appellant has subsequently advised that, following discussions with Council officers and the landowner, he has been allocated 6 spaces in a car wash car park off Rivulet Road, further to the west of the appeal site. It is entirely possible that parking demand could be accommodated on other land in the vicinity in the same ownership.
9. Nonetheless, use of either of these additional sites would represent a substantially different proposal from that considered by the Council. The appeal process should not be a means to progress alternatives to a scheme that has been refused or a chance to amend a scheme so as to overcome the reasons for refusal. Considering such a modified proposal at this stage could deprive those who should have been consulted on the changed development of the opportunity to comment and I will not do so. If the appellant wants such a proposal to be considered, the correct course of action is to submit a fresh application to the Council.
10. The appellant states that *PPG 13: Transport* is also relevant, but this is not the case as PPG 13 is English guidance that is not applicable in Wales.
11. For the reasons given above I conclude that the appeal should be dismissed.

E Jones

Inspector