



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 22/09/09

Ymweliad â safle a wnaed ar 22/09/09

Appeal Decision

Hearing held on 22/09/09

Site visit made on 22/09/09

gan / by Geraint Rees BA(Hons) Dip TP MRTPI

**Arolygydd a benodwyd gan Weinidogion
Cymru**

**an Inspector appointed by the Welsh
Ministers**

Dyddiad/Date 07/10/09

Appeal Ref: APP/H6955/A/09/2105916

Site address: Oak Road, Wrexham Industrial Estate Wrexham LL13 9PQ

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 under section 73 of the Town and Country Planning Act 1990 for the development of land subject to which a previous planning permission was granted.
- The appeal is made by Premier Decorations Limited against the decision of Wrexham County Borough Council.
- The application Ref [P/2009/0296] dated 08/01/09 was refused by notice dated 21/05/09
- The application sought planning permission for change of use of part of building from B8 to A1 retail without complying with a condition attached to planning permission Ref [ISY/P/2008/1087], dated 01/12/08.
- The condition in dispute is No.1 which states that no use of the shop the subject to this permission shall be made between 1 January and 31 October in any calendar year.

The reason given for the condition is to enable the Council to control the scale and extent of retail activities to ensure they comply with the provisions of the adopted development plan.

Formal Decision

I allow the appeal and grant planning permission for change of use of part of building from B8 to A1 retail at Oak Road, Wrexham Industrial Estate Wrexham LL13 9PQ in accordance with the application Ref [P/2009/0296] dated 08/01/09 without complying with condition No.1 previously imposed on planning permission Ref [ISY/P/2008/1087], dated 01/12/08, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new condition:

1. No use of the shop the subject of this permission shall be made between 15 January and 13 October and between 25 December and 31 December in any calendar year.

The proposal

1. It was confirmed at the Hearing that the period sought for an extension to the permitted use included the bringing forward of the operation to 14 October and to extend retailing over the period from 1 to 14 January. The appellant company however confirmed that it has no intention to open up the premises for the sale of

items over the period 25 to 31 December, so that the extended operational period would only amount to an additional 3 weeks during the year.

2. The warehouse operation is based on the sale of Halloween and Christmas decorations to trade customers over a period well in advance of these occasions. Unlike the new items stored in the warehouse for this client group, the proposed on-site retail activity would be conducted within a very small section of the warehouse and would only sell trade items, redundant lines and damaged goods, which would be removed from the warehouse around the late summer. The extended October period would be required to sell off old Halloween stock, while the January period would be for the disposal of similar stock for special sales.

Reasons

3. The Council accepts that the extension of the activity would not be contrary to the thrust of policy S6 of the adopted Wrexham Unitary Development Plan on small-scale shopping, in that it would not endanger the safety of the few customers who would visit the unit on foot, would not give rise to loss of residential amenity, or create on-street parking. It would also comply with the maximum sales floor area of 300m² for such units.
4. However the Council raised a concern that the proposed extension would attract car-borne customers owing to poor public transport links to this sector of the industrial estate, which I observed lies at the edge of the urban/rural area. As the Council has already conceded the principle of this use in granting planning permission for eight weeks within the year, I do not consider that an additional three weeks activity would have any significant material effect. With regard to policy S8 on employment land, the Council accepts that the proposal would have no effect on prejudicing land supply, as it would not be in the form of a physical extension of the use.
5. Paragraph 10.3.13 on single retail outlets in *Ministerial Interim Planning Policy Guidance Statement 02/05 Planning for Retailing and Town Centres* (MIPPS 02/05) emphasises the need to ensure that such single retail outlets do not individually or cumulatively harm the vitality, attractiveness, or viability of a town centre. The Council acknowledges that the proposal would not be contrary to these objectives, or that the scale of the extended operation as now proposed, would result in a material change of use and thereby harm the underlying objectives of the shopping policies of the UDP.
6. The main issue of concern for the Council arises from the perception that if the proposal were allowed, then there could be further requests for a time extension of the retail activity over which it would have no control. There is a risk therefore that the unit could be converted into an operation of a more permanent nature, bearing in mind that the appellant requested an operating period of 5 months in the first instance.
7. The appellant maintains that in the event of any harm arising from any further proposal to prolong and extend the operation at some future date, a safeguarding mechanism would be available to control such a development as indicated in MIPPS 02/05 to resist proposals which cumulatively have a harmful impact on the vitality, viability and attractiveness of shopping centres. The condition is therefore unnecessary and unreasonable.

8. In my opinion the Council's reason of refusal is not based on evidence of identifiable harm arising from the proposal before me and is therefore of insufficient substance to warrant the withholding of planning permission. I consider that condition No.1 of the new planning permission is sufficiently robust to give the Council the necessary control on any further time-based extensions of the use. This would be backed by the relevant shopping policies of national advice and the UDP to safeguard the vitality, viability and attractiveness of town and district shopping centres. I conclude that the relatively modest increase of operating times of this small-scale retail activity, which is subsidiary to the main warehouse function, would not materially harm the retailing pattern and character of the wider area, and that the proposal should be permitted.
9. I have taken into account all other matters raised, including an objection from another business, which is primarily concerned with the unfavourable conditions under which it would operate given the perceived unfair advantage gained by the appellant company. In my view, such commercial concerns however do not amount to a legitimate planning objection. Accordingly, such considerations do not affect my conclusion that the appeal should be allowed.

Geraint Rees

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr Stephen Goodwin BA (Hons) MCD MRTPI

Goodwin Planning Services Ltd
Chartered Town Planners and
Development Consultants

Mr R Athwal

Appellant company

FOR THE LOCAL PLANNING AUTHORITY

Mr Matthew Phillips

Planning officer

Mr David Lloyd

Enforcement officer

DOCUMENTS

Document 1 Persons notified of Hearing

PLANS

Plan A Location plan

Plan B Site plan

