



**PLANNING APPEAL STATEMENT OF CASE
& COSTS APPLICATION**

Prepared on behalf of Mr I Bolshaw

in support of a

Planning Appeal

against the refusal of detailed planning permission for the

***Proposed change of use from A1 retail to A3 food and drink use with associated parking
provision***

by Wrexham County Borough Council

at 31 Holyrood Crescent, Rhosddu, Wrexham, LL11 2EN

June 2021

PINS Ref. APP/H6955/A/21/**tbc**

LPA Ref. P/2020/0898

Appellant Ref. J10-IB/PASoC/RevA

APPEAL LIBRARY : SCHEDULE OF DRAWINGS and DOCUMENTS : dated 21 June 2021						
SITE : 31 Holyrood Crescent, Rhosddu, Wrexham, LL11 2EN						
APPELLANT : Mr Ian Bolshaw						
PROPOSAL DESCRIPTION : Proposed change of use from A1 retail to A3 food and drink use with associated parking provision						
APPLICATION FOR : DETAILED PLANNING PERMISSION						
LPA REF : P/2020/0898						
PINS REF : APP/H6955/A/21/tbc						
APPELLANT REF : J10-IB						
DESCRIPTION of ITEM	AUTHOR	CONTACT	FORMAT	DOCUMENT / DRAWING REF.	SCALE	DATE
PA Covering Letter	J10 Planning	Justin Paul	A4	Letter	NTS	22 Dec 2020
PA Forms	J10 Planning	Justin Paul	A4	Forms	NTS	22 Dec 2020
Site Location Plan	Stanfords	NA	A4	Plan	1:1250	11 June 2019
Site Layout Plan	RB Surveyor Services	NA	A3	Drawing : R&B-HC-03	1:100	24 Nov 2020
Existing floorplan and elevations	RB Surveyor Services	NA	A3	Drawing : R&B-HC-01	1:100	24 Nov 2020
Proposed floorplan and elevations	RB Surveyor Services	NA	A3	Drawing : PR&B-HC-02	1:100	24 Nov 2020
Consultation Response - EHO	Wrexham Council	Environmental Protection	A4	Memo	NTS	5 Jan 2021
Consultation Response - Highways	Wrexham Council	Highways	A4	Letter	NTS	6 Jan 2021
Committee Report	Wrexham Council	Sharon Holman	A4	Report	NTS	12 April 2021
Committee Minutes	Wrexham Council	NA	A4	Minutes	NTS	12 April 2021
Decision Notice	Wrexham Council	NA	A4	Notice : P/2020/0898	NTS	12 April 2021
Appeal Decision	PINS Wales	C MacFarlane	A4	Decision : APP/H6955/A/19/3241117	NTS	16 June 2020

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1.0 THE APPEAL BACKGROUND

- 1.1 This Planning Appeal Statement has been submitted by J10 Planning Ltd (the Agent) acting on behalf of the appellant and freehold owner of the appeal site, (Mr Ian Bolshaw) following the lodging of a planning appeal to PINS Wales on 23 June 2021 to follow a written representation route.
- 1.2 It relates to a planning application (ref P/2020/0898) that was submitted to Wrexham County Borough Council (WCBC) on 22 December 2020 and determined by Member so the Council's Planning Committee on 14 April 2021; resulting in a decision notice being subsequently issued and dated on the same date.
- 1.3 The appeal relates to an established A1 retail unit in a small neighbourhood shopping parade within the settlement boundary of Wrexham. It comprises a property that is classified as previously developed land known as 31 Holyrood Crescent, Rhosduu, Wrexham, LL11 2EN.
- 1.4 The property comprises a gross floorspace area of 55 sqm. The proposal involves a front of counter customer retail area of just 12 sqm.
- 1.5 The description of the proposed development is:

*“Change of use from A1 retail to A3 food and drink use
with associated parking provision”*

- 1.6 Permission was refused contrary to the Planning Officers recommendation that permission be granted subject to conditions for the following single reason:

REASON 1 : *The proposed development would significantly increase traffic generation and does not make adequate provision for the parking of customer vehicles (including staff and possible home delivery service vehicles) within the application site. The proposed change of use would therefore encourage parking on the highway with consequential danger to all users of the highway and interference with the free flow of traffic contrary to Policies GDP1 and T8 of the Wrexham Unitary Development Plan, and the provisions of Local Planning Guidance Note No. 9 'Hot Food Take-Aways'.*

2.0 THE APPEAL SUBMISSION

- 2.1 A full copy of all the relevant drawings and documents associated with the appeal have been collated and are included in a spreadsheet schedule of library documents (see **APPENDIX A**).
- 2.2 In addressing the specific reasons for refusal this statement (and associated documentation) sets out the appellant's case in the following manner:
- o *The Grounds of Appeal*
 - o *The Appellants Case*
 - o *A Policy Review*
 - o *A summation of why this appeal should be allowed*
 - o *Cost Application*
- 2.3 It should be noted that the Appellant does not feel there is any need to repeat what has been already said in the original covering letter (dated 22 December 2020) that accompanied the application; especially with respect its review of the planning history - in particular the Appeal decision ref. 3241117.
- 2.4 Thus, this statement will attempt to assist the Inspector by not duplicating material provided adequately elsewhere and get to the point by addressing the key reason for refusal and why the appeal ought to now be allowed and permission granted.
- 2.5 The appellant is of the belief that he has proven, beyond any reasonable doubt that the proposals are acceptable in all respects and this statement will serve to demonstrate that the reasons for refusal were misplaced and, not based upon any substantiated evidence or reasoned justification and that the proposal is consistent with the extant development plan, PPW11, NDP and represents sustainable development.

3.0 THE GROUNDS OF APPEAL

3.1 The appellants Grounds of Appeal are set out below:

- o ***The proposal is consistent with Future Wales NDP (2021)***
- o ***The proposal reflects the messages in Building Better Places (2020) and Prosperity for All (2017) documents***
- o ***The proposal is consistent with Planning Policy Wales 11 (2021)***
- o ***The proposal is considered to be consistent with TAN guidance; specifically, TAN23.***
- o ***The proposal is compliant and consistent with current Wrexham Unitary Development Plan.***
- o ***The proposal is compliant with the relevant Supplementary Planning Guidance Notes***
- o ***Material planning considerations were not granted sufficient weight in reaching this decision which included mutually supportive economic and environmental benefits that will be delivered by this proposal***
- o ***The proposal comprises sustainable development***
- o ***That conditions can adequately provide control and surety over any issues of concern as set out in the Officers committee report***

4.0 THE APPELLANTS CASE

4.1 We will address the reason for refusal under this section.

4.2 The reason for refusal relates to the following concerns:

- o *that the proposal would significantly increase traffic generation in the area;*
- o *that it would not make adequate provision of customer, staff and delivery service vehicles within the application site;*
- o *that the proposal would encourage parking on the highway which would result in danger to all users and impede the free flow of traffic*
- o *that as a consequence the proposal is contrary to UDP Policies GDP1 and T8 and the provisions in LPGN no.9*

4.3 As the Committee Minutes state the actual reason for refusal was solely on the grounds of inadequate parking provision and none of the other matters listed above. Thus the decision notice is flawed.

4.4 The debate at committee was largely ill-informed and strayed into issues such as Primary School pupils using mobile phones, ordering food and being handed food through the fence; noise, litter, smells; the assumption that there is a highway problem already and that the parking provision that exists and that is proposed is insufficient.

4.5 The fact is that no evidence of any existing highway capacity, safety or congestion was presented by Members because it simply does not exist. There is no way that the proposal would increase traffic in the area. Indeed, as one or two (better informed Members) pointed out during the debate locating a takeaway here would result in less trips being made outside of the area to other takeaways. If anything, it will lead to reduced trips being made and more pedestrian /cycle traffic to/from what is an established small local shopping parade. Moreover, modern delivery mobile APP's and the fact that many takeaways have their own delivery driver who drop off at multiple locations is also likely to lead to far lower levels of customer derived trips being made.

- 4.6 The image below shows the small parade in the context of the neighbouring street pattern, including the bus stop on East Avenue.



- 4.7 The Highway Officers consultation response is very clear in confirming that he has no objections on highway grounds, be this parking or highway safety. So to run against this professional advice and opinion and refuse on highway grounds is perverse.
- 4.8 The reference to UDP Policies GDP1 and T8 along with LPGN no.9 will be addressed in more detail under the following Policy Review section, but the appellant is of the opinion these policies were incorrectly applied in refusing permission.
- 4.9 In the applicants view the proposed development will together deliver very substantial and significant public interest and community benefits that should be given considerable weight in favour of the grant of planning permission when it comes to judging planning balance. These can be summarised as scheme deliverables providing a series of **economic, social environmental net gains** which serve to secure the mutually supportive sustainability and placemaking objectives in the following manner:

ECONOMIC DELIVERABLES	
New sustained employment opportunities	3 no FTE will be created and sustained by this use -
Business Rates revenue	Vacancy will not deliver any rates income, but occupation will offer an opportunity to support local services
General	This proposal seeks to deliver jobs, economic growth and prosperity into the local economy.
SOCIAL DELIVERABLES	
New jobs	Jobs will deliver social and economic wellbeing to residents of Wrexham Borough by creating wealth and underpinning investment in the local economy and supporting new infrastructure.
Locational sustainability	The site is located in an established residential location, supported by its existing framework of services; it is logical to locate and co-locate new retail here
ENVIRONMENTAL DELIVERABLES	
Re-use of previously developed premises	The regeneration of the site will allow for a major brownfield site to be re-purposed and the significant environmental, economic and social benefits of the development provide a “win-win” set of outcomes.
Residential amenity	Conditions can be applied to ensure the residential amenity of local residents is protected – thus avoiding noise / odour issues.
Public Access and accessibility	The proposal will offer new public access opportunities where they are compatible with the environmental management regime.
Highway safety	Local on and off-site highway arrangements mean that there are no known problems with either parking, trip generation, congestion or safety.

- 4.10 The reality here is that this proposal will deliver jobs, economic growth, prosperity and investment. The development proposal will generate significant and mutually supportive economic, social and environmental benefits which collectively constitute sustainable development and as such these are material planning considerations that must carry substantial weight and cannot be underestimated.

5.0 POLICY REVIEW UPDATE

5.1 This section provides a summary assessment of how the proposal complies with and is supported by both local planning and national planning policy. In the appellants view, the proposed development fully accords and complies with the policies in the adopted Wrexham UDP and is entirely consistent with its policies.

UDP POLICY	APPLICATION CONFORMITY
PS1 Broad Location of Development	Development ought to be directed to within defined settlement boundaries. The site is located entirely within the settlement boundary of Wrexham, so is compliant.
PS3 Broad Location of Development	This policy seeks to ensure that development should use previously developed brownfield land comprising vacant, derelict or underused land in preference to the use of greenfield land, wherever possible. This proposal complies with this.
PS4 Broad Location of Development	Development should maintain the existing settlement pattern and character and be integrated with the existing transport network to reduce the need to travel by private car and offer alternatives. The proposal demonstrates that the integrity of the existing settlement will remain and that this site is located in a highly accessible and sustainable location to take advantage of any available public transport modes, but moreover will actually lead to less trips being made by car.
PS8 Transport	We have shown that the site is located in a position that enables maximum use of travel options in a highly sustainable manner and will encourage walking, cycling and public transport connections.
GDP1 Development Objectives	This policy seeks to ensure that all new development meet the following criteria: a) Character, appearance, design and layout b) Personal and community safety c) Design techniques to conserve energy and water resources d) Ensure safe/convenient pedestrian and vehicular access and making connections/links e) Convenient access to public transport f) Ensure amenity of environment are safeguarded from odour and noise effects

	g) Secure public services. h) Safeguard nature conservation habitats. i) Ensure that development is not subject to flooding, contamination, etc on or off site. j) Have regard to any Welsh linguistic identity. k) Secure the development of sustainable communities through economic, social and environmental wellbeing. The site is located on a public transport route; amenity the proposed conditions provide adequate control to ensure noise and odour does not become amenity problems; the use offers job creation and the ability for residents in a highly sustainable location which will see the re-use of vacant premises and will reduce the need to travel. This policy supports the proposal contrary to the Decision Notice using it to justify/warrant refusal. The appellant considers it has been used unreasonably and was never referred to by Members during their debate.
E4 Employment development (of unannotated land) within Settlements	This policy supports development within settlement limits subject to it meeting Policy GDP1. The proposal does not prejudice existing amenities through noise, vibration, smell, safety, health or excessive traffic generation and we consider that the proposal demonstrates that these can all be satisfactorily addressed through appropriate conditions.
S2 Shopping	This policy supports ground floor retailing proposals where it will enhance the vitality and viability of the area – bringing back into use vacant premises will have environmental and economic benefits.
T8 Parking	In conformity with LPGN16 adequate parking provision can be made to satisfy standards based upon the site layout submitted. On-site provision is available for 4 no. spaces (the standard seeks 3 no spaces) plus there is sufficient un-restricted on-street parking directly adjacent to the premises; public transport links are available and there is no evidence of any deficiencies, hazards, or highway safety issues. This policy was used in the Decision Notice but was not mentioned by Members in their deliberations and debate at committee - we consider it has been used unreasonably.

- 5.2 Two LPGN's could be considered as being relevant to this proposal; **LPGN 16 "Parking Standards"** and **LPGN 9 "Hot Food Takeaways"**; the latter of which was referenced in the Decision Notice in trying to justify refusal. The Reason for refusal is entirely "highway / parking" related and LPGN 9 states that the impact of a proposal on the safety of pedestrians and road users will be considered.
- 5.3 Neither LPGN's have been through any formal examination. The appellant must question what weight can realistically be afforded SPD, not least because the relevant Planning Acts (2004 and 2012) and DPM3 (Para 9.1) are clear as to the Regulations under which such guidance is published and the fact is that unless a document has been through "examination" its weight is tempered and diluted. In view of this, the applicant considers that only limited weight can be given to SPD.
- 5.4 Notwithstanding this, the appellant considers the proposal adheres with both LPGN's (as confirmed by the Officers committee report) and despite the reason of refusal referring to highway safety and parking deficiencies no evidence to the contrary was presented by Members in their deliberations to warrant the use of LPGN 9 in the decision notice.
- 5.5 The fact is the premises have an established A1 use, but has been vacant and is in need of re-occupation; there are no known extenuating traffic conditions that exist; the site is located in a highly accessible place to take advantage of public transport (a bus stop is located within 20 metres of the unit), cycling and walking; both on-site and on-street parking is available; safe and legal loading areas to service the unit are available to the front and rear of the premises and the small parade is physically self-contained from neighbouring residential premises.

5.6 The appellant has also assessed the proposals in the light of other material planning considerations; namely National Policy and this is set out in the table below.

PLANNING POLICY FRAMEWORK : Conformity and Consistency Checklist		
NDP : FUTURE WALES 2040 (Feb 2021)	What the policy document says	J10 Comment
Outcome 1	<i>Emphasis placed upon development being well located in relation to jobs, services and accessible green and open spaces</i>	This proposal will provide new jobs in an established and highly accessible location.
Policy 1 : where Wales will grow	Wrexham is designated as a National Growth Area	This proposal promotes the continued growth and regeneration of Wrexham and the premises will be re-purposed and enable PDL to be regenerated for economic use. The designation of Wrexham as a National Growth Area cannot be underestimated and new jobs are pivotal to prosperity and economic development.
Policy 2 : strategic placemaking	<i>The growth and regeneration of towns and cities should positively contribute towards building sustainable places that support active and healthy lives, with urban neighbourhoods that are compact and walkable, organised around mixed-use centres and public transport, and integrated with green infrastructure.</i>	This proposal provides significant levels of quality public access into adjacent greenspace that will be managed for biodiversity and heritage assets.
BUILDING BETTER PLACES (July 2020)	What the policy document says	J10 Comment
On Staying Local : creating neighbourhoods	<i>We have also seen the importance of local services and infrastructure with people spending more time in their local neighbourhoods. The continuation of people working from home and more locally is expected to be a long-term trend. We need to plan for these trends and, even more than before, ensure we are building homes and neighbourhoods that are great places to live, with easy access to services and appropriate infrastructure and greenspace.</i>	A service like this diversifies the retail offer in the local neighbourhood and will reduce trips being made further afield. Spatially and sustainably this proposal is exactly what will enable better, more cohesive and sustainable neighbourhoods.
On Active Travel	<i>The planning system has a key role to play in continuing to reduce the need to travel and creating places which support sustainable and active travel. The planning system needs to support developments which are sited in the right locations, where they can be easily accessed by active and sustainable travel modes without the need for a car. It must maximise opportunities for people to make sustainable and healthy travel choices for their daily journeys and leisure.</i>	The proposal will reduce car mode trips.
PROSPERITY FOR ALL (Sept 2017)	What the policy document says	J10 Comment
On skills and employability –	1. <i>Prosperous & Secure : in supporting people and businesses to drive prosperity and</i>	This proposal will serve to meet these objectives and through new employment (jobs) being

identifies 4 core well-being objectives	<i>tackling regional inequality and promote fair work; and drive sustainable growth</i> 2. <i>Health & Active : building healthier communities and better environments</i> 3. <i>Ambition & Learning : equip everyone with the right skills for a changing world</i> 4. <i>United & Connected : build resilient communities and deliver modern and connected infrastructure</i>	created will provide prosperity and well-being; whilst recognising that prosperity is not just about material wealth, but living in a strong, safe and sustainable community.
PPW11 (Feb 2021)	What the policy document says	J10 Comment
Para 1.18 Sustainable development	<i>Legislation secures a presumption in favour of sustainable development in accordance with the development plan unless material considerations indicate otherwise</i>	Key aim is to achieve sustainable development using a plan-led approach which this proposal represents
Para 3.50 Accessibility	<i>A broad balance between housing, community facilities, services and employment opportunities in both urban and rural areas should be promoted to minimise the need for long distance commuting. Planning authorities should adopt policies to locate major generators of travel demand, such as housing, employment, retailing, leisure and recreation, and community facilities (including libraries, schools, doctor's surgeries and hospitals), within existing urban areas or areas which are, or can be, easily reached by walking or cycling, and are well served by public transport.</i>	This is an established neighbourhood shopping parade and is located to take advantage of sustainable access and travel patterns.
Para 3.55 Previously developed land	<i>Previously developed (also referred to as brownfield) land (see definition overleaf) should, wherever possible, be used in preference to greenfield sites where it is suitable for development. In settlements, such land should generally be considered suitable for appropriate development where its re-use will promote sustainability principles and any constraints can be overcome.</i>	PDL (which this site is) should be brought forward for development and where any constraints can be overcome (which they have been here), supported. The site is considered highly sustainable for the proposed use.
Para 4.1.29 Active Travel	<i>The planning system has an important role to play in promoting and supporting the delivery of the Active Travel Act and creating the right environments and infrastructure to make it easier for people to walk and cycle, including new and improved routes and related facilities.</i>	The proposal supports active travel.
Para 4.3.40 Local Shops	<i>Local and village shops, and public houses provide an important role in the local community and their loss can have a detrimental impact, particularly in rural locations.</i>	The proposal will retain the retail unit but provide a different service that will maintain the vitality and viability of this small neighbourhood parade.
Para 5.4.1	<i>For planning purposes the Welsh Government defines economic development as the development of land and buildings for activities that generate sustainable long-term prosperity, jobs and incomes. The planning system should ensure that the growth of output and</i>	This proposal is all about delivering economic growth, prosperity and investment

	<i>employment in Wales as a whole is not constrained by a shortage of land for economic uses.</i>	
TAN 23 ECONOMIC DEVELOPMENT (Feb 2014)	What the policy document says	J10 Comment
Para 1.2.1 Economic benefits and weight	<i>The economic benefits associated with development may be geographically spread out far beyond the area where the development is located. As a consequence it is essential that the planning system recognises, and gives due weight to, the economic benefits associated with new development.</i>	Significant weight must be afforded the economic benefits of a proposal.
Para 1.2.5 Planning Considerations	<i>Local planning authorities should recognise market signals and have regard to the need to guide economic development to the most appropriate locations, rather than prevent or discourage such development</i>	The market signals are that there is a demand for this use in this location and the planning system should not look to frustrate and prevent such uses coming forward – especially where they can be satisfactorily controlled by conditions to protect amenity.
Para 2.1.1 Weighing Economic Benefit	<i>It should not be assumed that economic objectives are necessarily in conflict with social and environmental objectives. Often these different dimensions point in the same direction. Planning should positively and imaginatively seek such ‘win-win’ outcomes, where development contributes to all dimensions of sustainability.</i>	The proposal offers a “win-win” outcome for both the environment and economy.
Para 2.1.2	<i>Where economic development would cause environmental or social harm which cannot be fully mitigated, careful consideration of the economic benefits will be necessary. There will of course be occasions when social and environmental considerations will outweigh economic benefit. The decision in each case will depend on the specific circumstances and the planning authority’s priorities.</i>	Any harm is considered to be largely perceived and nonetheless the applicant considers that any such harm is mitigated against through the significant net gains proposed.

5.7 The Appellant is of the opinion that the proposal is in complete compliance with and is entirely consistent with National Policy and that these material planning considerations should be given significant weight; weight that was not applied by Members in their decision-making process.

6.0 CONCLUSIONS

- 6.1 The appellant considers that the planning case officer was wrong to refuse permission.
- 6.2 The Appellant has also shown that there are a series of important material planning considerations (the benefits highlighted and planning policy compliance) that carry significant and enough weight that endorse and support the positive policy position shown to exist in overcoming and addressing any concerns expressed by Officers to make this proposal wholly acceptable.
- 6.3 This appeal statement clearly demonstrates that the proposals have shown to be entirely acceptable through reasoned justification and proper evidence.
- 6.4 The reasons for refusal are considered to be defective and flawed.
- 6.5 In summation, and contrary to the views of Members, the appellant considers that this is a proposal which strategically fits with both local and national planning policy and material planning considerations in supporting sustainable development and economic growth. Besides which, the scheme will deliver not only jobs and economic growth but serve to protect and deliver hugely significant environmental benefits involving biodiversity net gain and heritage asset protection for generations to come, along with managed public access and enhanced levels of greenspace amenity.
- 6.6 This is a scheme of high quality and advanced sustainability; which strategically fits with planning policy and other material planning considerations.
- 6.7 Any conditions that are to be attached (as identified in the Officers committee report) are considered to be acceptable to the appellant. The conditions should follow the guidance set out in Welsh Government Circular 016/2014 and meet the following 6 tests in being:
- Necessary;
 - Relevant to planning;
 - Relevant to the development to be permitted;

- Enforceable;
- Precise and;
- Reasonable in all other respects.

6.8 This appeal is technically robust and it has been demonstrated that there are no negative impacts that would result. The overall planning balance is weighted strongly in favour of granting permission as per Section 38(6) of the Planning & Compulsory Purchase Act 2004. The proposals must be supported and permission approved without any delay in accordance with the policy framework because we have demonstrated that no adverse impacts are evident in impeding such a positive determination being reached and indeed any impacts which might be judged to occur would have to significantly and demonstrably outweigh the benefits when assessed against the policy framework taken as a whole and, in our opinion, none exist.

6.9 Accordingly, we commend these proposals to the Inspector and respectfully request that the appeal be allowed and permission granted.

6.10 We naturally reserve the right to comment further on any third-party comments, the Council's statement, any proposed planning conditions and any planning policy that might emerge between now and the appeal determination.

7.0 COSTS APPLICATION

- 7.1 It is with regret that Members sought to overturn the well balanced and informed Officers recommendation. The decision has unnecessarily delayed the project and the additional expense caused by having to appeal the refusal has resulted in the applicant having to incur significant additional professional fees associated with this planning appeal.
- 7.2 The appellant has decided that he must seek some form of compensation for the additional expenditure caused through what he sees as the unreasonable behaviour of Members, so this Costs Application is made.
- 7.3 **Section 12 Annex** to the Development Management Manual (Awards of Costs) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Due regard has been made to the Manual and Section 322C of the Town & Country Planning Act 1990.
- 7.4 **Paragraph 3.9** of the Section 12 Annex advises that *“Local Planning Authorities are not bound to adopt, or include as part of their case, the professional or technical advice given by their own officers or received from statutory consultees. However, they are expected to show that they had reasonable planning grounds for taking a decision contrary to such advice and that they are able to produce relevant evidence to support their decision. If they fail to do so, costs may be awarded against the authority.”*
- 7.5 In addition, **paragraph 3.11** of the Manual provides examples of circumstances when an award of costs may be made against a local planning authority with respect to the substance of the matter in dispute. 2 examples are:
- (a) *Preventing or delaying development which could clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;*
 - (b) *Failure to produce evidence to substantiate the impact of the proposal, or each reason, or proposed reason for refusal (i.e. taking a decision*

contrary to professional or technical advice without there being reasonable planning grounds to do so).

- 7.6 In this case, the appellant considers that the planning committee has behaved unreasonably and that this has caused him to incur unnecessary and wasted expense in having to appeal the decision which has necessitated engaging specialist advice in making this appeal. We can confirm that the type of behaviour and cost award sought are both procedural and substantive in nature.
- 7.7 We are not claiming for costs incurred during the application determination period but we are wishing the Inspector to take onto account the behaviour of Members in their determination of the proposal during their Planning Committee deliberations on 12 April 2021.
- 7.8 The appellant is seeking a full award of costs starting from the date when the decision was issued and the appellant engaged specialist assistance in preparing and making this appeal.
- 7.9 The Appellant considers the alleged Unreasonable Behaviour comprises the following:
- o Whilst the Committee Minutes may loosely provide a reasonably accurate record of the debate the Committee Webcast recording is a more accurate record and the fact is that the debate centred upon a range of issues that were then not used in the reasons for refusal (e.g. noise, litter, smells) were not used or even referred to. Instead the emotive tone presented by the Ward Members overtook any logical and rational assessment of planning matters by Committee Members who were seduced by the rhetoric and prejudice displayed. Additionally, none of the Policies later identified in the decision notice were actually referred to by Members in reaching their determination. The reason is considered flawed and contrived and was based upon assumptions and hearsay relating to local traffic conditions, parking and highway safety.

- o The Planning Committee offered no evidence to explain or justify their decision – instead the rationale put forward to refuse permission was based upon pure conjecture and unsubstantiated subjective opinions and not fact. This is in stark contrast to the comprehensive technical and professional opinions shared by Highway and Planning Officers. Members chose to ignore this and also the verbal advice provided by Officers during the meeting.
- o The Highway Officer in his conclusions clearly states that he raises no objection, yet Members appear to have known better and wilfully ignored this advice.
- o Whilst it is accepted that it is a matter for the decision makers to attach whatever weight they deem appropriate to any issue, in this instance, the disparity between Members and Officers was laid bare and the decision seriously undermines the credibility of the decision taken.
- o Planning Committee Members failed in their duty to step back from the emotion of their debate and rather than rationally review and assess the proposal on planning and highway grounds decided to refuse permission contrary to their own adopted development plan and national planning policy. This is despite having the benefit of a full suite of evidence and being advised by their Officers that there was no conceivable reason to refuse permission.
- o Members, by refusing permission, have prevented and delayed development that should clearly be permitted, having regard to its full accordance with the development plan, national policy and other material considerations – as set out and proven in this statement.

7.10 We would therefore respectfully request that the Inspector adjudicate on this application and find in favour of the appellant by awarding a full award of costs on both procedural and substantive grounds.

7.11 We conclude that the local planning authority has failed hopelessly in respect of the advice in paragraph 3.9 of the Section 12 Annex and that unreasonable behaviour as described in sections (a) and (b) of paragraph 3.11 has occurred.

7.12 We therefore consider that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Section 12 Annex to the Development Management Manual, has been demonstrated and that a full award of costs is justified.

APPENDIX A

Appeal Library :

spreadsheet

schedule