

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 05/01/21

**gan Richard Duggan, BSc (Hons)
DipTP MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 10th February 2021

Appeal Decision

Site visit made on 05/01/21

**by Richard Duggan, BSc (Hons) DipTP
MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 10th February 2021

Appeal Ref: APP/A6835/A/20/3261103

Site address: Land East of McDonalds, St Asaph Road, Lloc, Holywell

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 Gastronomy Foods (UK) Ltd. against the decision of Flintshire County Council.
- The application Ref: 060475 dated 18 September 2019, was refused by notice dated 17 September 2020.
- The development proposed is described as the erection of drive-thru restaurant unit and drive-thru coffee shop unit (Use Class A3), access, landscaping and associated works.

Decision

1. The appeal is allowed and planning permission is granted for the erection of drive-thru restaurant unit and drive-thru coffee shop unit (Use Class A3), access, landscaping and associated works at Land East of McDonalds, St Asaph Road, Lloc, Holywell in accordance with the terms of the application, Ref: 060475 dated 18 September 2019, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are whether the location of the proposed development is appropriate having regard to national and local planning policies which aim to protect the countryside; and the impact of the proposal on highway safety.

Reasons

Countryside

3. The appeal site is an open area of land located north of the A55 (Junction 31) at the junction with the A5026, and lies adjacent to the eastern edge of, and would form part of, a services area containing a petrol filling station that includes the retail units of Spar, Subway and Greggs, and a separate drive-thru McDonalds restaurant and associated car parking area. The development proposes a total of 472 sqm of floorspace spread across two separate single storey units to be occupied by a KFC restaurant and a Starbucks coffee shop, with associated parking area to the north and landscaping.

4. The site is located within the open countryside as identified in the Adopted Flintshire County Council Unitary Development Plan (UDP) 2011, where new development is strictly controlled in the interests of sustainable development. National policy guidance contained within Planning Policy Wales (PPW) restricts new building outside settlement limits unless it is justified as an exception to the policy of restraint. Policy STR1 of the UDP states that new development should generally be located within existing settlement boundaries, allocations, development zones, principle employment areas and suitable brownfield sites, and will only be permitted outside these areas where it is essential to have an open countryside location. Policy GEN3 deals with development in the open countryside, and states development proposals outside settlement boundaries will not be permitted except for certain specific forms of development. As the site is located within open countryside the development conflicts with policies STR1 and GEN3 of the UDP.
5. Notwithstanding this, the Appellant states that there is very limited provision of roadside facilities along the A55 and what limited provision there is, often is restricted to be accessible only by vehicles travelling in one direction. Furthermore, the level of service provision available is often limited to single outlets such as a petrol filling station or a coffee shop. Therefore, it is clear to me that the level of service areas along the A55 to serve HGVs, tourists and other motorists is low and lacks the quality of facilities that is required on this very busy route.
6. The appeal site is clearly already an established service area and as it is visible from the A55 it encourages travellers to utilise its facilities, which has resulted in the site being oversubscribed at peak times, which is compounded by the lack of suitable service areas along the A55. The proposed development would meet this demand, as well as providing a much larger area of car parking for visitors which is discussed in more detail below. The proposal would also result in approximately 60 new job opportunities, with 40 at the restaurant and 20 new positions at the coffee shop. These are significant benefits that weigh heavily in favour of the development.
7. As a result of the surrounding built development associated with the existing buildings at the service area, St Asaph Road (A5026) forming the southern boundary with the site with the A55 beyond, as well as the large area of woodland to the east, I noted that views of the site from the open countryside are relatively restricted. Given that the site is visually and physically contained within the immediate landscape, any visual impacts would be localised. The areas of landscaping provided to the north of the site providing a buffer to the agricultural land beyond would also assist in reducing views of the development from the fields to the north. Views of the appeal site from the surrounding area are already dominated by the service area buildings, St Asaph Road and the A55, and the development would be seen within this context and would have more affinity with the existing built form rather than the open countryside.
8. Overall, I consider that the significant benefits resulting from the scheme would outweigh any conflict with policies aimed at protecting the countryside from development. The proposed development would also have minimal impact on the character and appearance of the countryside and would not, therefore, conflict with Policies GEN1, STR7 and L1 of the UDP which, amongst other things, seek to protect and enhance the character, appearance and features of the open countryside and maintain or enhance the character and appearance of the landscape.

Highway safety

9. The highway safety concerns raised during the course of the planning application relate to the popularity of the existing facilities at the service area and that the site is

oversubscribed at peak times which has resulted in on-street vehicle parking when the existing car parks associated with the petrol filling station and McDonalds restaurant are fully occupied. There are also concerns that that on-street parking by HGVs and larger tourist vehicles such as camper vans find it difficult to utilise the standard parking spaces found at the McDonalds restaurant and petrol filling station sites. I have also noted the concerns regarding queuing traffic in the service area and on the adjoining highway network; pedestrian safety within the car park; and car parking capacity overall.

10. The Appellant has prepared a Transport Assessment¹ which assesses the transport issues affecting the development and the implications of the development on the surrounding highway network. Following initial concerns raised by the Council's Highways Department during the determination of the planning application the Appellant produced two Technical Notes (T1² and T2³) addressing these concerns. Subsequently, the Council's Highways Department raised no objections to the proposed development subject to the Appellant making a contribution towards the implementation of a Traffic Regulation Order (TRO), secured via a Legal Agreement under Section 106 of the Town and Country Planning Act (as amended) to prevent parking on surrounding streets. The Appellant has submitted a signed and dated Unilateral Undertaking (UU) made under S.106 which sets out an agreement to pay the Council the sum of £4,500.00 towards the cost of a TRO. Accordingly, the Section 106 obligation should be afforded weight in the determination of the appeal.
11. I note that the Appellant states that the level of parking provision for the appeal development, which would be available to any user of the service area, goes beyond that which would be operationally necessary for the operators of both the restaurant and coffee shop. In addition, by providing alternative facilities to the McDonalds restaurant it would also reduce the overtrading of that outlet and reduce parking demand in the area. The scheme also proposes 4 bays specifically for larger vehicles such as motorhomes. No such spaces are provided currently in the service area and this should again assist in both the manoeuvring of such large vehicles in the area and avoid them taking up more than one parking space. This should also reduce the propensity for all types of vehicles to park on the site access road or within surrounding roads outside the service area, especially following the implementation of the TRO.
12. I have taken into account the concerns raised by local residents and other interested parties in relation to highway safety. However, the evidence before me leads me to conclude that the proposed development would not have an adverse effect on highway safety, indeed, I consider that the scheme would create significant benefits in this regard. Accordingly, the development would accord with Policies STR1, STR2, GEN1, AC13 and AC18 of the UDP.

Other Matters

13. I have noted the other concerns raised by neighbouring residents relating to noise and disturbance, litter, light spill and odour. However, having regard to the separation distance between the appeal site and the nearest properties I consider that the proposed development would not be unduly detrimental to adjacent amenities or the living conditions of residents.

¹ Transport Statement prepared by Travis Baker, dated September 2019

² TN1 prepared by Travis Baker, dated 17 January 2020

³ TN2 prepared by Travis Baker, dated 24 January 2020

Conditions and Obligations

14. I have considered the suggested conditions put forward by the Council within the committee report and having regard to the advice in Welsh Government Circular 016/2014: *The Use of Planning Conditions for Development Management* (October 2014). As the list of conditions set out within the committee report were incomplete, I have amended their wording for completeness and in the interests of clarity, and the Council and the Appellant were given the opportunity to comment on these. The conditions and their associated reasons are set out in the schedule below.
15. Conditions relating to the access visibility splays and parking are necessary in the interests of highway safety, and a condition relating to the submission of a construction method statement is also necessary in the interests of highway safety and to protect the living conditions of residents. A condition prohibiting the provision of a pedestrian access within the southern boundary of the site is also necessary for pedestrian safety.
16. Conditions regarding landscaping and ecological mitigation measures will safeguard the visual amenity of the area and biodiversity interests. The submission of a detailed drainage strategy should be subject to prior approval to prevent flooding and will ensure adequate provision is made for the new development in the interests of the health of occupiers and the wider environment.
17. I consider that the submitted obligation is necessary, is related to the proposed development and related in scale and kind and therefore meets the appropriate tests set out in Section 122(2) of the Community Infrastructure Levy Regulations 2010 and Circular 13/97.

Conclusion

18. Having regard to the above and considered all other matters raised, I conclude that the appeal should be allowed, subject to the conditions set out in the annex attached to this decision.
19. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive, resilient, healthier and equal communities.

Richard Duggan

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than five years from the date of this decision.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

- 2) The development shall be carried out in accordance with the following approved plans and documents: Site Location Plan (no drawing number); Existing Topographical Survey (no drawing number); Proposed Site Plan – Drawing Number 0000/2018/G121 Rev A; Proposed External Elevations – Sheet 1 – Drawing Number 0000/2020/G211 Rev A; Proposed External Elevations – Sheet 2 – Drawing Number 0000/2020/G212 Rev A; Proposed Ground Floor Plan – Drawing Number 0000/2020/P100 Rev A; Proposed Roof Plan – Drawing Number 0000/2020/P102 Rev B; Proposed Ground Floor Plan – Drawing Number 0000/2020/S100; Proposed Roof Plan – Drawing Number 0000/2020/S102; Proposed External Elevations – Drawing Number 0000/2020/S211.

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application.

- 3) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping which should include the recommendations set out in the Focus Ecology Ltd. Pre-liminary Ecological Appraisal Report, dated September 2019. The approved landscaping scheme shall be carried out in the first planting and seeding seasons following the commencement of the use of the additional pitches, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of the visual amenities of the area in accordance with Policy GEN1 of the LDP.

- 4) The development shall include a visibility splay of 2.4m x 130m to the east of the existing access road junction and there shall be no obstruction to visibility in excess of 0.6m above the nearside channel level of the adjoining highway and retained for as long as the development remains in existence.

Reason: In the interests of highway safety and in accordance with the provisions of LDP Policies GEN1 and AC13

- 5) The stated visibility splay at the proposed point of access shall be made available and kept free from all obstructions for the duration of site construction works.

Reason: In the interests of highway safety and in accordance with the provisions of LDP Policies GEN1 and AC13

- 6) The development shall not be occupied until facilities for the parking and turning, loading and unloading of vehicles have been provided in accordance with details to be submitted to and approved in writing by the local planning authority and they shall be retained in perpetuity.

Reason: In the interests of highway safety and in accordance with the provisions of LDP Policies GEN1 and AC13

- 7) No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
- i. the parking of vehicles of site operatives and visitors;
 - ii. loading and unloading of plant and materials;
 - iii. storage of plant and materials used in constructing the development;
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v. wheel washing facilities;
 - vi. measures to control the emission of dust and dirt during demolition and construction; and
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In the interests of highway safety and in accordance with the provisions of LDP Policies GEN1 and AC13.

- 8) No development shall commence until a detailed drainage strategy has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the use of the development and retained in perpetuity.

Reason: To prevent pollution of the environment by ensuring the provision of adequate foul/surface drainage in accordance with the provisions of LDP policy GEN1.

- 9) No development shall take place, nor any site clearance, until there has been submitted to and approved in writing by the local planning authority details of the mitigation measures identified within the Focus Ecology Ltd. Ecological Appraisal dated September 2019 and associated drawings. The mitigation measures shall be completed as approved before the use is commenced.

Reason: To ensure conservation of biodiversity and their habitats in accordance with the provisions of LDP policy GEN1.

- 10) No pedestrian access shall be provided within the southern boundary of the site between the A5026 and the site.

Reason: In the interests of highway safety and in accordance with the provisions of LDP Policies GEN1 and AC13.