

Huw Evans Planning

Appeal against refusal of Wrexham County Borough County Council to grant planning permission for the erection of a chicken processing factory on land adjacent to Unit 34, Five Crosses Industrial Estate, Minera, Wrexham, LL11 3RD

Statement on behalf of the Appellant

Town and Country Planning Act 1990: Section 78

Appeal against refusal of Wrexham County Borough County Council to grant planning permission for the erection of a chicken processing factory on land adjacent to Unit 34, Five Crosses Industrial Estate, Minera, Wrexham, LL11 3RD

Local Planning Authority Ref: 2019/0793

Statement on Behalf of Appellant

1.0 Introduction

- 1.1 This appeal is made in respect of the refusal of Wrexham County Borough Council of a second planning application to erect a chicken processing factory on land adjacent to the appellant's existing business on the Minera Industrial Estate.

2.0 The Site

- 2.1 The site is a vacant area of land previously occupied by a gas utility plant within the Minera Industrial Estate located some 5km to the west of Wrexham. The estate is a well established employment area providing both local and national services. It contains a mix of manufacturing, construction, engineering and automotive services including a significant element of food production such as the appeal premises, a large bakery and meat pies.

3.0 Planning History

- 3.1 The appellant's business has been established on the adjoining site of Unit 34 for some 13 years. It has continued to develop since then as a successful food production enterprise and seeks to modernise and increase its capacity and sees the adjacent appeal site as an ideal opportunity. Prior to Armon's occupation the site was also an established food manufacturing outlet.
- 3.2 An application reference 2019/0367 was submitted in May 2019 by the appellant for the erection of a chicken processing factory. The officer report is attached as Appendix 1 for information. It was refused under delegated powers on 22 August 2019 for the following reasons (as written):

1. On the basis of the indiscriminate parking along the road which runs north of the site, the location of the new proposed access is not considered can be achieved the required visibility or space for the for the manoeuvre of vehicles exiting the site. It has not therefore been demonstrated that a safe and convenient access can be achieved and the proposal would conflict with UDP Policy GDP1(d).

2. Insufficient information has been submitted to demonstrate whether there are any HGV's associated with the proposed development and if so, whether there would be any resultant vehicular conflict with existing neighbouring uses and whether the application site as well as the Industrial Estate can accommodate any increase in HGV's. The development would be in conflict with UDP Policy GDP1(d).

3. Insufficient information has been submitted to accompany the application to establish whether the land within the application site can accommodate the development without resulting in hazards to the development, its occupants and the local environment. The development would conflict with PPW paragraph 6.9.25.

3.2 In order to address the above reasons for refusal a further application reference 2019/0793 and subject to this appeal, was submitted on 20/10/2019. In response to consultation no objections were received from the following consultees:

- Coal Authority - no objection to the proposed development subject to the imposition of conditions.
- NRW – no objection subject to advisories
- Public Protection – no objection subject to conditions
- Welsh Water – no objection subject to conditions
- Highways – No detrimental impact on the adopted highway network, parking layout acceptable and increase in provision of spaces has to be viewed favourably. Queries regarding use of site by HGVs in terms of manoeuvrability, size, frequency and delivery times.

3.3 The Officer Report is attached as Appendix 2. The application was refused under delegated powers on 13 February 2020 for the following reasons:

1. The scale of the proposed building would represent overdevelopment, creating potential service and operational conflict between the proposed use and the neighbouring business uses which lie in close proximity. Neither has it been demonstrated that there is sufficient provision of vehicular access to the site from the unadopted roads in the Five Crosses Industrial Estate conflicting with UDP Policy GDP1(d).

2. Insufficient information has been submitted to demonstrate whether there are any HGVs associated with the proposed development and if so, whether there would be any resultant vehicular conflict with existing neighbouring uses and

whether the application site, as well as the Industrial Estate can accommodate any increase in HGVs. The proposal would conflict with UDP Policy GDP1(d).

4.0 Planning Policy

- 4.1 The development plan is the Wrexham Unitary Development Plan 1996 -2011, adopted in February 2005. Although the UDP time expired 2011, the weight to be attached to the Plan's policies and proposals will carry weight in the context of this appeal. However, given the length of time that the Plan has expired substantial weight should also be attached to more up to date relevant material considerations including Welsh Government planning policy and technical advice.
- 4.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. Conversely, applications that are not in accordance with relevant policies in the plan should not be allowed unless material considerations justify the grant of planning permission.

Wrexham UDP

- 4.3 The local planning authority relies solely on Policy GDP1(d) for its decision. This states that all new development should ***“Ensure safe and convenient pedestrian and vehicular access to and from development sites, both on site and in the nearby locality”***.
- 4.4 The UDP's strategy as reflected in paragraph 2.10 with regard to employment and other policies is to seek to maximise access to local facilities, and these are consistent with the Council's aims of reducing poverty and unemployment and promoting equal opportunities. The strategic policies in Part 1 of the Plan sets out the principles of the broad location of development.
- 4.5 Policy PS1 states that new development for employment will be directed to within defined settlement limits and employment areas. Policy PS3 encourages the use of previously developed brownfield land comprising of vacant or underused land in preference to the use of greenfield land wherever possible.
- 4.6 The Plan refers to the historical decline in the manufacturing and mining base of the area and the measures that the local authorities and former Welsh Development Agency had adopted in response with a series of employment development initiatives which regenerated the local economy. This resulted in new jobs in the manufacturing, commercial and service sectors. However, despite this success, the local economy still faces a number of challenges including:
- less mobile investment available, and greater competition from other parts of the United Kingdom and other countries;

- pockets of severe unemployment and deprivation, especially in the urban villages to the west of Wrexham;
 - over-reliance on manufacturing, leaving the economy increasingly vulnerable to external decision-making.
- 4.7 Whilst land has been allocated in other parts of the Borough, primarily on the Wrexham Industrial Estate to the east with small allocations to the west and south in Llay, Acrefair, Johnstown, Rhostyllen to the west, no new land is allocated for development at Minera or Coedpoeth. The Plan deals with this through **Policy E4** which states that employment development on unannotated land within settlement limits will be permitted subject to Policy GDP1.
- 4.8 The supporting text explains that although the Plan provides for a generous supply of undeveloped sites, consideration will be given to other employment proposals on unannotated land within settlements. Such development contributes to the economic use of land, avoids pressure on the countryside, and serves to remove the detrimental effect of blight within settlements. However, proposals must not prejudice existing amenities through noise, vibration, smell, safety, health or excessive traffic generation.
- 4.9 Policy **T8** (Parking) of the UDP states that “development granted planning permission will be required to provide vehicle parking spaces either on site or nearby, in accordance with the Council's current parking standards. Special regard will be paid to the following factors, as appropriate:
- a) the availability of public transport nearby,
 - b) proximity to public car parking,
 - c) proximity to local services and facilities,
 - d) road safety hazards and amenity considerations arising from on-street parking in the vicinity of the site.

Where implementation difficulties arise in making parking provision on-site or nearby, the Council will require a developer to make financial contributions for measures to assist public transport, or walking and cycling as appropriate”.

- 4.10 The council has also published supplementary guidance regarding parking (**SPG16**). This states that some on-site parking is likely to be required for most new developments. Developers should clearly demonstrate that the amount of parking provided will be sufficient to meet likely demand and show they have taken account of how close a site is to employment, local facilities such as shops and frequency of public transport.

- 4.11 Sub-paragraphs ii) and iii) are of relevance to this appeal and state:

ii) Extensions to existing buildings Extensions to buildings should not normally result in the loss of existing parking space unless otherwise justified within the submitted proposal. Additional parking spaces should also be provided where, either as a result of the additional floor space and/or the resulting total floor space of a building, there is likely to be an increased demand for parking.

Developers should therefore clearly demonstrate that the amount of parking provided will meet likely demand.

iii) Changes of use of existing buildings/sites Changes of use will be judged on their own merits. Additional spaces may be required where the demand for parking arising from a new use is likely to be greater than that from the existing use, particularly where this is likely to cause highway problems in the locality.

- 4.12 The B2 General industry standard parking is 1 space per 50sqm of gross floor space. One of the options for the layout of parking spaces is to set them at a 45° angle with a 3m circulation aisle width.

Planning Policy Wales

- 4.13 Paragraph 3.51 refers to previously developed land which 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. Paragraph 3.52 goes on to say that planning authorities should work with developers to ensure that suitably located previously developed sites are brought forward for development.
- 4.14 With regard to economic development PPW 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 employment in Wales as a whole is not constrained by a shortage of land for economic uses. It emphasises that planning authorities should aim to promote the re-use of previously developed, vacant and underused land.

TAN23 Economic Development

- 4.15 TAN23 states that it is essential that the planning system recognises, and gives due weight to, the economic benefits associated with new development. The aim should be to provide the land that the market requires, unless there are good reasons to the contrary. Where markets work well, this will help maximise economic efficiency and growth. 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
- 4.16 Where there may be conflicting interests the economic benefit of a development must be weighed in the planning balance of decision making. It should not be assumed that economic objectives are necessarily in conflict with social and environmental objectives. Planning should positively seek 'win-win' outcomes, where development contributes to all dimensions of sustainability.
- 4.17 In instances where economic development would cause environmental or social harm which cannot be fully mitigated, careful consideration of the economic benefits will be necessary and advises that appropriate tests should be applied.

- 4.18 The first test is that of the availability of alternative sites and if an application is refused is it likely that the demand could be met on a site where development would cause less harm. This requires consideration of the availability of similar alternative sites nearby.
- 4.19 The second relates to the number of direct jobs that will be based at the site. This provides an indication of a development's contribution to the wider economy. Economic growth is worthwhile wherever it is located, and in the interests of economic growth the planning system should generally aim to provide land where there is demand for it.
- 4.20 The final test is whether there is any special merit which would contribute to policy objectives. An example would be a development in a disadvantaged area where jobs could help fight social exclusion, improving run-down places and creating job opportunities for people at high risk of unemployment.

TAN12 Design

- 4.21 TAN12 emphasises the importance of considering the local context and character of the area. It comprises the characteristics and setting of an area in which a development is located. This includes the form of buildings and spaces. Understanding the site and its immediate context is the basis for a meaningful and sustainable design response.

5.0 Appellant's Response to Reasons for refusal

- 5.1 By way of background to the need for the proposed development the appellant's company, Armon, is an expanding and progressive meat processing company seeking to maximise their facilities capabilities and grow new business. Future flexibility is an important factor in maintaining efficiency and competitiveness hence the need to be able to respond to changing market conditions and production methods.
- 5.2 The company is currently undergoing significant investment in innovative production equipment to ensure that the business maintains its competitive edge. A more mechanised process together with technological advances will result in the loss of 9 jobs within the current accommodation. Armon is seeking to redress the loss of the jobs to some degree by further investment in the proposed new building which will result in the creation of 6 new jobs. This reduces the net loss of jobs by 3 but safeguards the existing operation and remaining jobs.
- 5.3 The proposed development has been subject to detailed discussion with planning officers which has resulted in a number of amendments and adjustments to meet the response and advice of officers.
- 5.4 The first reason for refusal is based on the planning authority's view that the proposal represents an overdevelopment of the site. There is no definition of what constitutes overdevelopment either in the UDP or in Welsh Government technical advice. TAN12 does refer to local context and the character of the area. In this case the Minera Industrial Estate is made up of a range of building types of varying floorspace, height and plot ratios.

There is no defined design principle and the estate has developed on a piecemeal basis over many years with the result of diverse individual buildings and plots including groups of small units.

- 5.5 In this case the issue of 'overdevelopment' needs to be considered on the ability of the site and building to accommodate its functional requirements without adverse impact by virtue of dominance and reasonable parking and access arrangements.
- 5.6 The Officer Report refers to design and layout and states that, *"The building is large, measuring approximately 9.6m high, which would be approximately 3m higher than the industrial units in closest proximity to the site. However, there are other larger units on the Five Crosses Industrial Estate, and based on this wider context, as well as the fact that this is an Industrial Estate, the proposal is not considered to be overly large in scale in terms of its height"*.
- 5.7 However, the report goes on to say that, because the building would span the entire site and relies on the 'Lower Access Road' to gain vehicular access to the building, this is not sufficient. It then suggests that if the scale of the building, by virtue of its width and depth, were to be reduced then it may be possible to achieve a more sufficient access to the site. As presented however the authority considers that this is not possible and hence is overdevelopment when viewed in relation to the required site access.
- 5.8 The planning authority's assertion that the proposed building relies on the Lower Access Road to gain access is misleading and is attributing inappropriate weight in its consideration and ultimate determination of the application. The unadopted road serves the existing units and will, by reason of traffic circulation, continue to be used as it has done since the units were first built and occupied. However, the development does not rely on the lower road for access to the new unit. This is clearly shown on the submitted plan reference 1714-04 Rev A2 with the main access door being located on the north elevation on the upper road. Another smaller access to the building is shown on the east elevation from the circulation aisle alongside the parking area. It should be noted that the width of the access aisle is 3.7m as opposed to the 3m recommended in the council's adopted parking standards for 45* parking.
- 5.9 This is a perfectly acceptable and sensible design solution which allows free vehicular movement along the lower road.
- 5.10 On 13 December 2019 the planning authority raised issues with the applicant regarding the proposed 'lay by' on the upper road on the basis that it was outside of the red edged application site and was in the ownership of the council. This was rectified by the submission of a revised plan with the relevant notice served and certificate B provided on 17 December.
- 5.11 The applicant, through submissions, has clearly demonstrated that there is sufficient provision for vehicular access. There is the clear opportunity for circulation of traffic in and out of the site. Access to the building is not derived from the lower road which is where planning authority has expressed concern. The Highway Authority acknowledges the increased parking provision and regards this as a positive effect of the development. There is in fact a significant net increase in parking provision as the proposed development creates 8 new spaces whilst the number of employees has actually reduced

by 6 due to the modernisation and greater efficiency of the processes carried out. Note the comments of the Highway Authority as quoted in the Officer Report, *“Parking provision at the site is being increased by 8 spaces, which is viewed favourably by the Highway Authority”*.

- 5.12 It is acknowledged that indiscriminate parking is an issue on the estate and this has influenced the planning authority’s view of the development. However, it has been demonstrated that the proposal actually improves the current situation. It should also be taken into account that the solution to the problem raised on this issue, particularly by the adjoining unit, lies more in the hands of those individual operators. Some individual units, such as the vehicle repair service at 36, have very little dedicated external space. However, the original space around their unit and within their control, has been developed through the erection of a spray booth and utilisation of other space for external storage. This has reduced their own original parking area down to just two spaces and as a result have over-developed their own site.
- 5.13 There is therefore a responsibility on unit occupiers to both organise their own space and to manage the times and frequency of vehicles under repair or waiting for repair rather than relying on the on street parking where they are themselves contributing to congestion and circulation difficulties. If better management cannot be achieved, then the reality is that the business has simply outgrown its accommodation and should seek alternative premises. This is precisely what the appellant has done in reviewing the efficiency of the operation and finding an appropriate opportunity to extend on to the adjoining site and at the same time increase on site parking provision.
- 5.14 It is also noted that, according to the Officer Report, *“A neighbouring property has submitted information to the Council to state that ‘Lower Access Road’ is not within the applicants’ ownership, but in the neighbours’ ownership. Furthermore, the un-adopted road leading into the site, is not outlined in blue, therefore indicating that this is also not within the applicants land ownership.”* If this is the case then it applies to the existing development and nothing has been provided to either enforce land owner rights or submit evidence of ownership. In any event, for planning purposes this remains a private issue. The Council is quite wrong to rely on such matters when it states that, *“On this basis, it has not been demonstrated that there is sufficient provision of vehicular access to the site from the un-adopted roads within the Five Crosses Industrial Estate, conflicting with UDP Policy GDP1 (d)”*.
- 5.15 With regard to the Highway Authority’s comments on the proposed layby on the upper access road requiring 45° angle kerbs at either end, this is simply a matter of detailed that can be resolved by the imposition of an appropriate condition. Their comments regarding the prohibition of parking by HGV being controlled by condition is noted but the appellant would question whether in practise this is enforceable or necessary. The fact that an HGV may occasionally park in the layby would in itself relieve congestion of the surrounding access network.
- 5.16 The second reason for refusal relates to the use of the site by HGVs. Information was provided in Section 3 of the DAS and the Inspector is invited to refer. For clarification it is confirmed that there is only one HGV delivery on average 5 times a week. This arrives from Ireland at 06.30 when the delivery is unloaded by fork lift truck which takes no more

than 30 minutes after which time the HGV leaves the site. The timing and frequency of HGV traffic is therefore not only very limited but occurs at a time when vehicular activity on the industrial estate is also limited.

- 5.17 The outgoing packed and processed chicken portions are transported to customers by panelled transit van vehicles. These generally leave site in the evening after the majority of the processing employees have left site and the traffic on the estate is much quieter. The company operates a fleet of 4 delivery vehicles which are parked on designated spaces inside and outside of Unit 32. It should be noted that only 2 of these vehicles occupy external parking spaces.
- 5.18 It can be clearly seen therefore that the existing and proposed traffic movements generated by these vehicles is very low and is unlikely to have any adverse impact on the access network on the industrial estate or the main highway. Neither do these movements create any undue vehicular conflict with existing neighbouring uses.
- 5.19 In summary the proposal, in the context of the site and character of the industrial estate, does not compromise Policy GDP1(d) in terms of overdevelopment but does represent a beneficial and sustainable use of a brownfield site. It safeguards existing jobs and contributes positively to the local economy. The lack of employment land allocations to the west of Wrexham as referred to in paragraph 4.7 above heightens the importance of utilising the availability of existing sites, including brownfield, for employment purposes. The traffic generated by the business, including HGVs is of such a small scale that it does not materially effect the capacity of the industrial estate to accommodate HGVs.
- 5.20 Crucially, it should be noted that there is no increased traffic flow as a result of this proposal. Any localised issues of manoeuvrability of large vehicles is improved as a result of the access arrangements proposed. The proposal does not therefore conflict with UDP Policy GDP1(d).

6.0 Submissions made after determination of the application

- 6.1 In response to an objection from Minera Tyres the applicant forwarded a revised site plan (1714 -04 Rev A3) to the planning department on 17 February. The applicant was unaware that the application had been determined on 13 February as the decision notice was not received until 18 February. For information only the plan is attached as Appendix 4 refers to a revised access arrangement of two way flow in and out of the parking area.
- 6.2 However, as the amended plan was submitted after the decision was issued it is unable to be considered as part of this appeal. The Development Management Manual confirms that there is no ability to make amendments to an application following a notice of an appeal against a decision except where the amendment corrects an error in the application which does not affect the substance of the application.
- 6.3 As a matter of record the appellant considers that the one way system proposed at the time of determination is preferable to that proposed on 17 February. Nonetheless the planning authority is invited to comment through its response to this appeal if it so wishes.

7.0 Conclusion

- 7.1 It has been demonstrated above that in the context of the site and its location within the industrial estate the proposed development does not amount to overdevelopment. The main concern as expressed in the reasons for refusal lie in matters of parking and manoeuvring of vehicles, including HGVs. It must be recognised that the current situation is not solely of the appellant's making and primarily lies with the inability of other users to regulate their own traffic generation and on site parking. The circulation layout and parking provision provided by the appeal proposal materially improves the current situation resulting in a net gain and benefit.
- 7.2 The development plan recognises the need to make the best use of underused and vacant land for employment purposes making a positive contribution to the local economy. This is particularly important to the west of Wrexham where such opportunities are limited. This is reinforced as a matter of principle through current and up to date national planning policy and advice as expressed in PPW and TAN23.
- 7.3 There is no conflict with GDP1(d) or any other development plan policies. Any concerns which a decision maker may have regarding overdevelopment of the site is outweighed by the positive benefits and the need to retain a productive employment generating enterprise on site. Given the above considerations it is requested that the appeal be allowed.

Huw Evans Planning

13 April 2020