



Penderfyniad ar yr apêl

Ymweliad â safle a wnaed ar 25/09/01

Appeal Decision

Site visit made on 25/09/01

gan/by Geraint Rees BA (Hons) DipTP MRTPI

Arolygydd penodwyd gan Cynulliad
Cenedlaethol Cymru

an Inspector appointed by the National
Assembly for Wales

Dyddiad/Date 23-10-2001

Appeal Ref: APP/H6955/A/01/1071063

Site address: Asda Store, Holt Road, Wrexham

- 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 without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by ASDA Stores Limited against the decision of Wrexham County Borough Council.
- The application (Ref. WRA P/2000/1074), dated 21/11/00 was refused by the Council by notice dated 09/04/01.
- The application sought the variation of a condition attached to a planning permission (Ref. WRA CBO2597, dated 05/01/99 for erection of new ASDA food superstore, petrol filling station, associated car parking, new vehicular and pedestrian service access and associated landscaping.
- The condition in dispute is No 03 which states that deliveries of goods or other materials to the site shall be not take place between the hours of 2200 hours and 0700 hours on weekdays and Saturdays. There shall be no deliveries on Sundays or Bank Holidays without the further written approval of the Local Planning Authority
- The reasons given for the condition was to protect the amenities of the occupiers of nearby properties.

Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision below.

Background

1. The appellant company sought in the first instance to vary the permission to allow deliveries to be made on Sundays and Bank Holidays over the same period as from Mondays to Saturdays viz between 0700 and 2220 hours. Following consultation with Council officers, Asda agreed to reduce the number of hours in order to protect the amenities of residents in the neighbourhood by amending delivery times to between 0800 and 1030 hours and between 1130 and 1800 hours on Sundays and Bank Holidays. The company has agreed not to carry out deliveries between 1030 and 1130 on Sunday mornings in order for the congregation at a nearby Friends Meeting House to worship in silence.

Main Issue

2. I consider that the main issue is the effect of these extended hours of operation of delivery vehicles on the living conditions of occupiers of nearby dwellings.

Planning Policy

3. The relevant planning policy referred to by the Council is criterion (d) of policy S4 of the adopted Wrexham Maelor Local Plan regarding the impact of proposals on amenity.

Reasons

4. Following the grant of planning permission in January 1999, the store opened for business in September 2000. The company submits that the inability to receive daily deliveries is adversely affecting the operation of the store during Sundays and Bank Holidays, causing on occasions both unnecessary and unsustainable wastage and also gaps in product range. The extended hours, as now proposed, would ensure that customers have fresh supplies of bread, fruit and vegetables on these days. The delivery lorries would travel along a service road access off Holt Road for a length of some 40m to a wide turning circle before reversing into a large covered service area. It is intended to limit the number of large vehicles to one per hour and to allow two bread vans over the period 0800 to 1030 hours.
5. Holt Road (A534) is a main thoroughfare linking Wrexham and Nantwich. The vehicular entrance to the service area is about 350m east of a major roundabout on the Wrexham ring road, encircling the town centre. This is a busy main highway for most of the week, including Sundays and Bank Holidays. The nearest residential area adjoining Holt Road is a long terrace on the southern side of the road, in an area of mixed land use character. The Mount consists of the residential development crowning the higher ground to the north east of the store, the nearest dwellings of which are about 50m from the turning area.
6. The appellant company commissioned a noise survey, which was carried out on Sunday 8 October 2000. The purpose of the survey was to visit the store site to take environmental background noise readings during specific daytime periods, and also to take readings at a measuring position representative of the background noise levels at the nearest residential properties. The latter measurements were taken at a point some 30m from the turning circle, some 15m from the facades of Nos 18-19 The Mount. The periods for measurements were 0700-1000 and 1400-1800 hours, the time interval adopted for measurement being 15 minutes. Broad band noise data were recorded for the $L_{Aeq,T}$, $L_{A90,T}$ and $L_{A10,T}$ levels, reflecting respectively weighted equivalent continuous noise level, weighted level exceeded for 90% of the sample period, and weighted level exceeding 10% of the period. As expected, the $L_{A90,T}$ levels, the most appropriate means to record background noise, were lowest during the morning period. Traffic travelling along Holt Road however was clearly audible throughout the survey.
7. In response to a request from the Council of December 2000 for further information, a noise survey of lorries arriving and departing the service yard was undertaken on a Sunday morning. The objective of the measurement was to obtain a combined single event noise level for each movement, which was then used to calculate the equivalent continuous sound level $L_{Aeq,T}$ (1 hour) for the lorry arrival and departure movements. The resulting noise level at the nearest noise sensitive property for a single lorry movement would be 41.9 L_{Aeq} (one hour). Comparisons between calculated noise levels and existing ambient noise levels reveal that the existing noise ambient levels are in excess of the calculated noise emanating from this limited operation, varying from 43.5 L_{A10} between 0800 and 0900 hours to 51.5 L_{A10} in the early afternoon. Accordingly the increase in noise level during the proposed operations would be imperceptible and would have no impact on residential amenities. The position was accepted by the Public Protection Department in recommending the approval of the revised hours of deliveries, albeit on a trial basis of 12 months.

8. From my reading of the statement of the Local Planning Authority, it has not been able to refute the scientific evidence that the extended delivery times would not cause any significant loss of amenity. It has not conducted its own survey to challenge the findings. I consider that the passage of a small number of vehicles would not lead to an unacceptable reduction in the living conditions of occupiers of neighbouring residential properties. In the absence of demonstrable harm, I consider that there would be no conflict with policy S4 of the local plan. Accordingly there is no sound reason for withholding planning permission.

Conditions

9. For reasons given above, I intend to vary the hours of operation for delivery lorries, which will include a limitation on the number of calling vehicles.

Conclusion

10. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Formal Decision

11. In exercise of the powers transferred to me, I allow the appeal and grant planning permission for erection of new ASDA supermarket food superstore, petrol filling station, associated car parking, new vehicular and pedestrian service access and associated landscaping at the ASDA store, Holt Road, Wrexham, in accordance with the terms of the application Ref WRA P/2000/1074 dated 21/11/00 without compliance with Condition No 03 previously imposed on planning permission Ref WRA CBO2597 dated 05/01/99, 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 condition:

Condition No 03: Deliveries of goods or other materials to the site shall be not take place outside the following times:-

0700 hours and 2200 hours on weekdays and Saturdays.

0800 hours and 1030 hours; 1130 hours and 1800 hours on Sundays and Bank Holidays.

The number of articulated vehicle deliveries on Sundays and Bank Holidays shall not exceed a maximum of one vehicle per hour. The number of other deliveries shall not exceed two bread vans in the period from 0800 to 1030 hours.

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Information

12. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court within 6 weeks from the date of this decision.
13. This decision does not convey any approval or consent that may be required under any enactment, by-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.
14. An applicant for any approval required by a condition attached to this permission has a statutory right of appeal to the National Assembly for Wales if that approval is refused or granted conditionally or if the authority fails to give notice of its decision within the prescribed period.

Geraint Rees

INSPECTOR