

Appeal Reference: APP/H6955/A/19/3241117

1.0 THE SITE

- 1.1 The Appeal site is located at 31 Holyrood Crescent, Rhosddu, Wrexham, LL11 2EN

2.0 PROPOSAL

- 2.1 Planning permission was sought in Full (Ref: P/2019/0513) for the change of use from A1 shop to A3 food and drink. Planning permission was subsequently refused and the reasons given as:

2.1.1 By virtue of its close proximity to residential properties the proposed change of use of the building to Use Class A3 would likely have a significant detrimental impact on the residents of those properties by reason of increased noise and odour nuisance, anti-social behaviour and additional litter, contrary to Policy GDP1 of the Wrexham Unitary Development Plan and the provisions of Local Planning Guidance Note No. 9 'Hot Food Take-Aways'.

2.1.2 The proposed development would significantly increase traffic generation and does not make adequate provision for the parking of 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'.

3.0 LOCAL PLANNING CONTEXT

- 3.1 The relevant development plan is the Wrexham Unitary Development Plan (UDP), as adopted by the Council in 2005. For the purposes of this Appeal, UDP Policies GDP1 and T8 are relevant along with Local Planning Guidance Notes (LPGNs) Nos. 9 'Hot Food Take-Aways' and 16 'Parking Standards' which amplify these Policies. Copies of the UDP Policies and LPGNs are provided within the questionnaire bundle.

4.0 THE COUNCIL'S CASE

- 4.1 The existing property comprises a gross floor area of 55m² with an associated maximum parking requirement of 4 spaces as set out in LPGN 16 (see Appendix 1). The proposed A3 use would require a maximum of 1 car space per 4m² public floor space, also as set out in LPGN 16. Details of the total public floor space were not provided as part of the application submission and have again not been provided as part of this Appeal. Based on the existing floor area, the proposed A3 use would require a maximum of 14 spaces. The proposed A3 use

would therefore generate a significant increase in parking demand above that of the existing use.

- 4.2 As acknowledge by the Appellant, parking is already limited in this location, and to allow an increase in traffic generation would compound existing problems and increase instances of indiscriminate parking on the highway. This often leads to pedestrian footways being obstructed, forcing pedestrians to walk on the carriageway, and interfering with the free flow of traffic movement and visibility for all users of the highway. This is unacceptable in terms of highway safety.
- 4.3 The previous use of the premises was as an auto parts retail unit (Express Autoparts) – Class A1 Retail Use. As mentioned above the proposed A3 use is likely to result in a significant increase in parking demand and traffic generation at the site particularly if used as a takeaway e.g. chip shop, compared with its existing use. Whilst LPGN 16 maximum parking requirements would not be applied in this instance given its relatively sustainable location, the increased shortfall in parking provision compared with the previous use / fall back position is considered likely to significantly impact on the safety of pedestrians and other road users given the increase in vehicle movements as a result of the development.
- 4.4 The Appellant has confirmed that there is no current parking space for the existing use but that there would be scope for the service area to the rear to be used for staff parking and deliveries. However no layout plan or other details have been submitted for consideration as part of this Appeal. Further, the service area referred to is not within the Appeal /Application site.
- 4.5 The Council acknowledges that there is a short section of carriageway fronting the existing retail units, however there is insufficient space to accommodate adequate parking for all of the existing retail units and the proposed A3 use. The premises are located in close proximity to the junction with East Avenue and in close proximity to the existing bus stop at this junction. It is considered that indiscriminate parking arising from the development would have a particularly detrimental impact upon these features of the highway.
- 4.6 Hot food takeaways tend to attract a high proportion of car borne and short stay customers which, without essential accessible parking provision, can affect traffic flow and road safety. Customers will be tempted to park for short periods to visit takeaway premises, often jeopardising the safety of other road users and pedestrians or park in adjacent residential streets thereby inconveniencing residents. For these reasons, and those already mentioned, the Highway Authority objects to the granting of planning permission (see consultation response at Appendix 2).

- 4.7 Development which results in the loss of or significant damage to residential amenity, quality of life, community health, traffic movement or highway and pedestrian safety will not be permitted. Further, takeaways should not be located within predominantly residential areas such as this (LPGN No.9 page 1 – Appendix 3). No information was provided as part of the application as to how the proposed A3 use will be operated including details of how food general waste will be managed on site or provision of litter bins for customers etc. Again, no detailed block plan has been provided as part of this Appeal to demonstrate how food and general waste will be managed etc. In the absence of this information the proposed use is likely to negatively impact upon residential amenity, quality of life and community health.
- 4.8 The Appellant states that it would have been possible to discuss the imposition of suitable conditions to mitigate the alleged harms associated with the proposed A3 use. This Council did attempt to enter into such discussions (see case officer correspondence at Appendix 4). However, further to a number of requests made by the Council, no detailed information was provided for the Council to consider. The Appellant now proposes the use of the premises from 08.30 until 23.00 daily. Operating an A3 use in a predominantly residential area until 23.00 on a daily basis is likely to have a significant detrimental impact upon local residential amenity and quality of life, and is therefore unacceptable.

5.0 CONCLUSION

- 5.1 For the reasons set out above, the proposed development is contrary to the aforementioned UDP Policies and amplifying guidance which seek to protect the health and well being of the local residents and the safety of all users of the highway. The proposed use remains incompatible with the surrounding residential properties and, as with the application for which planning permission was refused, this Appeal submission contains insufficient information to demonstrate that the concerns expressed by the Council and local residents can be overcome. This Council therefore respectfully requests that this Appeal be dismissed.

6.0 COSTS

- 6.1 The Appeal form states that a costs application is to be submitted. However no details of a cost application can be found within the Appeal documents and the Council therefore has no case to answer.
- 6.2 This Council confirms that it does not intend to submit an application for its own for an award of costs.

7.0 RECOMMENDATIONS

- 7.1 Should this appeal be allowed, the Council requests that consideration be given to the prevention of use of the premises for hot food takeaway or delivery and that the permission is made subject to the following conditions:

7.1.1. The development hereby permitted shall be commenced before the expiry of five years from the date of this permission.

Reason - To comply with Section 91(3) of the Town and Country Planning Act, 1990.

7.1.2 No use of the development shall be made before 08.30 hrs or after 21.00 hrs on any day.

Reason - To protect the amenities of the occupiers of nearby properties in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

7.1.3 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order, no part of the premises shall be used for any purpose within Class A3 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order with or without amendment) other than as a restaurant / café / bistro. For the avoidance of doubt, no hot food or drinks shall be sold for consumption off the premises.

Reason - To protect the amenities of the occupiers of nearby properties and in the interests of highway safety in accordance with Policies GDP1 and T8 of the Wrexham Unitary Development Plan.

7.1.4 No part of the development shall commence until details of the means of ventilation for the extraction and dispersal of cooking smells, including details of its method of construction, odour control measures, its appearance and finish have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to first use of the development and shall thereafter be permanently retained in an effective condition.

Reason - To protect the amenities of the occupiers of nearby properties in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

7.1.5 The rating level of any noise generated by air handling plant associated with the development shall not exceed the pre-existing background level by more than 5dB(A) at any time. The noise levels shall be determined at nearby noise sensitive premises, and measurements and assessment shall be made in accordance with BS4142:2014 Method of Rating Industrial Noise Affecting Mixed Residential and Industrial areas.

Reason - To protect the amenities of the occupiers of nearby properties in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

7.1.6 No part of the development shall commence until further details of the proposed vehicular parking and turning facilities for customer, staff and delivery vehicles have been submitted to and approved in writing by the Local Planning Authority. The facilities as are approved shall be fully laid out, surfaced and drained prior to first use of the development, and shall thereafter be permanently retained and kept free of any obstruction, and made available solely for the parking and turning of motor vehicles at all times.

Reason - To provide for the parking and turning of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety in accordance with Policies GDP1 and T8 of the Wrexham Unitary Development Plan.

8.0 Appendix

Appendix 1. LPGN No.16 'Parking Standards'

Appendix 2. Highway Authority Response - Dated 18/07/2019

Appendix 3. LPGN No. 9 'Hot Food Take-aways'

Appendix 4. Case Officer Correspondence