
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 18/09/17

**gan Declan Beggan BSc (Hons) MSc
DipTP DipMan MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 25.10.2017

Appeal Decision

Site visit made on 18/09/17

**by Declan Beggan BSc (Hons) MSc
DipTP DipMan MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 25.10.2017

Appeal Ref: APP/H6955/A/17/3179307

Site address: 64 Pen y Bryn, Wrexham, LL13 7HY

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 Arran Pritchard against the decision of Wrexham County Borough Council.
 - The application Ref WRO P/2017/0329, dated 24 April 2017, was refused by notice dated 3 July 2017.
 - The development proposed is a "Change of use to house in multiple occupation (HMO) 10 rooms (1 occupant per room)".
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Decision

1. The appeal is allowed and planning permission is granted for a 'Change of use to house in multiple occupation (HMO) 10 rooms (1 occupant per room)' at 64 Pen y Bryn, Wrexham, LL13 7HY, in accordance with the terms of the application, Ref WRO P/2017/0329, dated 24 April 2017, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than five years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans/drawings:
 - Site edged in red on location plan at scale 1:1250 dated 26 April 2017
 - Proposed floor plans dated 26 April 2017
 - Proposed and existing elevation details at scale 1:140 @A3 dated 26 April 2017
 - 3) Prior to the commencement of the development hereby approved details of the materials to be used in the construction of any new external surfaces, including doors and windows, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 4) Prior to commencement of development, details of bin storage areas within the site shall be submitted to the local planning authority for approval. Any
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subsequently approved details shall be provided prior to occupation of any of the rooms and thereafter be retained in perpetuity.

Procedural Matter

2. The description of the proposed development differs on the planning application form to that stated on the Council's refusal notice. Based on the application documents, I consider the description as given on the Council's refusal notice is more accurate and it is on this basis that I have determined the appeal.

Main Issue

3. The main issue in this appeal is the effect of the proposal on the attractiveness, vitality and viability of the district shopping centre (DSC).

Reasons

4. The appeal property is currently used on the ground floor for retail purposes with offices above and is located on a corner site at the junction of Pen y Bryn Road (also known as Ruabon Road) and Ruthin Road. There is a mix of uses in the immediate vicinity of the appeal site including shops, other commercial premises and dwellings. The site is located within the Penybryn DSC as defined in the adopted Wrexham Unitary Development Plan 1996-2011 (UDP).
5. UDP policy S5 relates to new shopping and leisure development in DSC's and states changes of use that would adversely affect the vitality and viability of DSC's will not be allowed. The Council argue the loss of the existing commercial unit and retail frontage will affect the vitality and viability of the DSC and undermine its role in serving the existing/future service and retail needs of the community. I note the planning officer's report stated the DSC had numerous existing retail uses, which correlates with my observations on site that the DSC appears to be well served by shopping and commercial facilities. The Council have provided no documentary evidence to indicate that the DSC is suffering in terms of loss of retail and commercial uses; on the contrary it appeared to me to be in a relatively healthy state in terms of retail/commercial occupancy. I do not consider the loss of one retail/commercial unit would materially weaken, nor have any other significant impact on the attractiveness, vitality or viability of the DSC.
6. For the reasons detailed above, I am of the opinion the proposed change of use would not compromise the retail/commercial function of the DSC, nor have any significant impact on its attractiveness, vitality or viability. I therefore conclude the proposal would not run contrary to policy S5 of the UDP.

Other Matters

7. The Council's refusal reason relates to the impact of proposed development on the vitality and viability of the DSC, however, their appeal statement also refers to the character of the existing building being undermined by the proposed external alterations; this was echoed by third parties. I appreciate the shop front to be removed reflects in part the corner nature of an existing shop front on the opposite side of Ruthin Road, however, its design and appearance is not particularly noteworthy or unusual, nor does the building benefit from any formal protected status. The shop front would be replaced with brick and windows that would match those existing in terms of materials and in form/appearance. The proposed external changes allow for continuity in design terms that would result in any changes to the property not being out of character with the existing building, nor the wider area. Reference has been

made to the appeal setting a precedent for similar development in the locality if permitted, however each appeal is considered on its own merits.

8. Third parties object to the proposed development due to its lack of parking provision and which, it is argued, is likely to result in greater parking demands and highway danger locally. However as stated on the Council's planning report, when the Council's adopted Local Planning Guidance Note No.16 'Parking Standards' (LPGN16) is applied to the existing use of the site there would be a requirement for 8 on-site parking spaces, with the proposed use requiring 5 spaces; therefore the parking standards as required by LPGN16 cannot be provided in either situation. Notwithstanding third party observations on how parking activity related to the site has operated in the past, I note the Council's highways section state the proposed use is likely to result in a reduced parking demand when compared with the existing use and therefore raise no objections on highway grounds.
9. Notwithstanding the concerns raised there is no substantive documentary evidence to indicate that indiscriminate parking in the area has resulted in detriment to highway safety. I note the provision of a significant number of unrestricted on road parking bays near to the site along Ruthin Road and also other bays along Ruabon Road which are unrestricted between 6 pm and 8 am, both of which offer alternative opportunities to park locally, whilst the use of double yellow line parking restrictions on the roads immediately adjacent to the site is highly likely to restrict indiscriminate on-street parking. The site's location within a built up area within a reasonable walking distance of shopping facilities, a railway station and the main bus station, is likely to encourage a more sustainable approach to travelling by future occupants of the proposed development. Reference has been made to possible future parking restrictions in the locality by way of a 'residents only' parking restriction, however currently such a restriction is not in place.
10. Given that no additional parking spaces are being provided on the appeal site, the use of double yellow line parking restrictions on the road near to the site being highly likely to restrict indiscriminate on-street parking, the level of on-street car parking spaces nearby, and the proximity of public transport that should encourage a more sustainable approach to travelling and reduce the dependency on the private motor car, I consider that the parking requirements generated by the proposed development could be adequately met; in doing so I do not consider such an approach would undermine the Council's adopted LPGN16. Bearing the above factors in mind, I do not consider the proposed development is likely to result in any detriment to highway safety.
11. Concerns have been raised as to whether the site can accommodate a single parking space, bin store and cycle racks. However the provision of a car parking space or cycle racks on the site is not a requirement of the Council; bearing in mind my findings above I see no reason why I should take a different view. The Council confirm that the bins will be stored on part of the site that does fall within the appellant's ownership and would not impede access for other users of land to the rear of the site; based on the submitted evidence I see no reason to take a contrary view. Any concerns in terms of the existing vehicular access to the rear of the site being impeded, is a private matter outside the scope of this appeal.
12. Concerns have been raised about the proposal adding to the numbers of houses in multiple occupation in the locality, which it is maintained are detrimental to the amenity of the area by way of anti-social behaviour and their dilution of a mix of local uses. However I have been provided with no substantive evidence in terms of houses in multiple occupation causing significant detriment in regard to these matters. My

attention has been drawn to the lack of marketing of the property for an alternative business use, however I am not aware of any provision within the UDP that requires such an exercise for a property such as the appeal site.

Conditions

13. I have considered the conditions suggested by the Council, given my decision to allow the appeal. In doing so I have had regard to the tests for conditions set out in Circular 016/2014: *The Use of Planning Conditions for Development Management*; all the tests must be satisfied.
14. I agree that suggested condition 1 is necessary in regards to the imposition of the five year time limit. Suggested condition 2 requires that the number of rooms be restricted to 10 with 1 occupant per room, with the reason given for imposing the condition being in the interests of nearby amenity and highway safety; the Council have provided little in the way of explanation as to the actual harm in this regard. Bearing in mind the site's location in a highly sustainable location I do not consider in the absence of the suggested condition that there is likely to be any significant additional demand for off-site parking that would lead to a highway danger over and above, either that which may occur if the rooms were occupied by single persons, or the existing use of the site (bearing in mind if the Council's current parking standards were applied).
15. The Council refer to detriment to nearby 'amenity' although this is not quantified or explained; I have seen no substantive evidence that justifies the imposition of the suggested condition for this reason. For the above reasons I consider the condition is unnecessary and therefore fails to meet one of the tests set out in Circular 016/2014.
16. However even if I were to accept the condition was necessary for the reasons given by the Council, I am not satisfied the suggested condition is enforceable as it is likely in practice to be impossible to detect or to prove a contravention; the suggested condition would therefore also fail to satisfy the test of enforceability as referred to in Circular 016/2014.
17. Suggested condition 3 refers to the submission and approval of samples of all external facing and roofing materials, and full details of all new windows and doors. However the roof to the property is not being altered, and therefore I have amended the condition to omit this requirement; subject to the rewording of the condition in the interests of precision, I consider it is necessary in the interests of visual amenity.
18. Condition 4 as suggested requires the submission for approval, and the retention thereafter of details related to a bin storage area; this condition is necessary, however, in the interests of precision I have reworded it. I have also included an additional condition that refers to the plans/drawings relevant to the development being approved; this is necessary in the interests of clarity as to what has been approved and to facilitate any minor material amendments to the plans.

Conclusion

19. For the reasons outlined above, and having regard to all other matters raised, I conclude that the appeal should be allowed.
20. I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the WBFG Act. In reaching my decision, I have taken into account the ways of working set out at section 5 of the WBFG Act and I consider that this

decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

Declan Beggan

INSPECTOR