
Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 15/11/16

Ymweliad â safle a wnaed ar 15/11/16

gan Kay Sheffield BA(Hons) DipTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 12.12.2016

Appeal Decision

Hearing held on 15/11/16

Site visit made on 15/11/16

by Kay Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 12.12.2016

Appeal Ref: APP/H6955/A/16/3152383

Site address: 2 Brook Street, Wrexham, LL13 7LL

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 failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Stephen Williams against Wrexham County Borough Council.
 - The application Ref P/2016/0325, is dated 4 April 2016.
 - The development proposed is the conversion and alteration to form a taxi office and takeaway food outlet on the ground floor and a one bedroom flat on first floor.
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Decision

1. The appeal is dismissed and planning permission for the conversion and alteration to form a taxi office and takeaway food outlet on the ground floor and a one bedroom flat on the first floor at 2 Brook Street, Wrexham is refused.

Application for costs

2. At the hearing an application for costs was made by the Appellant against the Council. This application is the subject of a separate Decision.

Procedural matters

3. I have used the description of the development adopted by the Council as it more accurately describes the proposal than the description given by the Appellant.
4. The Council confirmed at the hearing that it had no objection to the taxi office or the residential unit and I have no reason to disagree with its conclusions in respect of these two elements of the proposal. It is therefore the proposed takeaway food outlet which is the main consideration in the determination of the appeal.

Main Issue

5. The main issue is the effect of the development on the local highway network and the safety of its users.
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Reasons

6. The appeal site is part of a terrace located on Brook Street close to the signalised junction with Town Hill, St Giles Way and Bridge Street. The appeal property is currently occupied by a taxi firm and other uses within the terrace include hair and beauty, tobacconist and various fast food outlets. There is a night club and takeaway on the opposite side of Brook Street and further clubs, pubs and takeaways on Town Hill and Abbot Street to the north.
7. The night time activity in the area surrounding the appeal site is reflected in the opening hours of some of the local businesses including the taxi firm which operates between 18:00 and 06:00. It was confirmed at the hearing that the busiest period is generally between 22:00 and 03:00 hours reaching a peak between midnight and 01:00 hours. The proposed opening hours of the takeaway would be between 18:00 and 06:00 hours daily and, as well as coinciding with the operating hours of the taxi office, they would be comparative with other similar businesses in the area. In terms of the nature of the development and the proposed hours of operation, the proposal would not be out of character with neighbouring uses.
8. Although no formal survey had been carried out, the Appellant confirmed at the hearing that feedback from clients of the taxi business had indicated a demand for a traditional fish bar. The Appellant considered that custom would mainly come from clients waiting for a taxi or others walking past late at night. Although the potential for car borne customers was accepted, the Appellant opined that the numbers would be low.
9. There is no off-street parking provision within the appeal site. On-street parking is allowed on Brook Street within a short distance of the site where parking is not time restricted between 18:00 and 08:00 hours. On-street parking is also allowed on Town Hill, and the public car park off St Giles Way does not charge for parking after 18:00 hours. There is therefore on and off-street parking available in the vicinity of the site for car borne customers of the proposed takeaway.
10. Despite the Traffic Regulation Order which imposes no waiting and no loading at any time on Brook Street in the vicinity of the site, car borne customers could potentially stop outside the premises. The Appellant considered that such stops would be in the order of five minutes. Whilst such action would be illegal and the majority of drivers would not stop on the highway, it cannot be ruled out completely. It is the impact these vehicles would have on the free flow of traffic along the highway and the consequent effect on highway safety which is of concern.
11. Brook Street is a classified road subject to a 30 mph speed limit and the site is close to the four arm signalised junction. During my site visit I noted that the distance between the stop line at the junction and the entrance into the proposed takeaway was approximately three car lengths. The pedestrian barrier extended to a similar point on the edge of the footway.
12. Any driver stopping a vehicle on the highway to access the takeaway would be only a short distance from the junction and would block the forward movement of drivers in the left hand lane. Drivers taking evasive action by moving into the adjoining lane allocated for vehicles waiting to turn right could potentially harm the safety of other drivers. Furthermore, given the short distance between the appeal site and the junction, it is possible that cars waiting to turn right would queue beyond any vehicle stopped outside the takeaway. The degree to which this would restrict movement

along Brook Street would depend on the volume of traffic using this stretch of the highway during the proposed opening hours.

13. The Council stated that Brook Street is a busy thoroughfare carrying high levels of traffic during the day and into the evening. The Council also indicated that there was heavy demand for on-street parking. On the other hand the Appellant contends that traffic levels drop sharply in the evening when there would be parking available either on-street or in the public car park off St Giles Way. At the hearing I was told that at night people make their way from establishments in the town centre down Town Hill and onto Brook Street where the road outside the site was often lined with police vehicles. Furthermore the pull-in on the opposite side of the road designated for loading only was said to be used by drivers calling at the existing takeaways.
14. Whilst the parties were agreed that the number of drivers likely to stop outside the appeal site would probably be low, neither submitted traffic or parking surveys to substantiate their claims with regard to traffic flow and parking availability. Although the Council was able to confirm that there were no recorded traffic accidents, the figures it had were for the period between 2007 and 2013.
15. I made unaccompanied and accompanied site visits at different times of the day but neither included the proposed hours of operation of the takeaway. My offer to undertake an unaccompanied late night site visit was not accepted by the Appellant on the grounds that it would only provide a snapshot and would therefore be unreliable.
16. However, from the descriptions before me I am concerned that there is the potential for the area around the appeal site to be busy with passing traffic, pedestrians and vehicles parked on the highway. Any driver stopping on the highway to collect a takeaway would disrupt the flow of traffic and diversionary action taken by other drivers could result in harm to highway safety. I acknowledge that traffic flows would be lower than during the day time and many customers would not stop on the road outside the site. Nevertheless in the absence of any substantiated evidence with regard to traffic flows I am unable to reach a firm conclusion with regard to the effect of the development on the highway network.
17. My attention has been drawn to an appeal decision in respect of 6 Brook Street and to other takeaways in the area for which permission has been granted. Whilst these cases bear some similarity with the appeal before me, I have only been provided with the appeal decision in respect of 6 Brook Street and I have no details of the permission granted for other takeaways in the area. I am therefore unable to draw a meaningful comparison between them and the appeal which I have treated on its merits.
18. I acknowledge that the proposal would provide a new business opportunity and a residential unit in premises which are currently underused. However, this is not sufficient to overcome my concerns with regard to highway safety. Neither are they overcome by the Appellant's suggestion of a later opening time of 21:00 hours. The evidence therefore leads me to conclude that the development would be detrimental to the free flow of traffic on the local highway network and to the safety of its users, contrary to Policy GDP1 of the Wrexham Unitary Development Plan.
19. 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 Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this 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.

20. For the reasons given above, and having had regard to all other matters raised, the appeal is dismissed and planning permission is refused.

Kay Sheffield

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Glyn Roberts

Building Design Solutions

FOR THE LOCAL PLANNING AUTHORITY:

Kevin Hughes

Senior Planning Officer

DOCUMENTS

- 1 Council's letter notifying the arrangements for the hearing and circulation list
- 2 Appeal decision ref: APP/H6955/A/15/3141501, regarding 6 Brook Street, Wrexham, submitted by the Council
- 3 List of suggested planning conditions submitted by the Council