

Town and Country Planning Act 1990
Local Planning Authority Reference: MIN P/2016/0540

Appeal by NewRiver Retail

**Land at the Five Crosses Inn, Ruthin Road, Minera,
Wrexham LL11 3UT**

Statement of Case

Peter Brett Associates

November 2016

Project Name: Proposed Convenience Store on land at The Five Crosses Inn
Project Ref: 30633-4620-T29
Report Title: Statement of Case
Date: November 2016

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1 INTRODUCTION

- 1.1 Peter Brett Associates LLP (PBA) on behalf of NewRiver Retail (the ‘appellant’) (NRR) has prepared this Statement of Case. The appeal is submitted against a decision made by Wrexham County Borough Council (the ‘Council’) on 05 September 2016.
- 1.2 The appeal relates to the refusal of planning permission for the proposed construction of a single storey convenience store with associated car parking, access arrangements, landscaping and ATM machine on land adjacent the Five Crosses Inn, Ruthin Road, Minera, Wrexham, LL11 3UT.
- 1.3 This statement sets out the background to the appeal, relevant planning policy and identifies the key issues raised by the Council in their reason for refusal.

Structure of our Statement

- 1.4 The statement is structured as follows:
- In Section 2, we set out the background and details of the appeal site;
 - In Section 3, we outline details of the proposal;
 - In Section 4, we give consideration to the main issue of the appeal and our assessment of the proposal against the policy framework and in line with the basis on which the application was refused;
 - In Section 5, we give consideration to any other matters raised during the application process; and
 - Finally, in Section 6 we set out our overall conclusions.
- 1.5 This statement should be read in conjunction with the other documents that comprise this appeal submission, including:

Documents submitted to the Council as part of the planning application

- Completed planning application form and ownership certificate;
- Planning and Retail Statement (Peter Brett Associates LLP);
- Transport Statement (TS) – May 2016 (Connect Consultants);
- Design and Access Statement (Corstorphine + Wright);
- Site Location Plan – T29-0300 Rev A (Corstorphine + Wright);
- Existing Site Plan – T29-0301 (Corstorphine + Wright);
- Proposed Site Plan – T29-0312 Rev A (Corstorphine + Wright);
- Proposed Ground Floor Plan – T29-0313 (Corstorphine + Wright);
- Proposed Roof Plan – T29-0314 (Corstorphine + Wright);
- Proposed Elevations – T29-0315 Rev A (Corstorphine + Wright); and
- Existing and Proposed Section Through Site – T29-0317 (Corstorphine + Wright).

Documents submitted to the Council during the planning application process

- Transport Technical Note TN003 01 August 2016 (Connect Consultants)

Other documents referred to as part of the appeal

- Application 1 First Iteration Proposed Site Plan – T29-0302 (Corstorphine + Wright);
- Application 2 Second Iteration Proposed Site Plan – T29-0302 Rev B (Corstorphine + Wright);
- Application 2 Third Iteration Approved Site Plan – T29-0302 Rev C (Corstorphine + Wright);
- Application 2 Third Iteration Approved Floor Plan – T29-0303 Rev B (Corstorphine + Wright);
- Application 2 Third Iteration Approved Roof Plan – T29-0304 Rev B (Corstorphine + Wright);
- Application 2 Third Iteration Approved Elevations – T29-0305 Rev B (Corstorphine + Wright);
- Application 2 Third Iteration Existing and Approved Sections – T29-0307 Rev A (Corstorphine + Wright);
- Application 2 Third Iteration Section Through Car Park – T29-0306 Rev A (Corstorphine + Wright);
- Committee Report – 07 March 2016;
- Decision Notice (Approval) – 29 April 2016;
- Highways Authority Consultation Response 1 – 20 June 2016;
- Highways Authority Consultation Response 2 – 22 August 2016;
- Environmental Health Officer's Consultation Response – 24 June 2016
- Delegated Officer's Report (OR) – 28 September 2016;
- Decision Notice (Refusal) – 05 September 2016;
- Transport Appeal Statement (TAS) – November 2016 (Connect Consultants); and
- Service Delivery Management Plan – November 2016 (Connect Consultants)

1.6 The consideration of the key issues demonstrates that:

- The proposal complies with the development plan and there are no material considerations which indicate that permission should be refused;
- The principle of retail development at the appeal site has been established;
- The Council's reliance upon a single policy within the Unitary Development Plan (UDP), and its application of parking standards, fails to properly take into account the evolving national policy context, which is plainly a material consideration; and
- The application is sustainable development in accordance with paragraph 3.1.2 PPW (Edition 8 January 2016) and therefore permission should be granted without delay.

2 BACKGROUND AND DETAILS OF APPEAL SITE

Application Chronology

- 2.1 In January 2015 PBA, acting on behalf of the appellant, submitted a planning application to the Council for:
'Erection of a Class A1 (retail) convenience store with associated car parking, access arrangements, landscaping and ATM machine'.
- 2.2 Following discussions between PBA and the Council, the original application (application 1 first iteration) was withdrawn on 6 March 2015 to enable a revised scheme to be prepared taking on board a number of comments made, principally concerning the number of on-site car parking spaces.
- 2.3 The application was resubmitted on 25 August 2015 (application 2 second iteration). The retail store as originally submitted with this second application proposed a gross floorspace of 325 sq. m, with a shared parking area of 18 spaces. Following comments received from the Highways Authority relating to the lack of parking spaces and inadequate off-site pedestrian improvement works, the scheme was amended such that the gross size of the retail store was reduced by 93 sq. m (GIA) to facilitate the inclusion of a further 5 spaces (application 2 third iteration).
- 2.4 Total on-site car parking spaces therefore increased to 23 along with an agreement from the appellant to fund a TRO in order to control parking and waiting within the highways in the form of double yellow lines to prevent on-street parking in the vicinity of the site. In addition, the revised scheme sought to provide for improvements to all footway crossing points at the junction areas where there are currently no dropped kerbs and tactile paving.
- 2.5 This application was approved at planning committee on 7 March 2016 and the decision notice subsequently issued on 29 April 2016.
- 2.6 A new application was submitted to the Council on 19 July 2016 (application 3) which sought to increase the extant scheme by 93 sq. m and provide 356 sq. m (GEA), of which 232 sq. m is net sales area. To account for this extension of floorspace the number of on-site parking spaces was reduced from 23 to 21 over the extant permission (inclusive of the existing parking space associated with the public house that is accessed from Gwernygaseg Road).
- 2.7 An objection from the Highways Authority was subsequently received which commented that the proposed development does not make adequate provision for the parking of vehicles off the adjoining carriageway.
- 2.8 A supporting Technical Note was produced by the Appellant's transport consultants (Connect) which provided a response to the comments and objection made by the Highways Authority. The Technical Note requested that the Council reconsiders the highways response to the application in light of the Appellant's continued commitment to provide a TRO, several off-site pedestrian improvements works and an agreement

to accept conditions requiring the submission of a Travel Plan and service delivery management plan. In tandem with this, it was highlighted that the Council's parking standard are referred to as maximum and Planning Policy Wales (PPW) advocates reducing parking to encourage sustainable modes of travel.

- 2.9 A follow up response was received from the Highways Authority reiterating their stance that the application should be refused due to inadequate parking provision.
- 2.10 The application was subsequently refused under delegated powers on 5 September 2016 for the following reason:

'1. Inadequate provision is made [for] off-street parking provision. The proposals therefore do not accord with policy T8 of the Wrexham Unitary Development Plan.'

Site Location and Description

- 2.11 The appeal site is located approximately 6km to the north west of Wrexham town centre on Ruthin Road (A525). The site is within a mixed-use area on the edge of the settlements of Minera and Coedpoeth. The site lies approximately 1km from Coedpoeth local centre which is located to the south east along A525.
- 2.12 The area surrounding the appeal site comprises a mix of residential dwellings and commercial uses. Immediately adjacent the site to the north-east is a small residential estate, Aldergrove Place, accessed from Gwernygaseg Road. There is presently no vertical boundary between the rear gardens of the properties and the public house car park. The Five Crosses Industrial Estate lies adjacent to the north western boundary of the site.
- 2.13 Located to the south east of the appeal site lies the Five Crosses Public House and associated surface level car park fronting Ruthin Road. The Five Crosses, which will remain trading, is a two storey cream rendered building with single storey extension to the rear.
- 2.14 Vehicular access to the site is provided off Ruthin Road to the west of the pub.
- 2.15 There is currently a neighbourhood recycling facility located along the north eastern boundary of the site. We understand that the Council intends to close such facilities give that they pre-date Wrexham's household waste recycling initiative and often attract fly-tipping.

3 PROPOSED DEVELOPMENT

Proposal

- 3.1 The proposed development seeks the:
- ‘Erection of Class A1 convenience store with associated car parking, access arrangements, landscaping and ATM machine.’*
- 3.2 The proposed store seeks to increase the consented scheme by 93 sq. m (GIA) and provide 356 sq. m GEA, of which 232 sq. m is net sales areas.
- 3.3 Given the extant permission, the principle of development is already established. It is therefore only necessary to consider the potential impacts arising from the larger floor area and reduced parking provision.
- 3.4 The site is not allocated for any specific purpose within the adopted Unitary Development Plan and is not located within a conservation area or adjacent to any identified heritage assets.
- 3.5 The proposal will result in a modern standalone retail unit with glazing to the principal elevation providing window displays resulting in an attractive and active frontage. The position of the store will be located towards to the north west of the appeal site, with the entrance facing south east, on what is currently the car park of the Five Crosses pub. Bordering the proposed store boundary there will be a substantial vegetation buffer and close boarded timber fencing to effectively screen the development to protect the residential amenities of the adjacent properties.
- 3.6 The front elevation of the proposed store is approximately 3m further to the south-east than the store subject to the extant permission. The width and height are identical and no changes to the external appearance are proposed. The amendments will therefore not result in any additional impact upon the appearance of the locality.
- 3.7 In respect of residential amenity, whilst the front elevation will be closer to the direct line of sight from south east facing windows of the flats 16 and 17 Aldergrove Place, no part of the store will obstruct it. The development will therefore not prove harmful to the amenity of the occupiers of those properties by way of loss of light nor will it prove overbearing.
- 3.8 The proposed service yard and delivery area will similarly be in the same position as previously approved.
- 3.9 A total of 20 car parking spaces (including disabled and parent/child spaces) will be provided within the application site plus 1 additional public house parking space that is accessed from Gwernygaseg Road.
- 3.10 Ruthin Road currently benefits from a pavement with dropped kerbs to its north-eastern length, running parallel to the appeal site, connecting the site to the residential area of Coedpoeth to the south. Although narrow, there are also footpaths to either side of Gwernygaseg Road to the south east, providing pedestrian access to the Five Crosses pub.

- 3.11 Following extensive discussions with the Highways Authority as part of the extant permission, this scheme similarly proposes several off-site pedestrian improvement works to ensure that the proposed store is better connected to adjacent residential areas. Notably the widening and improvement to the existing footways on the corner of the B5426 Minera Hall Road, including extension to the footway along the western side of Ruthin Road to a new 1.4m refuge island that is designed to allow a safer crossing point to the store.
- 3.12 In addition, the scheme will provide for improvements to all footway crossing points at the junction areas where there are currently no dropped kerbs and tactile paving. Such works will serve to not only benefit those visiting the store but are likely to assist any pedestrians accessing the general area, particularly employees walking to and from the adjacent Five Crosses Industrial Estate. In this respect, it is also anticipated that cyclists will use the footpath to access the cycle racks located at the far side of the store frontage.
- 3.13 Furthermore, and as similarly agreed as part of the extant scheme, the Appellant will fund a TRO in order to control parking and waiting within the highways in the form of double yellow lines to prevent on-street parking in the vicinity of the site.
- 3.14 Consequently, it is clear that the site is accessible by pedestrians and cyclists and will assist in the creation of a sustainable local community foodstore facility, that will reduce the need for local residents to travel further afield for their 'top-up' shopping needs.
- 3.15 As such, the proposed store will not draw any significant trade from other existing centres. The OR raised no objections on retail policy grounds and agreed with our assessment that the proposal would not conflict with local or national policy in respect of retail planning considerations.
- 3.16 The scheme makes efficient use of the site within an established residential area. The new store will improve local retail facilities and allow for increased choice and competition. The development is accessible by several transport modes and is conveniently accessible for walking and cycling. The store will deliver positive benefits to the local area, which include boosting of the local economy and the creation of up to 20 new jobs.

4 CONSIDERATION OF MAIN ISSUE

Policy Context

- 4.1 Planning authorities must have regard to the provisions of the development plan, so far as is material to the application, and to any other material considerations (s70 Town and Country Planning Act 1990).
- 4.2 Planning decisions should be taken in accordance with the development plan unless material considerations indicate otherwise (s38 (6) Planning and Compulsory Purchase Act 2004).

Planning Policy Wales (Edition 8 2016)

- 4.3 The current relevant national policy context for Wales is Planning Policy Wales (PPW) (Edition 8) (January 2016). The PPW '*sets out the land use planning policies of the Welsh Government.*' It is supplemented by a series of Technical Advice Notes (TAN).
- 4.4 There are a number of statements of policy contained in the PPW that have relevance to the present matter, including:
- 4.5 Paragraph 3.1.2 states clearly that '*in line with the presumption in favour of sustainable development...applications for planning permission...should be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise.*'
- 4.6 Section 4.1 of PPW sets out the statutory duty in relation to sustainable development confirming that this will be the central organising principle, and sets out a definition of what sustainable development in Wales means, including ensuring: sustainable resource use; sustaining the environment; a sustainable economy; a sustainable society; and the well-being of Wales.
- 4.7 Section 4.4.3 and 4.7.4 which notes that decisions and proposals should locate developments so as to minimise the demand for travel, especially by private car. Local planning authorities should assess the extent to which their development plan settlement strategies and new development are consistent with minimising the need to travel and increasing accessibility by modes other than the private car.
- 4.8 Section 4.4 of PPW sets out 19 key objectives for the planning system in Wales, advising that, amongst other things, decisions and proposals should:
- Promote resource-efficient and climate change resilient settlement patterns that minimise land-take and urban sprawl, especially through preference for the re-use of suitable previously developed land and buildings wherever possible.
 - Locate developments so as to minimise the demand for travel, especially by private car;
 - Promote access to employment, shopping, education, health, community, leisure and sports facilities and open and green space, maximising opportunities for community development and social welfare; and

- Promote quality, lasting, environmentally-sound and flexible employment opportunities.
- 4.9 Chapter 8 of the PPW sets out various policy objectives in relation to transport issues, including at Section 8.1.3 whereby the Welsh Government supports a transport hierarchy in relation to new development that establishes priorities in such a way that, wherever possible, they are accessible in the first instance by walking and cycling, then by public transport and then finally by the private car.
- 4.10 Section 8.4 of PPW makes clear that local authorities should adopt an integrated approach to traffic management. They should consider how different measures can complement one another and contribute to the achievement of wider planning and transport objectives.
- 4.11 Section 8.4.2 states that:
- ‘Car parking provision is a major influence on the choice of means of transport and the pattern of development. Local authorities should ensure that new developments provide lower levels of parking than have generally been achieved in the past. Minimum parking standards are no longer appropriate. Local authorities should develop an integrated strategy on parking to support the overall transport and locational policies of the development plan.’*
- 4.12 Chapter 10 of the PPW sets out various policy objectives in relation to Retail and Town Centres, namely that in order to maximise the opportunities for new development in centres, developers and retailers will need to be more flexible and innovative about the format, design and scale of proposed development and the amount of car parking, tailoring these to fit the local circumstances (Section 10.3.5).

Technical Advice Notes (TANs)

- 4.13 TANs of particular relevance include TAN4 (Retailing and Town Centres 1996) and TAN18 (Transport 2007).
- 4.14 As to ‘Car Parking Standards and Management’, TAN4 provides as follows:
- ‘11. Car parking standards should seek to achieve an adequate level of town centre parking reflecting the range of uses found and the range and level of public transport alternatives...Development for non-residential uses, including retailing, should be subject to car parking standards expressed as a range of maximum and operational minimum provision to prevent excessive supply which would encourage greater use of private cars.’*
- 4.15 TAN18 includes the following relevant statements:
- ‘Planning authorities should ensure that their development plan strategy is compatible with the aim of reducing the need to travel and provides greater choice of means of transport other than the private car.’ (Section 3.1).*
- ‘Maximum car parking standards should be used at regional and local level as a form of demand management. Turning minimum standards into maximum standards will not necessarily be appropriate. Therefore, evidence based on the likely effects of different parking levels for each land use should be considered,*

including consideration of the relative locations of land uses and their consequent accessibility... (Section 4.6).

'Where appropriate, the local parking strategy should link parking levels on new development sites with either the existence or introduction of on-street control regimes...Maximum standards should allow developers the discretion to reduce parking levels. However, a particular concern with reduced onsite parking is the potential for problems associated with 'over-spill' parking. Local planning authorities when developing the local strategy or applicants when undertaking a transport assessment should assess the extent of existing on-street parking pressures and the impact of new development. Where on street space is at a premium, local planning authorities could seek contributions from developers towards the implementation of on-street parking controls or refuse permission for developments where despite controlled parking, unacceptable road safety or congestion issues will probably remain.' (Section 4.13).

Unitary Development Plan (2005)

- 4.16 The development plan for Wrexham comprises the Unitary Development Plan (UDP) (1996-2011), adopted in February 2005. It is understood that the Council is in the process of preparing a new Local Development Plan that is currently undergoing statutory consultation with anticipated adoption set for March 2018.
- 4.17 The Council confirmed within the OR that the following policies of the UDP were relevant to the determination of the application:
- i. GDP1 General Development Principles
 - ii. S6 Local Need Shopping
 - iii. T8 Parking
- 4.18 The only policy cited in the refusal reason is Policy T8 and is referred to within this section.

Local Planning Guidance Note 16: Parking Standards (2011)

- 4.19 Extracts relating to the application of maximum parking for new developments, as taken from the Council's Local Planning Guidance Note 16 are referred to below. Designed to amplify the UDP policies cited previously, these are a material consideration in the determination of planning applications.
- 4.20 The document makes clear that the standards shown in Fig A – D set out parking standards for different land uses as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended). They set a maximum for new developments and changes of use and apply throughout the County Borough. For some uses operational parking (e.g. for delivery/freight haulage vehicles) in addition to non-operation parking (e.g. public/customer parking) is likely to be required. For uses not mentioned in Fig A – D the parking requirements will be determined on the basis of local circumstances and the potential demand for parking associated with that use.
- 4.21 The document further notes that the car parking standards should be treated as maximum standards for each land use category. In accordance with national policy

the Council has no minimum parking requirements. In cases where the amount of parking provided is below the maximum the Council will need to be satisfied that this is appropriate for the likely level of demand, without undermining requirements for inclusive access.

- 4.22 In recognising 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.
- 4.23 Development will not be permitted if there is insufficient parking on site and where as a result this will cause or increase highways problems. Any adverse cumulative impact of other developments in the locality will also be taken into account. Pertinently, the document notes that if these impacts can be overcome or reduced to acceptable levels by the delivery of new or improved transport infrastructure, including walking or cycling routes, public transport, new car parks, cycling parking or the implementation of traffic management and parking controls developers will be required to fund or in some instances contribute towards the cost of their delivery.
- 4.24 As a final point, Planning Guidance Note 16 states that the calculation of parking provision for mixed use developments will vary with the type of uses proposed. In cases where the mixed uses generally operate concurrently, levels applicable to all uses will be aggregated. Where the mixed uses generate demands at different times of the day the provision of space will be based on the development type which is the dominant use of that specific site.

Main Issue

- 4.25 We consider the following matter as the main issue to be examined as part of this appeal:
- Insufficient off-street car parking.
- 4.26 In respect of parking, the Council concluded that the proposal would not retain sufficient space within the curtilage of the Five Crosses and convenience store to accommodate vehicles to the extent that highway safety would be hindered.
- 4.27 Given the above, we will focus on the relevant main issue in addressing the reason for refusal.

Car Parking

Reason for Refusal One

- 4.28 This proposal was supported by a Transport Statement (TS) and submitted alongside this Statement of Case is a detailed Transport Appeal Statement (TAS). However, for continuity, the relevant points within the TAS are summarised below.
- 4.29 Reason for refusal 1 states:

'Inadequate provision is made [for] off-street parking provision. The proposals therefore do not accord with policy T8 of the Wrexham Unitary Development Plan.'

- 4.30 This reason for refusal alleges that a lack of on-site parking would lead to indiscriminate parking off-site, which would lead to both safety issues and the obstruction to the free passage of vehicles along Ruthin Road.
- 4.31 The local development plan policy cited is detailed in full below:

Policy T8 (Parking)

'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; and*
- 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.'

- 4.32 It is also relevant to note that the accompanying text to Policy T8 provides as follows:

'The Council's guidance on parking standards, which is updated from time to time, ensures that development does not adversely affect road safety or local amenity. Occasionally, however, full compliance with these standards may neither be practicable nor appropriate...The Council recognises that the management of car parking may be used in the future as a means to encourage the use of public transport, footpaths and cycleways, where this is appropriate.'
(emphasis added).

- 4.33 This policy does not add further clarity or explanation to the refusal reason. The policy notes specifically that *'where implementation difficulties arise in making parking provision on-site or nearby, the Council will require a developer to make financial contributions'*.

Council Parking Standards

- 4.34 For A1 retail the maximum car parking provision is one space per 14 sq. m of GFA, which for the proposed development equates to a maximum provision of 23 spaces (325 / 14) and therefore the proposed allocation of 9 spaces is in accordance with the local standards.

- 4.35 For A4 public houses, the parking standards identify a maximum provision of one space per 4 sq. m of public drinking area. This equates to a maximum provision of 20 spaces (78.6 / 4).

Parking Provision

- 4.36 The TAS submitted alongside this statement presents the following in respect of parking provision:
- The appeal site has planning permission for a 232 sq. m (GFA) convenience foodstore with 23 car parking spaces;
 - The proposed development consists of a 325 sq. m (GFA) with a car park for 20 vehicles. This is 93 sq. m larger than the approved store size, with 3 less car parking spaces;
 - Policy T8 identified that parking for development should be accommodated on-site, or nearby, albeit that the standards are maxima. The only policy stipulation affecting this proposal is the requirement to prevent overspill car parking where this would have a highway safety or amenity implication. Where parking cannot be accommodated on-site or nearby, the policy states that improvements will be required to non-car access infrastructure; and
 - Policy documents state clearly (and reiterate) that the parking standards are maximum standards. PPW advocates reducing parking to encourage sustainable modes of travel, this is taken to mean that the supply of parking is limited so that it acts as a constraint.

Appeal Precedent

- 4.37 The submitted TAS draws pertinent parallels with a recent appeal for a similar development at the Red Lion Public House, Marford Hill, Marford¹. It is clear that the Five Crosses proposed scheme includes 22 fewer spaces than the maximum standard. This is compared to 27 fewer spaces for the Marford scheme which was allowed at appeal.

- 4.38 In the context of the refusal reason, paragraphs 22 – 26 of the Marford appeal decision are of particular relevance:

‘22. Local Planning Guidance Note 16 ‘Parking Standards’ amplifies the adopted UDP policies. It has been subject to public consultation and adopted by the Council and I attach it significant weight.

23. It is not known how many store staff would be on duty at any one time. It is estimated that 6 staff would be required but a draft Travel Plan has been prepared by the appellant, the detail of which would be subject to negotiation with the Council, to encourage more sustainable modes of travel and to reduce the need for staff to travel by car and park at the premises. Furthermore, cycle parking facilities are proposed to be provided in the car park and there are

¹ Appeal Reference: APP/H6955/A/13/2209711 (Appendix 2)

locations within the vicinity of the site where customers or staff could park on street legally and without harming road safety of the amenity of local residents.

24. As demonstrated by the appellant's parking surveys, the peak demand times for parking at the retail store would differ from the peak times associated with the public house. It is unlikely that this would overlap significantly. The site benefits from good walking and cycling accessibility from local residential areas and connectivity to public transport. It is recognised that the maximum parking standard would not be provided by LPG16 which allows for less on-site parking to be provided where developments are close to local services and facilities and accessible by walking, cycling and public transport. Moreover, an over-provision of parking would reduce the potential to encourage people to use non-car modes of transport.

26. For the above reasons, I consider that the proposal would not have a detrimental impact upon the free flow of traffic or upon highway safety. Accordingly, I find that there would be no conflict with adopted UDP Policy GDP1 d) which requires new development to ensure safe and convenient pedestrian and vehicular access to and from development sites, both on site and in the nearby locality. It would comply with UDP Policy S6 and with Policy T8 which requires development to provide vehicle parking spaces either on site or nearby in accordance with the Council's current parking standards.'

- 4.39 It is evident that both the proposed Five Crosses scheme and the allowed Red Lion scheme have similar ratios of parking compared to the maximum standards, both include staff Travel Plans, both include on-site cycle parking spaces and the Inspector has also highlighted that parking can be suitably controlled by TROs.

Parking Assessment

- 4.40 The parking assessment contained within the May 2016 TS has been combined (surveyed public house parking demand added to the assessed convenience store demand) which shows that the car park would operate entirely within capacity on all assessed days.
- 4.41 Given that the reason for refusal relates to a single issue, for robustness, a further parking survey was undertaken at the Five Crosses car park in October 2016. The results contained within the TAS corroborate those of the previous survey as set out in the May 2016 TS.
- 4.42 In order to validate such an assessment, a survey at a nearby Rhostyllen convenience store was undertaken. The survey showed a maximum demand of only 9 parked cars at any one time, which supports the TRICS assessment.
- 4.43 While the assessment results identify that the proposed parking provision is suitable to accommodate demand, consideration has been given to what will happen should the demand exceed the capacity. Nearby and available on-street parking is available along Gwernygaseg Road, Ruthin Road and Talwrn Road. Such extensive available on-street parking would therefore easily accommodate any excess parking demand,

irrespective of the fact that the supporting evidence does not suggest that this will be required.

- 4.44 It is however noted that, at the Council's request, the appellant intends to fund a TRO to restrict parking along Ruthin Road adjacent to the site. Such an agreement should be read in conjunction with the myriad of off-site pedestrian improvement works.
- 4.45 Furthermore, as part of the appeal, the TAS includes evidence from an Automatic Traffic Count (ATC) which was placed on Ruthin Road adjacent to the appeal site. This information demonstrated that the traffic flows are fairly modest and the flows for the proposed convenience store are unlikely to vary significantly from the extant scheme.

Servicing

- 4.46 The supporting tracking plan contained within the TAS demonstrates that the Co-op's standard 10m rigid HGV will be utilised, similar in size to the service vehicle used by the brewery at present.
- 4.47 The submitted tracking analysis illustrates that 4 spaces would be affected by the service vehicle manoeuvring on-site. However, the parking analysis clearly demonstrates that the maximum accumulation is less than 17 parked cars on all assessment occasions. Therefore, it is entirely reasonable for the 4 required spaces to be 'coned-off' in order for the store to receive deliveries.
- 4.48 It is likely that deliveries to the store would take place during periods when the customer vehicle demand is low and therefore it is unlikely that service vehicles will interfere with customers visiting the store.
- 4.49 The May 2016 TS illustrates the service vehicle driving into the site from Ruthin Road, and leaving once again in forward gear.
- 4.50 It must be noted that the appellant considers that the provision of a Service Delivery Management Plan, that seeks to ensure that delivery operations are efficient and effective, is reasonable and has been prepared to be read in support of this appeal.
- 4.51 The TAS therefore demonstrates that service vehicles can be accommodated on site, arrive and depart in forward gear, and be controlled by a service management plan.
- 4.52 Given the evidence presented alongside this appeal proposal (TS and TAS) we do not consider there to be any highways safety issues associated with this proposal that would justify a refusal of planning permission.

Summary

- 4.53 It is maintained that the Council's reliance upon a single policy within the UDP, and its application of parking standards, fails to properly take into account the evolving national policy context, which is plainly a material consideration.
- 4.54 Moreover, the Council's continued reference to a 'shortfall' when compared with maximum parking standards fails to pay appropriate regard to the acceptable use of constrained parking provision as a means of encouraging sustainable modes of

transport. This is a central thrust of national transport-related policy. Indeed, this should be read with the following package of pedestrian improvement works to which the appellant has agreed:

- A new pedestrian refuge island, with dropped kerbs and tactile paving will be provided on Ruthin Road adjacent to the proposed convenience store;
- The existing footway on the south western side of Ruthin Road will be extended to the proposed refuge island and widened to 2m;
- The existing Minera Hall Road/Ruthin Road junction bell-mouth will be widened and a new pedestrian refuge island, with dropped kerbs and tactile paving, will be provided; and
- The existing footway on the north side of Gwernygaseg Road will be widened and the Gwernygaseg Road/Ruthin Road junction will be improved to include dropped kerbs and tactile paving for pedestrians.

4.55 Pertinently, there are repeated references in the PPW and the associated TANs to the use of maximum parking standards, which plainly ought not to be converted into minimum parking standards. Indeed, and somewhat ironically, the Council itself recognises the same benefits of constrained parking provision within the accompanying text used to support Policy T8.

4.56 The parking assessment provided within the TAS demonstrates that the proposed development's parking arrangements do not breach the Council's parking standards and that the scheme provides sufficient parking to support a robust assessment of demand. Irrespective of whether occasions arise where on-street parking occurs near to the site, there is no evidence to suggest that this would have any resultant effect upon highway safety. Rather, the proposed development will provide the opportunity for reduced journey distances and a modal shift to more sustainable modes of travel, as advocated in both local and national planning policy.

4.57 The servicing arrangements are similar to the existing provision on site. Furthermore, the provision of a delivery management plan that seeks to control and manage deliveries is considered acceptable by the appellant. As such we can find no evidence to substantiate a reason for refusal of planning permission on highways grounds.

5 OTHER MATTERS RAISED THROUGH OBJECTIONS

- 5.1 The OR confirms that two objections were received from occupiers of nearby residential properties and one letter was sent on behalf of the landlords of Aldergrove Place.
- 5.2 Notwithstanding that the principle of development has already been established by virtue of the extant permission, a summary of their concerns are considered and responded to below:
- Noise and disturbance - No concerns or issues were raised by the Council's Environmental Health Officer in respect of noise and associated disturbance. Similarly, the OR acknowledges that the proposed service yard will be in the same position as previously approved and the increase in floor area is unlikely to result in a significant intensification of the site compared to earlier proposals. The appeal proposal therefore poses no greater risk of noise nuisance/disturbance.
 - Loss of light/privacy – As noted in the OR, whilst the front elevation will be closer to the direct line of sight from south-east facing windows of the flats 16 and 17 Aldergrove Place, no part of the building will obstruct it. The appeal proposal will therefore not prove harmful to the amenity of the occupiers of these properties by way of loss of light nor will it prove overbearing.
 - Highway/pedestrian safety – Information contained within the TAS demonstrates that there is no identified pattern of road collisions near to the site and no accidents have occurred that involved the public house use or its servicing arrangements.
 - Additional traffic – The appeal site is well connected to public transport links and accessible on foot to a significant catchment area. As the TS makes clear, typically, of the visits to stores of this type, 55 per cent are made on foot, and fewer than 40 per cent of visits are by private car. The myriad of off-site pedestrian improvement works will serve to increase the attractiveness of customers arriving to the store on foot. Consequently, it is clear that the site is accessible by both pedestrian and cyclists and will assist in the creation of a sustainable local community foodstore that will serve to reduce the need for local residents to travel further afield for their 'top-up' shopping needs.

6 CONCLUSION

- 6.1 This statement relates to an appeal lodged against the decision of Wrexham County Borough Council to refuse planning permission for the construction of a single storey convenience store with associated car parking, landscaping and ATM machine on land adjacent the Five Crosses Public House.
- 6.2 This statement and supporting appeal documentation, including the submission from Connect Consultants in respect of highway matters, demonstrates that the scheme can be satisfactorily accommodated within the site with adequate car parking for both commercial operations.
- 6.3 The principle of retail development has already been established at the appeal site and this application simply seeks to increase the consented scheme by 93 sq. m (GIA) and provide 356 sq. m GEA, of which 232 sq. m is net sales areas.
- 6.4 The community foodstore will result in a number of economic, social and environmental benefits for the local area and the local economy including:
- A high quality community convenience store in a convenient, accessible and sustainable location;
 - Provision of cycle stands to the store frontage;
 - The convenience store will be accessible on foot for a significant number of its customers, thereby maximising the use of sustainable modes of transport;
 - A myriad of off-site pedestrian improvement works;
 - Enhanced consumer choice for local residents and increased retention of consumer retail expenditure within the local area;
 - A fully funded investment in the order of £1million; and
 - Creation of up to 20 new local jobs, likely to be attractive to residents of the area surrounding the store.
- 6.5 As such it is concluded that there is no technical reason why the appeal proposal should be refused. It is requested that the appeal is allowed on the basis that it accords with the development plan and that other material considerations indicate that permission should be granted (s38 (6) Town and Country Planning Act 1990).

APPENDIX A RELEVANT LAW, POLICY AND GUIDANCE

Local plan policies

- Wrexham County Borough Unitary Development Plan (2005)
 - GDP1
 - S6
 - T8
- Local Planning Guidance Note 16

National policy and guidance

- Planning Policy Wales
- Technical Advice Notes

Statute and Case Law

- Town and Country Planning Act 1990
- Planning and Compulsory Purchase Act 1990

The Appellant reserves the right to rely upon additional policy, law and guidance as becomes relevant.

APPENDIX B RED LION APPEAL DECISION

Penderfyniad ar yr Apêl

Ymchwiliad a gynhaliwyd ar 28 and 29 May 2014
Ymweliad â safle a wnaed ar 29 and 30 May 2014

**gan R Phillips BA (Hons) MSc DipM
MCIM MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 24 Mehefin 2014

Appeal Decision

Inquiry held on 28 and 29 May 2014
Site visit made on 29 and 30 May 2014

**by R Phillips BA (Hons) MSc DipM
MCIM MRTPI**

**an Inspector appointed by the Welsh
Ministers**

Date: 24 June 2014

Appeal Ref: APP/H6955/A/13/2209711

**Site address: Land adjacent to Red Lion Public House, Marford Hill, Marford,
Wrexham, LL12 8SL**

**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 Mr Anthony Tillotson on behalf of Marston's Estates Ltd against the decision of Wrexham County Borough Council.
- The application Ref GRE P/2012/0830, dated 15 November 2012, was refused by notice dated 3 June 2013.
- The development proposed is the erection of a retail unit and associated works.

Formal Decision

1. I allow the appeal and grant planning permission for the erection of a retail unit and associated works at land adjacent to the Red Lion Public House, Marford Hill, Marford, Wrexham, LL12 8SL in accordance with the terms of the application Ref GRE P/2012/0830 dated 15 November 2012 and the plans numbered in Appendix 1, subject to the conditions set out in the Schedule of Conditions at the end of this decision.

Procedural and Preliminary Matters

2. A Statement of Common Ground (SoCG) between the main parties was submitted which includes an agreed list of plans that the parties wish me to consider. These include a number of plans that were revised post-submission of the original application. The revised plans comprise minor amendments and would not alter the substance of the scheme. I do not consider any interests would be prejudiced by my consideration of them. As such, the appeal has been determined on the basis of the plans listed in Appendix 1.
3. The site lies outside a defined shopping centre. Policy S6 criterion c) of the adopted Wrexham Unitary Development Plan (UDP) provides for small scale shopping developments with a sales floor area that does not exceed 300 sq m within settlement limits. The UDP states that local need establishments not exceeding this size are characteristic of the area and would not materially detrimentally affect the vitality and

viability of district shopping centres. The SoCG records that the proposed development would accord with UDP Policy S6 in this regard.

4. In addition to the accompanied site visit on 29 May 2014, I conducted an unaccompanied visit on 30 May 2014.

Main Issues

5. I consider the main issues in this case to be:
 - a) The effect of the proposal upon highway safety;
 - b) The effect on the character and appearance of the surrounding area; and
 - c) The effect upon the living conditions of neighbouring residents with regard to noise and disturbance.

Reasons

The effect upon highway safety

6. The appeal site forms part of the car park of the Red Lion Public House and lies adjacent to the B5445 Chester Road which is known as Marford Hill in the vicinity of the site and is the main route through Marford. It lies between the village centres of Marford and Gresford close to local facilities including the public house, community hall and primary school. The site is bounded by the B5445 to the north, to the east by mature screening vegetation and to the south is a mixture of timber fencing, trees and shrubbery with residential properties beyond. There are also residential properties beyond Marford Hill to the north.
7. Within the vicinity of the site, Marford Hill is subject to a 30mph speed limit which changes to 40mph along the site frontage east of the eastern access point to the car park. Double white lines extend along the site frontage and there are two bus stops with the north east bound stop situated opposite the public house and the south west bound stop situated along the site frontage in front of the proposed retail unit. There is a brick bus shelter provided for the stop at the site frontage. Both bus stops are provided with bus lay bys and subject to no stopping except buses restrictions. There is a pedestrian footway approximately 1.8m wide running either side of the two access points to the car park along the site frontage. To the west of the public house is a zebra/pelican crossing. The layout of the Woodlands Road junction opposite the site between the two access points is substandard in that its horizontal geometry requires vehicles to edge out onto the B5445 when exiting this junction in order to achieve adequate visibility. I observed that some vehicles exiting in an easterly direction are required to cross the central white lines to achieve this manoeuvre.
8. The public house car park has 40 spaces and is served by two access points off the B5445. It is proposed to develop the retail unit on part of the car park thereby reducing the number of car parking spaces to 29 to serve both the proposed retail unit and the public house. In addition, the current arrangement for vehicles to enter and exit via either access would be changed so that entry would be via the north easterly access and egress from the south westerly access, thereby facilitating a one way system through the car park. This would ensure that adequate visibility would be achieved for vehicles exiting the site if buses were in the north easterly bus lay by. The pedestrian footway to the site frontage would be widened to approximately 2m and the existing brick shelter would be replaced with a new shelter.

9. The proposed service and delivery area for the retail unit would be to the west of the building. Deliveries to the unit are proposed to be controlled by a Service and Delivery Management Plan (SDMP), a draft of which has been submitted. The SDMP identifies typical delivery times and frequency which would be daily deliveries of newspapers, bread, dairy products and general chilled and ambient products Monday to Saturday. A larger 12.6m articulated vehicle would also make deliveries 3 times per week most likely every other day. Most deliveries are likely to be made in the morning. A condition would be imposed to restrict deliveries to the retail unit between 07.30 hours and 22.00 hours Monday to Saturday and 10.00 hours and 18.00 hours on Sundays with the exception of newspaper deliveries. Deliveries to the public house comprise 1 dray vehicle per week and catering deliveries 3 times a week in the morning on alternate days. The dray vehicle parks on the street because of the location of the cellar on the road frontage. Snacks are delivered fortnightly by transit van which would be able to use a parking space.
10. Traffic surveys undertaken by the appellant show that the peak traffic hours are from 08.00 to 09.00 hours am and from 17.00 to 18.00 hours pm. On Saturday the traffic peak is from 12.15 to 13.15 hours. A vehicle speed survey was also undertaken by the appellant. Based on the speeds recorded, adequate visibility can be achieved from both site accesses¹ though in the case of the north east access this is dependent on there being no buses in the bus stop. However, as the site would operate so that vehicles will only exit via the south westerly access, the required visibility splays would be achieved. This is not disputed by the Council. It is worth noting that recorded accidents from 2005 – 2012 show only one serious incident involving one vehicle approximately 170m east of the site on Marford Hill.
11. The draft SDMP identifies the typical types and size of delivery and refuse collection vehicles as being rigid vehicles of between 10m to 11m and 12.6m articulated lorries. The size of vehicles would be secured by condition. Delivery and refuse vehicles would use the delivery area to the west of the retail unit to load/unload and turn. Between 4 and 5 parking spaces would be required for delivery vehicles to enter the site (dependent on size of vehicle) and two would be needed to exit from the delivery area. Delivery vehicles would drive into the site, travel through the car park, turn and reverse to the delivery door and then exit the site in forward gear. The car parking spaces would be 4.8m x 2.5m wide which is in excess of the Council's specified minimum size². Furthermore, the aisle width between the proposed entry and exit would be approximately 6.4m with approximately 6.7m provided between the corner of space 1 and spaces 7 and 8 which would provide a degree of tolerance for vehicles to manoeuvre into and out of the delivery area.
12. The appellant submitted swept path diagrams for an 11m long rigid bodied vehicle and a 12.6m articulated vehicle. When arriving at the site from the south west, the 12.6m vehicle would require 5 parking spaces to be blocked or coned off in order to reverse into the delivery area. On exit the vehicle turns right to the north east and does not cross the give way line to Woodlands Road. The driver would be able to clearly see Woodlands Road and any vehicles waiting to exit and similarly a driver on Woodlands Road would clearly see a delivery vehicle waiting to exit the car park. The traffic survey shows the number of vehicles exiting Woodlands Road in the am peak hour is 34 vehicles, 5 vehicles in the pm peak and 19 vehicles in the Saturday peak which is a

¹ In accordance with Manual for Streets (MfS) and MfS 2

² 4.8m x 2.4m wide as set out in LPG 16

fairly modest flow of traffic and inter-visibility between this junction and the exit is good.

13. The submitted swept path of the 11m rigid vehicle is similar to the 12.6m vehicle when entering the site from the south west. When exiting to the north east it does not cross the give way line to Woodlands Road but would be required to reverse back in the exit in order to turn right. In order to complete this manoeuvre the required parking spaces would be kept free and any other vehicles exiting the car park would be able to see the delivery vehicle clearly and wait briefly for it to exit. It is predicted that up to 24 vehicles would depart from the store in the am peak hour which is an average of one every 2.5 minutes, should a delivery be made during this time.
14. Swept path diagrams of the same two vehicles approaching from the north east show the vehicles crossing the central white lines to enter the site. However, the driver would be able to see approaching traffic and would be able to judge when to turn. Similarly, delivery vehicles would have a clear view of the Woodlands Road junction and would be able to see vehicles attempting to exit. The traffic survey data shows that north east bound traffic flow along Marford Hill is 243 vehicles in the am peak, 162 vehicles in the pm peak and 151 vehicles in the Saturday peak. The maximum average during the am peak would be 4 vehicles per minute. Once within the car park the swept paths are as described above, including the exiting movements.
15. The parking spaces required for delivery vehicles to manoeuvre into and out of the site would be marked and signed so that customers would be advised of the restricted use of the spaces for parking at certain times of the day. The store operator would control the timing of deliveries and ensure that the necessary spaces were kept empty and that no vehicles were left in those spaces overnight. There are several available methods to ensure the required spaces are kept free including lockable and retractable barriers or posts as shown on approved drawing 3405-P01 Rev G. These could be moved or retracted by the store staff or delivery driver at the appropriate time for manoeuvring, the details of which would be set out in the SDMP.
16. Drivers approaching from either direction would be able to see whether the car park is sufficiently clear for them to enter. If the required spaces were not empty, drivers could continue along the B5445 to either of the roundabouts further along to the south west or north east of the site. Concerns were raised in respect of parked vehicles in excess of 4.8m in length causing an obstruction to the manoeuvring of delivery vehicles. However, the swept path analyses show that a 12.6m articulated vehicle and 11m rigid vehicle could enter and exit the appeal site with tolerances. These can be considered maximum vehicle dimensions and the site operator may use shorter articulated or rigid bodied vehicles with increasing tolerances. In the event that the parking of larger vehicles over 4.8m in length in certain spaces posed difficulties then they could be cordoned off as part of the SDMP. Furthermore, I concur with the appellant that it would be in the interests of the store operator to manage deliveries and servicing efficiently to alleviate potential difficulties in the operation of the site.
17. The appellant conducted a parking survey to assess the existing level of parking associated with the public house and to inform the assessment of parking for the proposed development³. The survey included an assessment of retail store parking accumulation using TRICS data and duration of stay observations at the Red Lion Public House and at a Sainsbury's Local store in Wakefield which is a similar size to

³ Transport Assessment by Sanderson (Consulting Engineers) Ltd

the retail unit proposed. The Council suggested that observations of more local convenience stores such as the Spar in Rhosddu Road would be more accurate. However, the TRICS database is a nationally recognised resource for traffic and multi modal survey data for various use classifications. Additionally, the Spar differs from the appeal site in that there are a number of other shops and businesses and a recreation area with children's play ground nearby. Parking is restricted in the vicinity of the store, including areas where parking is time-limited to one hour. It is possible that customers may park in the Spar car park for linked trips and longer stays than would be the case at the appeal site.

18. The appellant's evidence indicates that average duration of stay for the type and size of retail unit proposed is 4 minutes with a maximum observed stay of 10 minutes. Furthermore, the parking accumulation assessment⁴ indicates that for a 10 minute duration of stay, between 4 and 7 spaces might be utilised in the period from 07.00 to 11.00 hours. Taking into account the spaces needed for manoeuvring, 19 -20 standard spaces plus 3 disabled parking spaces would still be available to customers up to 11.00 hours when the public house would be open. The assessment undertaken thus shows that during the morning period when most deliveries are likely to take place it is likely that there would be sufficient parking space to allow for the necessary spaces to be reserved and no overspill parking should occur.
19. The Council says that the public house is under new management and as a consequence it has increased its customer base. The appellant commissioned further parking surveys at the public house in addition to those referred to above⁵. These were carried out on two occasions in October 2013, the first of these represent a time of peak demand at the public house on a Saturday band night and a Sunday when there was a family celebration held at the public house. The second set of parking surveys were undertaken between 16.30 and 23.00 hours on Saturday and 12.00 to 18.00 hours on Sunday. There was no band or large lunch time bookings at the public house at these times.
20. From these surveys and the 2012 TRICS data which was utilised to assess the maximum combined public house and proposed retail store occupation of the car park, it is shown that from Monday to Friday there is sufficient parking on site with at least 8 spare spaces for staff or customers. On band nights, which typically take place on two Saturday nights per month, for a period of approximately one hour the car park is likely to be at its fullest but with two spaces available for store staff in these circumstances. Similarly on Sundays at busy times, such as during lunch times when there has been a large booking, for a period of approximately two hours there would be 2 spaces available for store staff to park. I have considered the Council's submitted photographic evidence showing the occupation of up to 29 spaces at the public house car park. However, I note that in each case this was recorded on a Saturday evening and there is no information before me as to whether there was a function or band night at the public house at the time that the cars were counted. The Council's photographic survey also shows that cars were left in the car park overnight. Nonetheless, overnight parking could be mitigated by signs, markings or barriers and by advising customers that no overnight parking would be allowed in the spaces needed for deliveries to the store.

⁴ Proof of Evidence of Mr David Colley

⁵ Transport Assessment by Sanderson (Consulting Engineers) Ltd

21. I am thus satisfied that use of the car park to facilitate delivery and servicing of the proposed retail store could be regulated via the SDMP. The detail of this would be subject to negotiation with the Council and annual monitoring and review in light of experience. Some doubt was expressed as to the enforceability of such a condition, though no firm evidence was provided to show that similar arrangements for other retail schemes have failed to provide an adequate solution. Moreover, I do not consider that such a condition would be unduly onerous and see no reason why it could not be enforced. It would thus meet the tests of Circular 35/95: *'The Use of Conditions in Planning Permissions'*.
22. Local Planning Guidance Note 16 *'Parking Standards'* (LPG 16) amplifies the adopted UDP policies. It has been subject to public consultation and adopted by the Council and I attach it significant weight. LPG 16 sets out the maximum requirements for each type of development and states that where developments are close to local services and facilities and/or are in areas where people are able to walk or cycle to them or travel to them easily by public transport, it may be appropriate for less on site parking to be provided than for developments in remoter areas. Also, that in cases where the amount of parking provided is below the maximum the Council will need to be satisfied that this is appropriate for the likely level of demand. In accordance with national planning policy⁶, the Council has no minimum parking requirements. Taking the floor area of the existing public house and proposed retail unit, and in accordance with LPG 16, the combined maximum number of parking spaces would be 54.
23. It is not known how many store staff would be on duty at any one time. It is estimated that 6 staff would be required but a draft Travel Plan has been prepared by the appellant, the detail of which would be subject to negotiation with the Council, to encourage more sustainable modes of travel and to reduce the need for staff to travel by car and park at the premises. Furthermore, cycle parking facilities are proposed to be provided in the car park and there are locations within the vicinity of the site where customers or staff could park on street legally and without harming road safety or the amenity of local residents. The Council raised concerns regarding overspill of parking on surrounding streets and the potential for customers to park illegally across the site frontage with the resultant hazard to road safety. However, I consider that the presence of zig zag lines and central double white lines on the site frontage would deter parking here. Furthermore, other legislative provisions exist to control this behaviour.
24. As demonstrated by the appellant's parking surveys, the peak demand times for parking at the retail store would differ from the peak times associated with the public house. It is unlikely that this would overlap significantly other than at those times and under the circumstances outlined above. Furthermore, the public house is well located for customers to walk or to arrive by public transport or taxi. The public footpaths are street lit along Marford Hill and the crossing provides a safe crossing for pedestrians. It is accessible on foot and by bicycle from local residential areas and there is a school and community hall nearby. It is also well served by bus with regular services between the site and the surrounding area. The site thus benefits from good walking and cycling accessibility from local residential areas and connectivity to public transport. It is recognised that the maximum parking standard would not be provided but LPG 16 allows for less on-site parking to be provided where developments are close to local services and facilities and accessible by walking, cycling and public

⁶ Planning Policy Wales (PPW) Technical Advice Note (TAN) 18: 'Transport'

transport. Moreover, an over-provision of parking would reduce the potential to encourage people to use non-car modes of transport.

25. My attention has been drawn to the use of the car park by parents dropping off/collecting children from the nearby school in the mornings and afternoons. However, this has been taken into account within the appellant's parking surveys. Furthermore, the car park is privately owned and use of the car park by anyone other than customers would continue to be at the landowner's discretion.
26. For the above reasons, I consider that the proposal would not have a detrimental impact upon the free flow of traffic or upon highway safety. Accordingly, I find that there would be no conflict with adopted UDP Policy GDP1 d) which requires new development to ensure safe and convenient pedestrian and vehicular access to and from development sites, both on site and in the nearby locality. It would comply with UDP Policy S6 and with Policy T8 which requires development to provide vehicle parking spaces either on site or nearby in accordance with the Council's current parking standards. It requires special regard to be paid to factors such as the availability of public transport nearby, proximity to local services and facilities, road safety hazards and amenity considerations arising from on-street parking in the vicinity of the site. Furthermore, there would be no conflict with LPG 16.

The effect on the character and appearance of the surrounding area

27. The surrounding area is characterised by residential dwellings of varying types and architectural styles, some fronting the road and others set back and oriented parallel to, and with their side elevations adjacent to the road. Dwellings in the immediate vicinity of the site are predominantly modern with red brick or pebble dash wall finishes. The public house has a traditional appearance. It is rendered and painted white with a slate pitched roof. The community hall to the south west of the public house is a red brick, flat roofed building. The appeal site is set below rising ground levels to the south and east. To the east lies a densely wooded area whilst the established tree and shrub planting to the south forms a visual barrier to dwellings sited on higher ground and accessed from Wynnstay Lane.
28. There is no identified end user for the proposed retail unit but the appellant considers that the proposal would be suitable for a convenience store operator such as Tesco or Sainsbury's local type stores. The unit would be set back away from the site frontage. It would have a mono-pitched roof which would slope down towards the southern boundary. The external walls would be part white-rendered and part-timber clad with red cedar boarding at the upper levels. The roof would be pale grey profiled metal sheeting. Openings would be provided for shop fronts to the north elevations, though the shop fronts do not form part of the proposal and would be subject to a subsequent planning application by the eventual tenant, the details of which would be considered by the Council. The existing brick bus shelter with its mono-pitched roof would be replaced by a more modern lightweight shelter as part of the development proposal.
29. The proposed siting of the unit set back within the site, together with its simple design and roof form which slopes back away from the site frontage, would reduce its impact on the street scene. When approached from the north east along the B5445, the building would be screened by the densely wooded area whilst the public house would screen the unit from the south west approach, until close to the site frontage. The replacement of the bus shelter would improve the visual appearance of the eastern part of the car-park. The proposed unit would be designed to take account of surrounding development which is predominantly modern in character and includes a

range of designs and external finishes. The proposed use of materials would reflect elements of the wider surroundings and would not be at odds with the general character of the locality. Furthermore, the predominantly residential character of the area would not be significantly changed.

30. One tree in the existing public house beer garden and a small poor quality tree in the corner of the car park would be required to be removed to allow the provision of 29 parking spaces. However, this does not form part of the Council's objections to the scheme and I consider that it would not cause unacceptable harm to the character and appearance of the surrounding area. Conditions requiring details of a landscaping scheme would be imposed whilst other existing trees would be retained and the densely wooded area to the east of the site would remain.
31. Consequently, I find that the proposal would be in accordance with UDP Policy GDP1 a) which says that all new development should ensure that built development in its scale, design and layout, and in its use of materials and landscaping accords with the character of the site and makes a positive contribution to the appearance of the nearby locality. It would accord also with UDP Policy PS2 which seeks to ensure that development would not detrimentally affect the countryside, landscape or townscape character or the quality of the natural environment. There would be no conflict with UDP Policy EC4 which says that development proposals should provide for the conservation and management of hedgerows, trees, orchards, woodland, wildlife and other natural landscape and water features, and include new planting in order to enhance the character of the landscape and townscape. It would accord also with PPW TAN 12: 'Design' which says that design which is inappropriate in its context, or which fails to grasp opportunities to enhance the character, quality or function of an area should not be accepted.

The effect on the living conditions of neighbouring occupiers with regard to noise and disturbance

32. The appellant's Noise Assessment considers 5 types of noise which may have an impact on nearby residents which are HGV deliveries, HGV unloading, plant noise, customer noise and car noise. The assessment utilised BS4142: 1997 'Method of Rating Industrial Noise Affecting Mixed Residential and Industrial Areas' which is considered the most appropriate standard for assessing this type of noise. According to the appellant's acoustic consultant, the use of this standard for noise emanating from reversing alarms, delivery cages, refrigeration equipment and HGV deliveries in the context of a non-industrial use, such as a convenience store, provides a more onerous relative benchmark and permits a lower level of noise.
33. Surveys were conducted to measure the existing noise levels at locations which provided data representative of the noise levels experienced at the residential properties in the vicinity of the proposed retail unit. The manoeuvring of HGV delivery vehicles was found to have a BS4142 Rating Level of 34dB and HGV unloading a Rating Level of 48dB. Delivery noise would have the highest impact out of all the noise sources anticipated. The Noise Assessment says that during the times that this would be permitted and with the proposed acoustic fence in place to the south and west boundaries of the service yard, typical BS4142 impact would be of marginal significance, with the difference to background noise levels being +6dB.
34. Plant noise was found to have a Rating Level of 35dB by day and 26dB by night. The sum of night time industrial noise sources is anticipated to yield a BS4142 Rating Level of 26dB. This provides a BS4142 difference of -8dB which is below marginal

significance⁷. Non industrial noise levels would typically generate levels of 47dB L_{Aeq} within gardens which is less than the current levels of noise recorded in the vicinity. Given the proposed opening hours and the existing use of the site I would not expect customers at the store to be any noisier than customers of the public house.

35. The Council offer no technical evidence to contest the findings of the appellant's Noise Assessment which concludes that noise generated by the proposed development would not have an unacceptable impact on neighbouring residents. Furthermore, the Council's Environmental Health Officers did not object to the proposal subject to the imposition of appropriate conditions. In my view, with the recommended conditions in place to control noise emissions from plant, provision of the acoustic barrier and restricted hours of opening and deliveries, the proposed development would not have an adverse effect on the living conditions of neighbouring residents
36. Accordingly, I find that there would be no conflict with UDP Policy GDP1 f) which seeks to ensure the safety and amenity of the public including from the adverse effects of industry and associated noise arising from development.

Other Matters

37. I have taken into account the concerns raised by objectors including that my site visits were conducted during half term whereby school buses were not arriving, setting down and departing from the bus stops at the vicinity of the site. Children and other pedestrians using the bus stop opposite the Red Lion Public House would be able to use the existing zebra/pelican crossing. Those using the bus stop at the front of the site would walk across the site frontage but the public footpath would be widened and the proposal would provide drivers entering and leaving the site with clear views of people walking across the entry and exit points.
38. My attention has been drawn to previous appeal decisions. However, I have determined this appeal on its own merits and by reference to the development plan.

Conclusion

39. For the reasons given, I conclude that the appeal should be allowed. In reaching this decision I have considered all the other matters referred to at the planning application and appeal stage but I have not found anything of sufficient weight to alter my conclusions on the main issues which lead me to allow the appeal.

Conditions

40. A list of conditions was included in the SoCG, as being agreed between the two parties. It was agreed at the Inquiry that some should be revised and that two additional conditions should be imposed. Accordingly, I shall impose a condition limiting the amount of net retail sales floorspace in order to ensure that the scale of the development would be appropriate and not undermine the vitality or viability of the Gresford District Shopping Centre in accordance with UDP Policy S6. Also, a condition limiting the hours of construction works is imposed in the interests of the living conditions of neighbouring residents.
41. Subject to these amendments, I have applied them as necessary and reasonable to ensure a satisfactory development. I have made some minor amendments to some in

⁷ Proof of Evidence of Mr Watson

the light of the advice in Circular 35/95. I have adjusted their wording where necessary in the interests of clarity.

Rebecca Phillips

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in Appendix 1 of this decision.
- 3) No development shall take place until a Service and Delivery Management Plan ("the SDMP") to include (but not be limited to) the details of the timing and frequency of deliveries, the type of delivery vehicles to be used, delivery vehicle movements, management of car parking to facilitate the manoeuvring of delivery vehicles and the operation of retractable bollards has been submitted to and approved in writing by the local planning authority. The SDMP as agreed shall be implemented in accordance with the approved details.
- 4) No development shall take place until a Travel Plan has been submitted to and approved in writing by the local planning authority. The Travel Plan shall include details of a Travel Plan co-ordinator, staff travel survey, measures to encourage the use of sustainable transport, walking and cycling initiatives, publicity and marketing, setting of targets and monitoring and review of the Travel Plan together with a timetable for the implementation of each of the elements. The Travel Plan shall be implemented in accordance with the approved details and remain operational for the life of the development.
- 5) Development shall not begin until details of the new bus shelter have been submitted to and approved in writing by the local planning authority. The building shall not be occupied until the bus shelter has been constructed in accordance with the approved plans.
- 6) The building shall not be occupied until the vehicular access to the south west provides visibility splays of 2.4m x 41m to the south west and 2.4m x 53m to the north east measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction in excess of 1m in height above the level of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.
- 7) The building shall not be occupied until the site car park and access has been signposted, marked and operated in accordance with the provisions contained within the Transport Statement (dated May 2013) to allow entry only through the eastern access and exit only through the western access as shown on the approved drawing number 3405-P01 Rev G.
- 8) The building shall not be occupied until a 900mm steel post and rail fence have been fully installed in accordance with approved drawing number 3405-P01 Rev G. The steel post and rail fence shall thereafter be permanently retained.
- 9) The building shall not be occupied until a 2m wide footway has been provided along the full length of the site frontage between parking spaces no. 23 and 29 in accordance with approved drawing number 3405-P01 Rev G.
- 10) No deliveries of goods to or collection of refuse from the retail unit hereby approved shall take place outside the hours of 07.30 and 22.00 hours on Mondays to Saturdays and between 10.00 and 18.00 hours on Sundays, with the exception of delivery of newspapers.
- 11) All commercial vehicles visiting the retail unit hereby approved for the delivery and collection of goods shall be limited to vehicles not exceeding 12.6m in length but rigid vehicles not exceeding 11m in length.
- 12) No development shall take place until an arboricultural method statement has been submitted to and approved in writing by the local planning authority. The development shall subsequently be carried out in strict accordance with the scheme as approved. The arboricultural method statement shall include:

- a) Details of tree protection fencing and ground protection measures;
 - b) A Tree Protection Plan showing the location of the trees to be removed and retained with their crown spreads, root protection areas and construction exclusion zones;
 - c) Details of any access, driveway, path, underground services or wall foundations within retained tree root protection areas or construction exclusion zones, including any related sections;
 - d) Method for protecting retained trees during construction works;
 - e) Details of frequency of supervisory visits and procedures for notifying the findings of such visits to the local planning authority;
 - f) Details of all proposed tree works including felling and pruning; and
 - g) A Tree Planting Scheme.
- 13) The building shall not be occupied until the acoustic fence has been fully erected in accordance with drawing number 3405-P08 Rev C and the Noise Assessment (dated 11 November 2012). The acoustic fence shall thereafter be permanently retained.
- 14) 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 the nearest noise sensitive premises and measurements and assessment shall be made in accordance with BS4142:1997 'Method of Rating Industrial Noise Affecting Mixed Residential and Industrial Areas'.
- 15) No development shall take place until samples of the materials to be used in the construction of the external facing and roofing of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 16) The retail unit hereby permitted shall not be open to customers outside the following times: 07.00 hours to 23.00 hours on any day.
- 17) No land drainage run-off or surface water shall be permitted to discharge or connect to the public sewerage system, either directly or indirectly, and foul and surface water shall be drained separately from the site.
- 18) The internal floorspace of the retail unit hereby approved shall comprise no more than 383 sq m gross, of which no more than 300 sq m shall be net retail floorspace.
- 19) Construction works shall not take place outside 07.30 hours to 18.00 hours Mondays to Fridays and 08.00 hours to 14.00 hours on Saturdays nor at any time on Sundays or Bank Holidays.

APPEARANCES

FOR THE APPELLANT:

Mr David Hardy	Partner, Eversheds LLP, Bridgewater Place, Water Lane, Leeds, LS11 5DR
He called:	
Mr David Colley BEng MCIHT	Associate Director, Sanderson Associates (Consulting Engineers)
Mr Richard Watson BEng (Hons) CEng MIOA MAES MIEEE	Partner, Blue Tree Acoustics
Mr Dennis Fallor BA BArch RIBA	Senior Architect, KMB Ltd
Mr Anthony Tillotson BA (Hons) DipTP	Planning Consultant, Philip S Ryley & Co LLP

FOR THE LOCAL PLANNING AUTHORITY:

Mr Trefor Lloyd	Instructed by Mr Aled Rowlands, Solicitor, Wrexham County Borough Council
He called:	
Mr Peter Douthwaite	Senior Development Control Engineer, Wrexham County Borough Council
Mr Matthew Phillips BA (Hons) MSc MRTPI	Planning Officer, Wrexham County Borough Council

INTERESTED PERSONS:

Cllr Mike Edwards	County Councillor
Cllr Andrew Bailey	County Councillor
Mr David Crewe	Local Resident
Mr David Keeling	Local Resident
Mr & Mrs Buck	Local Residents
Mr Dean Watkins	DW Transportation Ltd
Mr Julian Sutton	Signet Planning

APPENDIX 1

Approved Plans

Drawing	Revision	Title
3405-P00		Site Location Plan
3405-P01	Rev G	Site Layout Plan
3405-P02	Rev D	Ground Floor General Arrangement
3405-P03		North and West Elevations
3405-P04		South and East Elevations
3405-P05		Site Section
3405-P06		Roof General Arrangement
3405-P08	Rev C	Fences and Gates
P9306_332		Car Park Lighting
12523-123_2DT(1)	Rev A	Topographical Survey 2D
3405-P11	Rev D	Delivery & Refuse Strategy HGV Approach from South-West Option 1
3405-P12	Rev D	Delivery & Refuse Strategy HGV Approach from North-East Option 1