

Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 30/06/15
Ymweliad â safle a wnaed ar 30/06/15

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

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 05/08/15

Appeal Decision

Hearing held on 30/06/15
Site visit made on 30/06/15

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

an Inspector appointed by the Welsh Ministers
Date: 05/08/15

Appeal Ref: APP/H6955/A/15/3006442

Site address: High Street, Coedpoeth, LL11 3UE

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 Blakemore Property Ltd against the decision of Wrexham County Borough Council.
- The application Ref COE P/2014/0741, dated 6 October 2014, was refused by notice dated 16 January 2015.
- The development is the change of use from vacant bakery (Use Class B1) to convenience store (Use Class A1), including part demolition, external alterations, parking, amended access, pavement widening and other associated works.

Decision

1. I allow the appeal and grant planning permission for the change of use from vacant bakery (Use Class B1) to convenience store (Use Class A1), including part demolition, external alterations, parking, amended access, pavement widening and other associated works at High Street, Coedpoeth, LL11 3UE in accordance with the terms of the application, Ref. COE P/2014/0741, dated 6 October 2014, and the plans submitted with it, subject to the conditions in the schedule at the end of this decision.

Application for Costs

2. At the Hearing an application for costs was made by Blakemore Property Ltd against Wrexham County Borough Council. This application is the subject of a separate Decision.

Background

3. The application was considered by the Council's Development Control Committee on 5 January 2015. Members resolved, contrary to officers recommendation, to refuse planning permission for the scheme due to it not providing sufficient parking provision to serve the proposed use resulting in on street parking that would impede visibility onto the A525, and, given the restricted nature of the site would result in service vehicles occupying parking spaces and manoeuvring within the site and onto the highway that would be prejudicial to highway safety.

Main Issues

4. I consider the main issues to be the effect of the proposed development on highway safety, and on the living conditions of neighbouring residents with regard to noise and disturbance.

Reasons**Highway Safety***Parking Provision and Impact on Visibility*

3. The appeal site is located off High Street, within the settlement of Coedpoeth. High Street is a Class A road (A525) that leads to Wrexham in an easterly direction and to Ruthin in the west. High Street has a speed limit of 30mph in the vicinity of the site. The site is roughly rectangular in shape and comprises of a vacant single storey building that was formerly used as a bakery. The site frontage set behind steel gates allows for off road parking, and vehicular access onto High Street. Footways run along either side of High Street in the vicinity of the site.
4. The Council's first refusal reason refers to Policy GDP1 (d) of the adopted Wrexham Unitary Development Plan 1996-2011 (UDP) and requires all new development to ensure safe and convenient pedestrian and vehicular access to and from development sites, both on site and in the nearby locality. The explanatory text to the policy states the Council will also make reference to non-statutory Supplementary Planning Guidance in consideration and determination of proposals. Whilst not referred to in the Council's reason for refusal, Policy S6 of the UDP permits small scale shopping developments provided they do not give rise to traffic problems such as on street parking.
5. In the vicinity of the appeal site, High Street allows for a single lane of traffic to move in each direction. At the time of my visit High Street had a relatively steady flow of traffic. A bus stop is located close to the site on the footway that runs along the site frontage. There are no parking restrictions on the road outside of the site. It is proposed that the existing site frontage area would be extended as a result of the demolition of some 70sq.m. of the front of the existing building to create a larger area for customer parking and to accommodate delivery vehicles. The extended area would accommodate 11 parking spaces, six bicycles spaces, with an additional hard standing area kept clear for the manoeuvre of delivery vehicles. The existing gates at the vehicular access would be removed and the footway to the immediate east widened to 1.5m. In addition a 43m visibility splay would be provided at the site entrance.
6. The adopted Local Planning Guidance Note 16 'Parking Standards' (LPGN16) sets out maximum standards 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. The maximum number of car parking spaces the proposed development would be required to provide in accordance with LPGN16 is 23, which is 12 more than that proposed. The Council's highways section considered that the proposed parking provision would be adequate for the development.
7. The appellant's TRICS (Trip Rate Information Computer System) data indicated that the proposed use would be expected to generate a maximum 14 car parking spaces

during a single hour on a typical day that runs between the hours of 08:00-20:00. The Council has not countered the TRICS data with any substantive evidence of its own. Interested parties queried the trip generation forecasts provided by TRICS, however, the TRICS database is a nationally recognised system for trip generation and analysis for a wide range of development types, and without evidence to the contrary I am satisfied it provides a robust method of assessment of proposed traffic generation on the site.

8. The Council and third parties raised concerns over the potential for the lack of off street parking on the site that would likely result in customers parking on surrounding streets or on the site frontage, thereby impeding visibility for the proposed access. Whilst the TRICS data confirms there could be demand for more than 11 spaces, the appellant asserts that data is broken down into hourly time bands, and argues that in reality the turnover of customer vehicles due to the short duration of stay associated with a convenience store could well result in fewer spaces being required.
9. Based on the TRICS data the proposed development should provide up to 14 car parking spaces, therefore the provision of the 26 spaces as required by the maximum standard in LPGN16 would be an over provision. Having regard to national planning policy in PPW and advice in Technical Advice Note 18: Transport (TAN18), both of which seek to reduce dependence on the private car, the advice as contained within LPGN16, the proximity of public transport links to the appeal site, its sustainable location within the settlement, and the fact that the site has an historical use as a bakery with its own on-site parking, I consider the level of proposed car parking provision is proportionate.
10. In addition the proposed development is accessible on foot, would provide cycle stands that would permit 6 spaces for staff or customers which should encourage a more sustainable mode of transport, and is within 200 metres of a public car park.
11. As I have found the proposed development would provide adequate off road parking, it follows that there is unlikely to be any increase in indiscriminate on street parking at the site access that would impede visibility. The Council confirmed at the hearing there is no evidence of accidents in the vicinity of the appeal site, which suggests there is no overriding highway safety issue. Whilst there are no traffic restrictions on the public highway in proximity of the site, nonetheless, any parking that is illegal or dangerous and results in an obstruction could be subject to other legislative controls.

Proposed Servicing and Delivery Arrangements

12. The Council's second reason for refusal refers to the temporary loss of parking spaces resulting in service vehicles occupying parking spaces and making manoeuvres within the site and onto the A525 that would be prejudicial to pedestrian and highway safety, contrary to policy GDP1 (d) of the UDP.
13. The Council are of the opinion that the manoeuvre the delivery vehicles would need to make within the site would be prejudicial to the safety of pedestrians and other vehicle users. It is also argued that the submitted swept path analysis suggests that only spaces 5,6 and 11 would be coned off during the delivery period, but this relies on any parked vehicles in spaces 2,3,and 4 being meticulously parked within the proposed spaces as any deviation of parking in these spaces would render access impossible for any Heavy Goods Vehicles (HGV's). It is stated that as a result of customer vehicles extending beyond the allocated parking spaces, that six customer car parking spaces would be required to be coned off for the full duration of deliveries

in order to allow access and for deliveries to take place. The Council contend this would result in only 5 spaces being made available for approximately one hour in each day, with the consequent lack of customer parking spaces during this period resulting in customers parking on the High Street.

14. The appellant argues the Council has wrongly interpreted the information provided in the submitted Transport Statement and the Delivery Management Plan (DMP), in which both documents make it clear that car park spaces 1-6 would have to be coned off to allow the delivery vehicles to enter the site, however, once the largest delivery vehicles were in the delivery position, spaces 1-4 would be given over to customer parking again. In addition it is stated parking space 11 is for disabled customers and would never be coned off. It is argued spaces 1-4 would be coned off for approximately 5-10 minutes each day, and spaces 5 and 6 would be out of use for approximately 20 minutes each day, which given the operating hours of the site would have a negligible impact on the overall operation of the car park.
15. Deliveries to the site are proposed to be controlled by a DMP which was submitted with the planning application. The submitted DMP makes reference to matters such as forecourt access arrangements, typical weekly vehicle schedule, vehicle size/type, service vehicle routing, car park management and on-going management. It is proposed that a typical weekly vehicle schedule would comprise one HGV per day, two vehicles up to 18 tonnes per day, six days a week, and two transit style vans per day, seven days a week. The maximum size of vehicle the forecourt can accommodate is 11m. The DMP indicates the SPAR distribution service operates pre-advised delivery times where drivers e mail or text ahead to the store to ensure the necessary space is available through the use of temporary bollards to cordon off parking spaces. When the delivery vehicle is in position four of the six spaces that were subject to bollards would be made available to customers, with spaces five and six coned off for the duration of the delivery.
16. I note the Council's highways section refer to deliveries to the store taking place using a HGV of maximum length of 11m and that it has been demonstrated that such a vehicle can adequately turn within the site. Whilst the space the delivery vehicles would operate within is tight, nonetheless the submitted swept path analysis demonstrates that the largest vehicle visiting the site, a rigid HGV, can adequately manoeuvre, and enter and exit the site in a forward gear, without conflict with customers' parked cars. The Council provided no technical evidence in regards to delivery vehicles not being able to safely manoeuvre within the site. The Council's evidence is at odds with the appellant's submitted swept path analysis, and details contained within the DMP. The appellant's evidence on this matter leaves me in no doubt that whilst 6 car parking spaces would be coned off, this would be for a temporary period with 4 of those spaces given back over to customer parking within a short period of time.
17. At the hearing the Council did not dispute that the Council's adopted parking standards state that the minimum dimensions for a parking bay is 2.4m by 4.8m and that the length of the proposed car parking spaces complies with this dimension. I have no reason to believe that such parking spaces would not be more than adequate for cars visiting the site, however, in the event that the parking of larger vehicles over 4.8m in length resulted, the appellant has stated vehicle driver's would not contemplate leaving the delivery position to exit the site unless they were 100% confident that the required manoeuvre could be made safely. The Council contend the

lack of parking spaces would result in customers parking on High Street; however, they provide little in the way of quantitative analysis to support that stance.

18. I am satisfied the use of the parking area to the forecourt of the site to facilitate delivery and servicing of the proposed development could be controlled and implemented via the use of a suitability worded planning condition incorporating the submitted DMP. I consider such a condition would meet the tests set out in guidance in the Welsh Government Circular 016/2014: *The Use of Conditions for Development Management*.

Conclusion on first main issue

19. The Council have not produced any substantive or technical evidence to demonstrate its contention that there would be insufficient parking or that it would lead to obstruction and danger to other highway users. I consider from the evidence, that the proposed development would not compromise highway safety for vehicle users or pedestrians in respect of car parking arrangements or visibility, and could safely accommodate delivery and service vehicles. I conclude that it would not conflict with policy GDP1 (d) of the UDP.

Living Conditions

20. Whilst not forming part of the Council's reasons for refusal both parties at the hearing were asked to give their views on the effect of the proposed development on the living conditions of neighbouring residents with regard to noise and disturbance. Policy GDP1 refers to permitting development subject to it not harming residential amenity.
21. Third parties expressed concerns that the proposed shop would be detrimental to their amenities due to the comings and goings of customers and delivery vehicles, and the operation of plant such as refrigeration units. The proposed shop would operate from 7.00 am to 11.00 pm seven days a week, with such hours not unusual for a convenience store. The proposed air handling plant that would run the shop's air conditioning units, the chillers and freezers, would be located to the rear of the existing building and replace an existing larger refrigeration unit that is positioned in the same approximate location.
22. The immediate area in the vicinity of the appeal site is residential in nature, however, directly adjacent to the site is a church whilst opposite is a police station. Further along High Street in close proximity to the site is the Coedpoeth District Shopping Centre, as defined by the UDP, where a range of shops and services are located. The appeal site location directly off High Street along a main arterial route is likely to result in a level of activity that is higher than that which average residential properties enjoy, nonetheless, there is potential for noise and disturbance to affect the living conditions of the occupiers of neighbouring dwellings.
23. However, I note the Council's Public Protection Section raised no objections to the proposal on noise grounds; I have no reason to disagree. I consider the proposed opening hours and the typical comings and goings associated with a small scale retail unit would not unduly affect neighbouring residential amenity. Restricting the opening hours to those stated would ensure that there would be no significant loss of residential amenity to the occupiers of neighbouring dwellings, by way of noise or disturbance, at times when they might expect a degree of quiet enjoyment.
24. The positioning of the plant to the rear of the premises enclosed within a boarded timber insulated fence would ensure that adjacent residential amenity is safeguarded.

An appropriately worded planning condition would ensure that noise from the plant would not adversely affect residential amenity.

25. There is no substantive evidence to conclude the proposed development would have a detrimental effect on the living conditions of neighbouring residents with regard to noise and disturbance. I consider the proposal acceptable and conclude that it would not conflict with policy GDP1 of the UDP.

Other Matters

26. Third parties raised issues such as, impact on protected trees in the grounds of the adjacent St. Tudfil's Church, potential for increased litter, loss of existing views, the need for such a development outside of the district shopping centre, that it would be out of character with the area, and to a restrictive covenant relating to the site. However the Council confirmed at the hearing there would be no detriment to the trees, and there is no evidence to suggest that litter in the locality would increase as a result of the development. In addition the proposed development is not extending the building on site and therefore would not affect existing views; on the contrary, the refurbishment of a run-down building would improve the visual amenities of the area. There is no need to justify the development outside of the district shopping centre, as the principle of development is acceptable under policy S6 of the UDP, and it would not be unduly out of character with the area where shops are located at intervals along the High Street. Any restrictive covenant on the site is not itself a material consideration as it is a matter of private, rather than public interest.

Conditions

27. I have considered the conditions suggested by the Council, given my decision to allow the appeal. In doing so I have had regard to the tests for conditions set out in Circular 016/2014: *The Use of Planning Conditions for Development Management*.
28. I agree that a condition is required in order to control the external material to be used on the facing and roofing materials, in the interests of visual amenity. In addition the condition restricting any noise generated by air handling plant to no more than the pre-existing background level by more than 5dB(A) is reasonable and necessary in the interests of adjacent residential amenities, whilst for similar reasons the construction works associated with the development should be restricted to those times suggested by the Council.
29. The proposed development would involve significant construction works to the building and therefore the submission of a Dust Management Scheme is both reasonable and necessary.
30. The Council's suggested condition that there be no use of the premises before 07:00 hours or after 23:00 hours, lacks precision and therefore I have reworded it as discussed at the hearing.
31. As discussed above, a condition to control deliveries to the retail unit by means of a DMP is necessary in the interests of highway safety. However the details required in the Council's suggested condition are already referred to in the submitted DMP. I have therefore revised the condition accordingly to ensure the implementation of the submitted DMP.
32. Conditions relating to the submission of a Travel Plan, details for the construction and provision of a footway and relocation of a bus stop, the submission of a Construction

Traffic Management Plan, provision of visibility splays, vehicular parking and turning areas, are all necessary in the interests of highway safety.

33. The Council's suggested condition relating to works affecting the roof being carried out by hand as precautionary measure should any bats be present, is not considered necessary as the Council have provided no documentary evidence in regards to the likelihood of the presence of bats on the site. Suggested conditions relating to highway drainage details and reinstatement of the footway duplicate the requirements of a previously suggested condition and are therefore not necessary. A further condition restricting the height of the means of enclosure to 1 metre adjacent to the highway in the interests of highway safety is not necessary, as the only means of enclosure within that area are bollards that are within an area that already will be subject to another condition restricting obstructions in excess of 1 metre to safeguard the required visibility splays.

Overall Conclusions

34. I conclude that the proposed development would not have a harmful impact on highway safety, nor be detrimental to the living conditions of neighbouring residents with regard to noise and disturbance, and consequently would not be in conflict with the relevant policies of the UDP, nor PPW and advice contained within TAN18.
35. After taking account of all the evidence before me, and for reasons given above, I therefore conclude that the appeal should be allowed.

Declan Beggan

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin no later than five years from the date of this decision.
2. The development shall be carried out in accordance with the approved plans and documents listed in Appendix 1 of this decision.
3. No facing or roofing materials shall be used other than those detailed on the application form and within the approved application documentation.
4. 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 BS4142:2014 'Method of Rating Industrial Noise Affecting Mixed Residential and Industrial Areas'.
5. Construction works, including any associated deliveries 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.
6. Development shall not commence until an appropriate Dust Management Scheme has been submitted to and approved in writing by the Local Planning Authority. The dust mitigation measures as approved shall be fully implemented for the entire duration of the construction phase.

7. 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.
8. The development shall not be brought into use unless provision has been made within the site for the accommodation of delivery vehicles in accordance with the submitted Delivery Management Plan, which shall thereafter remain operational for the life of the development, unless otherwise agreed in writing with the Local Planning Authority.
9. 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 time of the development.
10. Development shall not commence until a scheme detailing the construction of the following has been submitted to and approved in writing by the Local Planning Authority:
 - 1) Detailed layout, design, drainage and construction of the proposed widening of the footway including bus stop kerbing.
 - 2) Detailed layout, design, drainage and construction of the proposed reinstatement to full height of the footway either side of the proposed site access.
 - 3) Details of the removal of the existing bus stop pole and the relocation of the bus stop sign/timetable.
 - 4) A scheme of road markings at the site access.

The scheme as approved shall be implemented in full prior to the development being brought into use.
11. The building shall not be occupied until a new 1.5m wide footway has been provided along the south east of the site in accordance with submitted plan Ref. TS05.
12. Development shall not commence until a Construction Traffic Management Plan including provisions for contractor parking has been submitted to and approved in writing by the Local Planning Authority, and the plan as approved has been fully implemented.
13. Prior to the development being brought into use the vehicular access shall provide visibility splays of 2.4 metres by 43 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction in excess of 1 metre in height above the level of the nearside edge of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.
14. The vehicular parking and turning areas as shown on drawing number No. TS04 shall be fully laid out, surfaced and drained prior to first use of the development. These areas shall thereafter be permanently retained and kept free of any obstruction, and made available solely for the parking and turning of motor vehicles at all times.

APPEARANCES

FOR THE APPELLANT

Mr J Sutton BA (Hons), MSc, MRTPI	Appellant's Planning Agent
Mr D Watkins HNC (CEng) MCIHT	Appellant's Highway Consultant
Mr G Hallam	Appellant Company
Mr M Titley	Appellant Company

FOR THE LOCAL PLANNING AUTHORITY:

Ms S Holman	Planning Officer
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THIRD PARTIES

Ms J Phillips	Local Resident
Mr S Lloyd	Local Resident
Mr G Jones	Local Resident
Ms P Edwards	Local Resident
Ms G Berridge	Local Resident
Mr G Jones	Local Resident
Ms K Childs	Wrexham County Borough Councillor

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Council's notification letter and list of those notified
- 2 Copy of Plan ref. 1547/PL06 indicating the proposed tracking plan – van
3. Copy of Plan ref. 1547/PL03 indicating the proposed plans and elevations
4. Copy of UDP Policy S6
5. Copy of Local Planning Guidance Note No.16: Parking Standards

Appendix 1

Approved Plans

Drawing No.	Title
1547/PL01 Rev.B	Existing Plans and Elevations
1547/PL02 Rev.B	Existing Site Plan
1547/PL03 Rev.B	Proposed Plans and Elevations
1547/PL04 Rev.A	Proposed Site Plan
DW/ADM/EB/BPL/TS/A_r6	BS:5837 Tree Survey
1547/PL05 Rev.A	Proposed Tracking Plan Rigid
1547/PL06 Rev.A	Proposed Tracking Plan Van
1547/PL07 Rev.A	Proposed Site Outline
1547/PL08	Site Location Plan
TS04 (Transport Statement) Swept Path Analysis Using FTA 10m Rigid Vehicle	
TS05 (Transport Statement) Proposed Off-Site Improvements	

Document	Title
Project Ref. DWT031 September 2014	Delivery Management Plan