



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 11/12/12

**gan Siân Worden BA DipTP MCD
MRTPI**

**Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 03/01/13**

Appeal Decision

Site visit made on 11/12/12

by Siân Worden BA DipTP MCD MRTPI

**an Inspector appointed by the Welsh Ministers
Date: 03/01/13**

Appeal Ref: APP/H6955/A/12/2183661

Site address: Village Shop, Llangollen Road, Acrefair, Wrexham LL14 3RP

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 N Kaya against the decision of Wrexham County Borough Council.
- The application Ref CEF P/2012/0490, dated 29 June 2012, was refused by notice dated 8 August 2012.
- The development proposed is the change of use from village store to hot food take away establishment.

Decision

1. The appeal is allowed and planning permission is granted for the change of use from village store to hot food take away establishment at the Village Shop, Llangollen Road, Acrefair, Wrexham LL14 3RP in accordance with the terms of the application, Ref CEF P/2012/0490, dated 29 June 2012, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than five years from the date of this decision.
 - 2) No seating area for the approved use shall be provided within the premises.
 - 3) Before the use hereby permitted begins, a scheme for the installation of equipment to control the emission of fumes and smell from the premises shall be submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be installed prior to the commencement of the use hereby permitted. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.
 - 4) The premises shall not be open for customers outside the following hours: -
1600 - 2300 Mondays - Fridays
1200 - 2300 Saturdays, Sundays and Bank Holidays
 - 5) Before the use hereby permitted commences a litter bin shall be provided in a convenient position outside the premises. The bin shall be retained thereafter in a tidy and useable condition.

Main Issues

2. I consider that the main issues in this case are the effect of the proposal on:
- the living conditions of neighbouring occupiers,
 - the health of local children as a result of proximity to the school, and on
 - highway safety.

Reasons

Living conditions

3. The appeal property is a shop on the main route through Acrefair; it appears to be unoccupied at the present time and the proposal is for it to become a hot food takeaway. There are several dwellings nearby and a few business properties also; the Councils' local planning guidance note No. 9 *Hot Food Take-Aways* (LPG9) states that hot food takeaways may be acceptable in local mixed residential/commercial areas which I consider this to be.
4. The property has previously been a newsagents and small convenience store and would have been the focus of a certain amount of activity. Apart from at weekends the proposed takeaway would trade mainly in the late afternoon and evening; the comings and goings of customers, the sounds of voices outside the shop and transactions inside, and the noise of car engines and doors closing as people arrived and left, would thus cause some disturbance during this period. It would also provide an opportunity for those leaving the pub, some of whom might be boisterous after an evening out, to pick up a snack on their way home. Nevertheless I do not consider that the level of noise or disturbance resulting from the proposed business would be significant or harmfully greater than currently occurs, particularly around the pub.
5. Cooking odours from the proposed takeaway would be satisfactorily dealt with by an extraction system which would need to be installed prior to the business commencing. Litter is unsightly and unpleasant but the provision of a bin outside would help to control this. I have noted that the Council's Head of Housing and Public Protection had no comments to make on the matter of environment protection with regard to this case. The proposed development would ensure the amenity of the public and safeguard the environment from the adverse effects of noise or odour thus complying with Policy GDP1 of the Wrexham Unitary Development Plan 1996-2011, adopted 2005.

Health of local children

6. In order to remove the incentive for children to over-consume fast food LPG9 states that new takeaways should not be located within 400m of a school. That proposed would be well within this distance from the local primary. In my experience the majority of primary-age pupils travel to and from school in the company of an adult and do not leave the school grounds at lunchtime. Furthermore the appellant is willing to remain closed in the middle of the day, not opening for business until 16.00 when most children will have completed their journey home from school. Should a future request be made for weekday, lunchtime opening that would be in the control of the Council; I do not consider that the establishment of the takeaway use would undermine its ability to refuse such a request. I have also noted that the previous shop sold confectionery and pies, and that less healthy items such as crisps, sweets and pop are likely to be available at the existing newsagent next to the pub.

7. The Council and its partners' aim to improve community health, particularly through combating obesity in children and adolescents, is to be welcomed and I have attached significant weight to LPG9. In this case, however, I do not consider that the proposed development would lead to a considerable increase in the number of school children eating fast food or the frequency with which they consumed it. It would not therefore harm their health.

Highway safety

8. There is a car park with about 20 spaces immediately opposite the premises. It is in a convenient, visible location close to the shop where customers would be likely to make use of it. At the time of my visit, during the day time, it was more than half full and I understand that it is used by neighbouring residents; I noted that a number of dwellings nearby did not appear to have their own off-road parking place. If this is the case it is likely that the car park will be used most intensively during the evenings, overnight and at weekends when most people are home from work. Even so, the proposed takeaway is unlikely to attract such high volumes of car-borne custom as for there to frequently be no spaces available in it. Although customers would not be likely to use the pedestrian crossing this would not result in significant hazard. Moreover, it appeared to me that the parking restrictions in Llangollen Road would allow some on-road parking after 7pm.
9. To my mind the proposed development would not encourage illegal parking or result in highway danger for through traffic, pedestrians or any other road users.

Conditions

10. In the light of Circular 35/95 *The Use of Conditions in Planning Permissions* I have imposed conditions which will protect highway safety and the living conditions of neighbouring occupiers. The appellant has stated that a litter bin would be provided and, whilst the Council has not suggested this, I am including a condition to require one, ensuring the amenity of the area.
11. The Council considers that the proposed takeaway should not remain open beyond 20.00 on weekdays or 21.00 at other times. Whilst the appellant has offered not to open until 16.00 he has not agreed to such closing times. I am aware that, in mixed use areas such as this, LPG9 states that opening times are likely to be 10.00 to 18.00. As I have not found that there would be any harm to the living conditions of neighbouring occupiers, however, I consider it reasonable for the takeaway to remain open until 23.00 as requested in the application. In order to avoid confusion, and because the appellant has not suggested it, I have not drawn a distinction between opening times within and outside of school terms.

Conclusion

12. I have found that the proposed development would not harm the living conditions of neighbouring occupiers, the health of local children or highway safety. I have taken all the matters raised into consideration but not found any which amount to compelling reasons to dismiss the appeal.
13. For the reasons given above I conclude that the appeal should be allowed.

Siân Worden

Inspector