

Peter Simister
The Licensing Department,
Cheshire East Council,
Municipal Buildings,
Earle Street,
Crewe
CW1 2BJ

Dear Mr Simister,

Application for extension of hours at Jax Restaurant, Wrexham Road, Bulkeley

We understand that the applicants Mr and Mrs Brian Foster are applying for an extension of opening hours on the above premise over and beyond what was originally approved when planning permission was granted for the opening of a Farm Shop and Tea Room.

We the undersigned oppose the granting of such an extension on the basis that the serving of alcohol is associated with the Restaurant for which no planning permission has been granted.

The planning authority specifically restricted the opening hours of the original Tea Room/Farm Shop on the grounds of noise and disturbance of local residents etc.

We would ask that the above factors and the supporting evidence attached herewith are taken into account when the application is considered.

For the Attention Mr P Simester

Licence Application for Extended Hours at Jax Restaurant, Bulkeley, Cheshire

We would raise the following concerns:

1. There is an increased possibility of late night disturbance much to the detriment of the local residents, due to large numbers of people arriving for music events.

It was a condition of the granting of planning permission for the Farm Shop that the site should not operate between the hours of 6pm and 10pm to protect the living conditions of local residents. Nothing has changed within that area to remove that requirement.

2. There is an increased possibility of disturbance from loud music. There has already been a live music event at the site which led to numerous complaints including calls to the Police.

We understand that future events are to be held within the house with doors and windows closed.

The premises are situated in a very quiet country area where sound travels at night, the building is old and not purpose built and unless there is air conditioning present it will become, very quickly, necessary for doors and windows to be opened for ventilation.

It will be nearly impossible to police whether the doors and windows are open at the premises as the building is situated back from the, unlit, main road.

There is already a facility for music and a bar at the Bickerton Village Hall and a public house which has music events just up the road.

3. There is an increased risk of traffic accidents as access to the site is poor onto a busy 'A' road which is unlit and the problem will be exacerbated by the potential numbers of vehicles entering and leaving the site. There is also limited parking available and any parking on the unlit main road would constitute a serious danger.

STATEMENT OF HARM

1. Activities: There has been a fundamental change of use from a tea room/farm shop to a Country Restaurant and Wine Bar with associated live music.

- The planning conditions attached to the tea shop and farm shop in 2008, indicated that the site should not operate or be open to the public between the hours of 6pm and 10am, to protect the living conditions of the occupants of nearby residential property, of which a number are in close proximity.
- Notwithstanding this concern for local residents, the unauthorised restaurant is operating in the evenings and is advertised openly. A copy of the most recent advertisement is attached herewith.
- An extremely loud live music event, associated with the restaurant, was held on the site on 9th September 2010, immediately generating local community representations (including calls to the police) opposing this totally unacceptable activity not only in terms of
 - noise disturbance which precluded normal conversation in homes across the village,
 - danger from traffic generated using the unauthorised access.
 - Similar events are now being advertised as a programme of live music events on this site.
 This event caused upset and distress to a number of people within the village community.

2. Vehicular Access onto A534: This unauthorised development in open space has been compounded by an unauthorised vehicular access being formed, from a pedestrian garden gate. We would like to draw your attention to the following:-

- Access was previously rejected by the local authority and a planning inspector as "dangerous for access to a single dwelling".
- Without reference to this history, the local authority granted consent in 2008 for a "farm shop and tea room", generating more traffic than would have been generated by the single dwelling previously considered unacceptable.
- The highway authority in commenting on this 2008 "farm shop and tea room" application indicated that the access was poor, but raised no objection because of an erroneous (unchecked) assumption that the "existing" vehicular access and business on the site had consent.
- The unauthorised access is not only generating traffic from the commercial activities, but the original single dwelling complex has been split, with a converted barn now having exclusive use of the original historic access (the only one approved), with Yew Tree House using the unauthorised access.

Planning History – Yew Tree House, Wrexham Road, Bulkeley SY14 8BX

Unauthorised development in the Open Countryside:

It is a matter of great concern to the members of the local community that the Local Authorities have failed to take planning enforcement action.

Cumulative developments have taken place in the garden of Yew Tree House without planning permission. These developments include buildings, hard areas, signs, vehicular access, and commercial activities including a restaurant and associated events. These developments have taken place, without planning consent, on a residential garden on which planning applications for a single dwelling have been refused, by the local authority and planning inspectors on appeal, to protect this land from development as open countryside and an integral part of the Area of Special County Value. Vital statements include:

Application P98/0057 – Dwelling refused on appeal on 9 December 1998. The Inspector concluded:

“...even though the appeal site forms part of the garden of Yew Tree House, it still lies within the open countryside and in the ASCV where it provides an important element of openness in the landscape which would be lost if your client’s proposal were to be allowed. Many gardens contribute to the openness of the countryside and as such I consider that it should also be protected from development.”

“Development on the appeal site would result in the urbanisation of the open gap through the provision of a dwelling on the site which would also be exacerbated by the need for an access onto the A534 road.”

Application P06/0496 – Dwelling refused on appeal on 26 October 2007. The Inspector concluded:

“I accept that the appeal site forms part of the garden of Yew Tree House and can be considered as previously developed land but it lies within the open countryside and in my opinion forms an important space along the Wrexham Road. If it were to be developed it would reduce the open nature of the landscape that contributes to the form and character of the settlement and its setting beneath Bulkeley Hill.”

“In conclusion therefore I consider that the proposal would extend the built up frontage and fill an important space to the detriment of the landscape of the open countryside and the character of the ASCV.”

Reinforcing the currency of the above decisions, on 9 June 2010, Greg Clark MP, Minister of State at the Department for Communities and Local Government, unveiled plans to take gardens out of the brownfield category, strengthening the power of councils to prevent unwanted development on gardens where local people object in order to protect the character of their neighbourhoods.