

Planning Reference No:	10/1307C
Application Address:	The Point, Crewe Road, Alsager
Proposal:	Application to Vary Condition no. 5 of Planning Approval 08/0764/FUL
Applicant:	Muller Palatine Properties Ltd
Application Type:	Section 73
Ward:	Alsager
Registration Date:	28-April-2010
Earliest Determination Date:	15-June-2010
Expiry Date:	23-July-2010
Date report Prepared	17-June-2010
Constraints:	None

SUMMARY RECOMMENDATION:

APPROVE

MAIN ISSUES:

Policy

Whether the variation of condition number 5 would undermine policies aimed at protecting the vitality and viability of Alsager Town Centre.

1. REASON FOR REFERRAL

Councillor S. Jones has called this application in for consideration by the Southern Planning Committee due to “environmental concerns on neighbouring residents”.

2. DESCRIPTION AND SITE CONTEXT

The application site comprises a large 3 storey mixed use development fronting the busy Crewe Road at the junction with Close Lane, Alsager, where residential properties bound the site to the northeast and northwest and open fields reside to the south. This application relates to retail units 2 and 3 which are situated on ground floor level. The site is located within Alsager Settlement Zone Line but falls outside of the Alsager Principal Shopping Area as designated in the adopted Congleton Borough Local Plan First Review (2005).

3. DETAILS OF PROPOSAL

This application seeks to vary condition number 5 of planning approval 08/0764/FUL under Section 73 of the Town and Country Planning Act 1990. Condition number 5 states that:

“The retail floorspace hereby permitted shall be divided into 3 units, one of which shall be a maximum of 325.15 m², whilst the remaining two units shall be a maximum of 69.67m² each.”

The applicant wishes to remove the existing subdivision between the smaller retail units 2 and 3 to enable the creation of a unit large enough to accommodate a PDSA veterinary clinic. As such, it is proposed to vary condition number 5 as follows:

“The retail floorspace of unit 1 as identified on drawing number 918 – SK10 REV D received 14th April 2010 shall be divided from units 2 and 3 and shall not exceed 325.15 m². The combined floorspace of units 2 and 3 shall not exceed 174 m² and shall be occupied by the PDSA as a veterinary clinic.”

4. RELEVANT HISTORY

2004 (37059/3) Refusal of permission for demolition of existing buildings and erection of 37 no. 2 bedroom affordable starter flats and 1 replacement retail unit – Appeal Allowed

2005 (05/1002/FUL) Erection of 28 affordable starter flats (2 one bed and 26 two bed) max three storey with third floor within roof space, replacement retail units at ground floor, along with associated vehicle access, parking and landscaping – withdrawn.

2006 (06/0950/FUL) Erection of 29no. affordable starter flats (2 one bed, 26 two bed & 1 three bed units) max 3 storey with third floor within roof space, office and retail space at ground floor, along with associated vehicle access, parking, sub-station and landscaping. Permission granted.

2007 (07/0618/FUL) Section 73 application to vary conditions no. 21 & 22 of approval notice 06/0950/FUL relating to opening hours and delivery times for the retail and office units - Refused

2007 (07/1283/FUL) Section 73 Application to vary conditions 21 and 22 of Planning Permission 06/0950/FUL. Proposed Delivery hours Mon - Sat 7am to 7pm, Sun 8am to 4pm. Proposed opening times Mon - Sat 6am to 11pm, Sunday & Bank Holidays 7am to 11pm –Permitted

2008 08/0342/MOD Section 73 application to vary Condition 4 of planning permission 06/0950/FUL – Permitted

2010 08/0764/FUL Extension to office and rear car park with associated external lighting together with relocated bin and cycle stores, new canopies to residential entrances and amended retail / office floor area subdivision – Permitted

5. POLICIES

Local Plan Policy

PS4 Towns

S2 Shopping & Commercial Development Outside Town Centres

Other Material Considerations

'Circular 11/95 - The Use of Conditions in Planning Permissions'

6. CONSIDERATIONS (External to Planning)

Environmental Health:

No comments received.

Highways:

No comments received.

7. VIEWS OF ALSAGER TOWN COUNCIL

The Town Council support the objections stated in the attached letter dated 26th May 2010 from Mr and Mrs Rosenthal of 259 Crewe Road, Alsager and would add the following further points of objection:-

- While recognising that the proposed PDSA clinic would be advantageous for pet owners in Alsager the Town Council feel that this is the wrong development for what is essentially a residential area with accommodation above the proposed clinic.
- The Town Council is of the opinion that the proposed change of use from commercial/retail premises to a PDSA clinic is not appropriate.
- There could be noise nuisance to neighbouring residential properties particularly in The Point itself from the animals being treated at the clinic.
- The Town Council request the Southern Area Planning Committee obtain an Environmental Health report because of the likelihood of vermin and infestation to neighbouring properties.

8. OTHER REPRESENTATIONS

Letters have been received from 7 adjoining properties objecting to this application on the following grounds:

- The veterinary use in such close proximity to residential is unsuitable.
- Noise nuisance, smells and ventilation within and outside opening hours.
- Concern about animals being kept on the premises overnight.
- Associated health risks arising from disposal of clinical and animal waste.
- When residents purchased the flats, they were of the impression that the ground floor use of the units would be retail only.
- There is already adequate provision of veterinary clinics and pet shops in Alsager and there is already a very large PDSA clinic in Stoke-on-Trent. There is no qualitative or quantitative need for the proposal
- There is inadequate retail provision.
- Allowing the use may discourage further retail uses.
- The landlord may need to reconsider his rent demands in order to encourage retail interest.
- Impact on property values.
- Security.
- Tenants are not allowed to keep pets.

9. APPLICANT'S SUPPORTING INFORMATION

Initially the applicant sought to remove condition number 5 of planning approval 08/0764/FUL. The LPA cannot agree to the removal of the condition entirely as without it the internal subdivisions could be removed and the 3 units amalgamated into 1 large unit. This would undermine policy S2 of the adopted local plan and would have a significant impact on the vitality and viability of Alsager Town Centre. Consequently, the applicant has applied for a variation of the condition instead.

10. OFFICER APPRAISAL

The condition being considered under this application was imposed on planning permission 08/0764/FUL in order to ensure that the retail development included as a component of the scheme avoided an adverse impact upon the vitality and viability of Alsager Town Centre which an otherwise unfettered permission in an out of centre location would have but which would not otherwise occur from a series of smaller, individual, subdivided retail units.

Whilst the validity of this condition is not in question on the basis of the development as it currently stands, the applicant has applied to vary the condition to allow the proposed D1 use, which is being considered under application 10/1361C on this agenda, to be implemented.

On the premise that Members resolve to grant planning permission for the change of use of retail units 2 and 3 to D1 use it is considered that the condition in its current form would no longer be necessary, relevant or reasonable and would not therefore meet the test within Circular 11/95. In its place would need to be a condition with revised wording which still served to restrict the remaining A1 retail use (currently occupied by Tesco) but which allowed sufficient flexibility for amalgamation of the two former retail units into a single D1 unit for use as a Veterinary Clinic.

On that basis it is considered that the wording of the condition should be varied to read as follows: -

The retail floorspace of unit 1, as identified on drawing number 918 – SK10 Rev D received 14th April 2010, shall remain permanently divided from units 2 and 3 and shall not exceed a total floorspace of 325.15m² floorspace. The amalgamation of units 2 and 3 shall only be undertaken for D1 veterinary clinic use where the combined floorspace of both units 2 and 3 shall not exceed 174m². Should the D1 veterinary use cease, the partitioning of the units required to ensure subdivision shall be fully reinstated in accordance with the approved plans under 08/0764/FUL unless otherwise agreed in writing by the Local Planning Authority.

Objections received

Whilst a number of objections have been received to this application expressing concerns in relation matters such as amenity, odour and waste, these matters cannot be taken into account in the determination of this application and the assessment as to whether to agree to vary the wording of the condition. Rather they relate to application 10/1361C (proposed change of use) and have therefore been considered in full as part of the determination of that application.

11. CONCLUSIONS AND REASONS FOR THE DECISION

The proposed variation of the wording of the condition would not conflict with the reasons behind its imposition on the original planning permission having regard to the requirements of policy S2. The proposed revised wording of the condition is necessary to allow the change of use of units 2 and 3 to D1 veterinary use and is considered to comply with the requirements of Circular 11/95. It has regard to the fact that the use may not remain as D1 indefinitely and incorporates a requirement for the partition to be fully reinstated should the D1 use cease.

12. RECOMMENDATION:

Agree to vary the condition wording to read as follows: -

The retail floorspace of unit 1, as identified on drawing number 918 – SK10 Rev D received 14th April 2010, shall remain permanently divided from units 2 and 3 and shall not exceed a total floorspace of 325.15m² floorspace. The amalgamation of units 2 and 3 shall only be undertaken for D1 veterinary clinic use where the combined floorspace of both units 2 and 3 shall not exceed 174m². Should the D1 veterinary use cease, the partitioning of the units required to ensure subdivision shall be fully reinstated in accordance with the approved plans under 08/0764/FUL unless otherwise agreed in writing by the Local Planning Authority.

Location Plan: Cheshire East Council Licence No. 100049045

