

Application No: **10/3951C**

Location: **Booseys Garden Centre, Newton Bank, Middlewich, CW10 9EX**

Proposal: **Redevelopment of Site to Erect One A1 Retail Unit with Mezzanine Level and Associated Engineering Works, Car Parking, Landscaping and Service Yard Area**

Applicant: **Radcliffe Developments (Cheshire) Ltd**

Expiry Date: **15-Feb-2011**

Ward: **Middlewich**

Date Report Prepared: **19th January 2011**

SUMMARY RECOMMENDATION – Refuse Permission

MAIN ISSUES

- **Principle of Development**
- **Retail Impact and Town Centre Considerations**
- **Design, Character and Impact**
- **Residential Amenity**
- **Highway Safety and Accessibility**
- **Environmental Health Related Issues**
- **Trees and Landscape**
- **Flood Risk and Drainage**
- **Archaeology**
- **Ecology**

REASON FOR REPORT

The application proposes a small-scale major development in excess of 1000m² floorspace.

DESCRIPTION OF SITE AND CONTEXT

The application site extends to include three separate parcels of land comprising Booseys Garden Centre, Middlewich Auto's and a residential dwelling at no 65 Chester Road known as 'The Bungalow'. In total the site amounts to approximately 1ha comprising for the most part, previously developed land with the exception of curtilage associated with the Bungalow.

The site is located within the Settlement Zone Line and lies to the northwest of Middlewich Town Centre. In retailing terms, it falls to be considered as an 'Out of Centre' site; something discussed in more detail later into the report.

At present, both Booseys Garden Centre and Middlewich Auto's remain in active commercial use and the Bungalow in residential use.

In terms of built form, the site contains a broad mix of building types. In the case of Booseys, buildings principally comprise large commercial greenhouses and canvas awning structures but also extend to include a number of small brick built units as well as a large conservatory extension. Middlewich Autos meanwhile comprises a range of brick built commercial buildings that serve to provide a showroom area, vehicle service area and small valet bay; there is also a large outdoor display sales area. 65 Chester Road being a small post-war bungalow set within a sloping plot that contains a number of trees including a large TPO Beech.

In the wider context, the site frontage faces northeast adjoining both Chester Road and Newton Bank which in turn form part of the larger gyratory system controlling traffic entering the town from Winsford off the A54 and both Northwich and Crewe off the A530. Properties adjacent to site frontage comprise two storey terraced housing, two and three storey Victorian Villas and the three storey 'Golden Lion' public house.

The sites southeastern boundary directly adjoins the side garden boundary of 29 Newton Bank and the rear garden boundaries of residential properties within The Crescent; two-storey post-war semi detached properties that directly overlook the site.

The southwestern boundary of the directly adjoins the side garden boundary of 5 Buckfast Way and rear garden boundaries of properties within Lindisfarne Close (no's 4, 6, 8 & 10). Similarly, the sites northwestern boundary directly adjoins the side boundary of Acer House, 67a Chester Road and rear garden boundary of Culver House, 67 Chester Road.

Site levels vary significantly across the site manifested by a series of slopes and terraced platforms across the site. More generally, the site could be described as having a southwest to northeast slope but a with a prominent east to west slope to the site frontage along Newton Bank into Chester Road. As a result Booseys Garden Centre sits on a higher, but gently sloping platform above Middlewich Autos that is cut into a terraced platform approximately 1-3m below the Booseys site.

In terms of landscaping, the site currently has a high level of tree coverage with mature hedges around the site boundary. In the case of both 29 Newton and 11 The Crescent, these are screened by a substantial Leylandi hedge with Buckfast Way and Lindisfarne Close being screened by Beech and Holly Hedges respectively. In the northwestern section of the site is a large TPO Copper Beech that is particularly prominent within the wider area.

DETAILS OF PROPOSAL

The application seeks permission for the redevelopment of the site to erect a single A1 retail unit, with mezzanine level, along with associated engineering works to create a car park and service yard area.

In overall terms, the scheme would comprise a single, two-storey retail unit 59m wide (across the site frontage), 42m deep with a roof height ranging from 9.4m on the eastern elevation to 10.2m in the northeastern corner at the customer entrance. Elevations comprise red brick walls interspersed with smooth, flat grey panels and ground floor windows covered with a simple canopy. The building would have a flat roof hidden behind a mansard roof that runs around the outer perimeter of the building.

Internally, the store would provide a Gross Internal Area (or GIA) of 2660m² comprising the sales floor, food preparation areas and warehouse area along with ancillary accommodation on a first floor mezzanine level. In retail floorspace terms, the store would provide a Net Sales Area (or NSA) of 1390m² that would be split/disaggregated to provide 1110m² for the sale of convenience goods (food and drink etc) and 280m² for the sale of comparison goods (clothes and footwear etc).

Access to the store for both customers and delivery vehicles would be gained from Newton Bank utilising the existing garden centre access. This would lead into a 182-space car park area, which wraps around the northern and western elevations of the store, and the service yard road that runs along the eastern elevation and into the service yard area at the rear, or southeast, of the building. A further pedestrian access is also proposed via a staircase leading from the site down onto Chester Road

The redevelopment of the site would also see the existing site levels substantially altered in order to create a level development platform across the site. As a result, levels would be reduced at the rear of the site, through the construction of a service yard area 1.8–2m below Buckfast Way and Lindisfarne Drive, but raised substantially along the Newton Bank and Chester Road site frontage (by 4m at the highest point) thereby necessitating erection of a large brick retaining structure.

A detailed landscape plan has also been submitted including various details of new, replacement planting, boundary treatments and external works detailing.

RELEVANT HISTORY

Whilst the site has an extensive history, the following planning applications are relevant to the determination of this application:-

29830/1 (1998) Booseys Garden Centre – Construction of Retail Foodstore - Withdrawn

08/0071/FUL – Booseys / Middlewich Autos / The Bungalow, Booseys Garden Centre, Newton Bank, Middlewich. Redevelopment to provide a terrace of class A1 retail units and a stand-alone unit suitable for A class uses. Approved 20th August 2010.

Also, for reference due to its retail nature: -

09/1686C PACE Centre, Wheelock Street, Middlewich. Proposed foodstore development with associated parking, servicing and landscaping, & additional A1, A2, A3 Units at Land adjacent to Wheelock Street and St Anns Road. Approved 21st August 2009.

POLICIES

National Policy

PPS1 'Delivering Sustainable Development' and supporting documents

PPS4 'Planning for Sustainable Economic Growth'

PPS4 'Practice guidance on need, impact and the sequential approach'

PPS5 'Planning for the Historic Environment'

PPS9 'Bio-diversity and Geological Conservation'

PPG13 'Transport'

PPS23 'Planning and Pollution Control'

PPG24 'Planning and Noise'
PPS25 'Development and Flood Risk'

Regional Spatial Strategy

DP1 'Spatial Principles'
DP2 'Promote Sustainable Communities'
DP3 'Promote Sustainable Economic Development'
DP4 'Make the Best Use of Existing Resources and Infrastructure'
DP5 'Manage Travel Demand; Reduce the Need to Travel, and increase accessibility'
DP6 'Marry Opportunity and Need'
DP7 'Promote Environmental Quality'
DP9 'Reduce Emissions and Adapt to Climate Change'
RDF1 'Spatial Priorities'
W5 'Retail Development'
RT2 'Managing Travel Demand'
RT9 'Walking and Cycling'
EM1 'Integrated Enhancement and Protection of the Regions Environmental Assets'
EM2 'Remediation Contaminated Land'
EM5 'Integrated Water Management'
EM11 'Waste Management Principles'
EM16 'Energy Conservation and Efficiency'
EM18 'Decentralised Energy Supply'
MCR4 'South Cheshire'

Local Plan Policy

PS4 'Towns'
GR1 'New Development'
GR2 'Design'
GR4 'Landscaping'
GR6 'Amenity and Health'
GR7 'Amenity and Health'
GR8 'Amenity and Health'
GR9 'Accessibility, Servicing and Parking Provision'
GR10 'Accessibility, Servicing and Parking Provision'
GR14 'Cycling Measures'
GR15 'Pedestrian Measures'
GR17 'Car Parking'
GR18 'Traffic Measures'
GR19 'Infrastructure'
GR20 'Public Utilities'
GR21 'Flood Prevention'
NR1 'Trees and Woodlands'
NR4 'Non-statutory Sites'
NR5 'Enhance Nature Conservation'
S1 'Shopping Hierarchy'
S2 'Shopping and Commercial Development Outside Town Centres'
S11 'Shop Fronts'
S12 'Security Shutters – Solid Lath'
S13 'Security Shutters – Lattice/Mesh Grilles'

S16 'Environmental Improvements and Traffic Management Measures'
DP4 Retail Sites 'Middlewich M1 - Wheelock Street / Darlington Street'

Other Material Considerations

- Cheshire Town Centre Study 2006 to 2021
- The Cheshire Replacement Waste Local Plan March 2010
- Cheshire and Warrington Market Town Investment Prospectus
- English Partnerships Employment Densities Manual
- Circular 11/95 'Planning Conditions'
- Circular 05/05 'Planning Obligations'
- Chief Planning Officer Letters re the abolition of RSS.
- Advice Produced by the Planning Inspectorate for Use by its Inspectors. Regional Strategies – Forthcoming Abolition

CONSULTATIONS (External to Planning)

Environment Agency:

No objection to the proposed development subject to a number of conditions.

Highways:

No objection to the proposed development subject to conditions to secure off-site highway works for footpath improvements to, and part signalisation of, the Newton Bank gyratory and the signing of a S106 Agreement in order to secure a Travel Plan and contribution towards the improvement/addition of local bus services.

Environmental Health:

17th December 2010.

No objection to the proposed development subject to a number of comments relating to contaminated land, air quality and environmental health related issues and advisory notes such as control of construction hours.

In the case of environmental health related issues, it was recommended that HGV access during the construction period should be restricted to 9am - 5pm, acoustic fencing should be erected in accordance with the applicants noise report, a scheme for acoustic enclosures for fans, compressors and other noise equipment submitted and external lighting agreed. Additional information was however sought in relation to the delivery times, and the recommendation that they shall not be made between the hours of 22.00pm and 07.00am, having regard to the close proximity of residential properties and the potential for unnecessary complaints.

In terms of air quality some clarification was sought in relation to monitoring points and additional information sought in relation to air quality mitigation. It was also requested that the travel plan be secured and measures to reduce any potential harm to air quality during the construction period.

17th January 2011

Following further consideration of the application Environmental Health stand by their original comments that more information about the need for late night deliveries. EH confirm that they

would be looking at some restriction on times, for example, 7am-8pm Monday to Friday, 9am-1pm on Saturdays and no deliveries on Sundays (subsequently amended to 9am – 1pm). However EH acknowledge that as we have given permission for the service yard in the previous application, they would be hard pushed to not allow it in this current application. By restricting the times of deliveries there should be no disturbance from noise at night, when the background noise level is quieter, from the service yard. The acoustic fencing will also aid sound attenuation

VIEWS OF MIDDLEWICH TOWN COUNCIL

Oppose the application because they consider that an additional large supermarket is not necessary as the Town is already well served by existing or planned supermarkets within the Town.

OTHER REPRESENTATIONS

To date, a total of 6 objections have been received to the proposed development. The main areas of concern can be summarised as follows: -

Retail Impacts

- Concern that the proposed development will have a harmful impact on Middlewich Town Centre, exacerbating a decline in Wheelock Street.
- That newly built, small retail units in the town centre are still vacant.
- Whether the development would result in Wheelock Street and Middlewich more generally struggling to compete.
- Accept that Middlewich needs new business but that they should be in the town centre. It does not need a gravitational pull away from the existing businesses, many of which are poised on a knife-edge.

Highway Safety and Congestion

- Concern over existing levels of congestion and that the area cannot accommodate the proposed traffic.
- Concerns over the nature and volume of construction traffic.
- Concern over accident risk

Impact on Residents and character

- Impact of the development on The Crescent in terms of loss of views and the size and impact of the proposed structure.
- Concern over the impact of additional lorry movements and times of operation associated with the proposed development over and above those at which Booseys currently operates.
- Concern over noise.
- Concern over the impact of any external lighting and any security fencing.
- That the area is predominantly residential and any such development would not be in keeping with the area.

A number of other comments were also made by the objectors in relation relating to loss of property value and concern over ownership of land within the application site boundary. However these are not matters that can be taken into account in the determination of the application.

APPLICANT'S SUPPORTING INFORMATION

Plans, Elevations and Design & Access Statement
Planning Statement, PPS4 Retail Impact Assessment and RSS Update
Transport Assessment
Land Contamination Report,
Air Quality Assessment
Noise Assessment and Update
Tree Survey Report and Update
Heritage Statement
Site Waste Management Plan
Ventilation and Extraction Statement
Flood Risk Assessment
Planning Obligation Statement
Amended Proposed Site Plan
Amended Proposed Elevation (Sheet 1)
Amended Proposed Elevation (Sheet 2)

OFFICER APPRAISAL

Principle of Development

In submitting this application, the applicant's consider that the existing retail use on the site and extant planning permission are material considerations of significant weight because they establish the principle of retailing on the site. However, whilst officers accept that they are material, we do not consider that the weight that can be attributed to them is significant.

Whilst the current site contains Booseys garden centre and nursery, along with a car sales and repair business, these operate at a much lower intensity of use than the proposed supermarket and therefore the proposed development represents a significant intensification of use on site in comparison to the existing use.

Similarly whilst the extant permission contains an 'allowance' for up to 1318m² convenience floorspace within the total overall floorspace, it was subject to conditions which required subdivision with the effect that no one unit could provide a single convenience store of that size. This is important because the impact of five units combining to create 1390m² convenience floorspace (the amount now proposed), but trading separately are unlikely to be anywhere near that of the proposed single supermarket unit that represents a much greater intensification in terms of retailing.

The weight to be attached to the extant permission as a 'fallback position' is also questionable because the applicants appear to suggest that there is no market support for their extant scheme; a point which the Council's retail consultant found to be no surprise. He advised that the population of the local catchment area and proximity to other competing local centres make it difficult to see who would occupy any units built out under the extant permission. In convenience terms, the units would be too small for discount operators and too big for the likes of Spar or the Sainsbury's 'Local' format for example.

The impacts associated with the extant permission are also very different to those associated with the proposed supermarket. In effect the proposed scheme amounts to significant intensification of the use of the site evidenced by the substantial increase in car parking over and above the extant scheme. The proposed scheme therefore falls outside the parameters of the extant permission which imposed conditions on the permission to control the use and prevent amalgamation of units on the site. The principle of retail development in the manner proposed must therefore be considered afresh.

Whilst other factors such as the sites previously developed status (policy NR6 and RSS policy DP4) and location within the settlement zone line (policy PS4) fall to be considered as material, the main consideration in assessing whether the principle of development is acceptable is PPS4 and Local Plan policy S2 which are now considered in more detail.

Retail Impact and Town Centre Considerations

In support of their case, the applicant's submitted a planning statement and retail impact assessment which sought to demonstrate, amongst other things, that the proposed scheme: -

- Represents a 39% reduction in previously approved Gross Floorspace and yet remains within the parameters of the extant permission.
- Could be accommodated in addition to the approved scheme for redevelopment of Wheelock Street by Tesco & Briden Investments
- Satisfies PPS4 in terms of EC10, EC15, EC16 and EC17
- Would improve the range and quality of retailing within Middlewich, whilst remaining complementary to the traditional town centre.
- Allow for retention of greater proportion of locally generated expenditure and would help to reduce the need for local residents to travel in order to meet their daily shopping needs.

Officers do not agree with the applicant's assessment however and consider the proposed development would be unacceptable for reasons discussed in more detail below.

EC15 'Sequential Assessment'

Whilst the applicants consider the site to be PPS4 'Edge of Centre', because the site falls within 300m of the town centre, officers do not agree for a number of reasons.

Firstly the application site is located further away from the defined primary shopping area (PSA) on Wheelock Street than the existing Lidl store which is categorised as out of centre site by White Young Green within the Cheshire Town Centre Study.

Secondly Annex B of PPS4 advises that 300m is a maximum and that a range of other local circumstances must also be considered including factors such as the strength of attraction and size of the town centre and barriers to pedestrian movement. In this respect, Middlewich is not considered to have a particularly strong centre whilst the route to the site from the town centre comprises largely dead frontage making the route less attractive. Significant barriers to pedestrian access also exist in the form of two busy roads and entrance to the Lidl car park. Whilst it is acknowledged that there is an existing crossing over the A54, and another proposed near to the site, it forms a barrier to pedestrian movements slowing down the walking trip to the town centre. The proposed development should therefore be considered as 'Out of Centre'.

Notwithstanding this, officers would accept that the scheme may generate some trips to the town centre albeit not that significant due to the distance and barriers. As a result the supermarket would operate as a predominantly stand alone one-stop shop.

On that basis, the applicants should therefore have reviewed other out-of-centre sites as part of the sequential assessment which they have not done; although they do however consider the allocated site within the town centre which benefits from permission for a new food store following an application by Tesco and Briden Investments. The site is dismissed however as being neither available to the applicant or viable specifically ignoring advice within PPS4 (Practice Note) at paragraph 6.41, which states that sequentially preferable sites cannot be dismissed on the basis that it is not available to the developers or retailer in question, and paragraph 6.50 (viability) where it is stated sufficient time must be allowed for the assembly of town centre sites.

A further concern relates to the fact the applicants suggest, because the extant permission was considered at the same time as the Tesco / Briden application, capacity exists for both schemes. In this respect it has already been demonstrated that the extant permission is very different and far less intense form of retailing than is now proposed. Crucially however, there is insufficient convenience goods capacity within Middlewich for both the Tesco / Briden scheme and the applicant's proposal and as a result, the proposed scheme would have a prejudicial effect on the delivery of the sequentially preferable Tesco / Briden scheme (the impact of which is discussed in more detail within the forthcoming sections).

EC16 'Impact Assessment'

Officers also have significant concerns in relation to the impact of the proposed development and these are now discussed in more detail below.

Methodology

To begin with, and before considering the detailed impact tests identified under EC16, it is important to identify a number of problems with the applicant's Retail Impact Assessment which serve to raise doubts over the validity of its findings. Sales densities for both proposed store, as well as the existing and proposed Tesco stores, were underestimated and the current amount of convenience floorspace within Middlewich understated. When these incorrect figures are carried over into subsequent impact assessment tables, the effect is to mask the fact insufficient capacity exists (to accommodate both the Tesco/Briden scheme and the applicant's proposed development).

In addition the level of trade which the applicants predict to be achieved from clawed back expenditure (i.e. money currently being spent outside Middlewich) is overestimated. Whilst there is no doubt some trade will be clawed back, there will also be significant trade diversion from local stores in addition to the existing Tesco and Lidl which the applicants do not draw upon. The assessment also fails to identify there is likely to be a greater trade draw from local top-up expenditure in Middlewich Town Centre.

EC16.1(a) Impact on Investment and EC16.1(c) Impact on Allocated Sites

In terms of the impact that the proposed scheme will have on proposed investment, there is major concern that the proposal would compete directly with the Tesco / Briden scheme and therefore discourage the proposal / investment from coming forward. Whilst the applicants

state capacity exists for both schemes, it has already been demonstrated that this is simply not the case. The proposal is therefore likely to undermine investment within the town centre both directly, in terms of the Tesco / Briden scheme, and indirectly in terms other convenience stores suffering trade diversion. Furthermore, operator demand in the centre is not strong and investor confidence is likely to decline if the proposed out of centre scheme is approved. As a worst-case scenario, it may also encourage the prospective operator of the Briden scheme to relocate to the out-of-centre application site.

EC16.1(b) Impact on Vitality and Viability.

One of the applicant's main arguments is that the proposed development, alongside the approved Tesco / Briden Scheme, will help claw back convenience goods expenditure currently leaking from the town. Whilst the report has already acknowledged this will happen to an extent, it is considered that the proposal would not claw back that much leakage over and above that which would be achieved by the Tesco / Briden scheme for a number of reasons.

Firstly, neither the Tesco / Briden scheme or applicant's proposal are as big as more distant competing superstores in Northwich, Winsford and Crewe; secondly the Cheshire & Warrington Market Town Prospectus indicates that the many of the economically active people in Middlewich commute out of town each working day and will therefore combine commuting with top-up and/or main food shopping trips. Therefore, the applicant's 94% retention/market share levels will never be achieved.

The effect of the proposed development would therefore be to divert much more trade from the existing / proposed Tesco supermarket as well as from existing town centre stores with which it would compete directly for top-up expenditure. This is an important point because both the existing and proposed Tesco generate footfall for the town centre with the result that the proposed scheme would impact directly not only on competing convenience stores in the town (multiples and independents) but would also reduce footfall levels in Middlewich, one of the key indicators of vitality and viability. Whilst it is accepted that some people may park and walk into the town centre, the level of trips would be insufficient to offset the trips removed from the existing and proposed Tesco stores. In turn the reduction in footfall would also be likely to exacerbate the already very high vacancy rate (also a measure of vitality and viability) within Middlewich town centre. In conclusion the proposed development, both individually & cumulatively, will have a significant adverse impact on the vitality and viability of Middlewich town centre.

EC16.1(d) Impact on Trade / Turnover

In the previous paragraphs, it was demonstrated that the impact on the town centre will be far greater than that estimated by the applicants. Additionally, it must be noted that the policy test is concerned with the impact on trade, not just turnover, and the true impact (or loss of net profit) is not proportional to the impact on turnover, particularly for small independent shops. The conclusion is therefore that the proposal will have a negative impact on the trade and turnover of Middlewich Town Centre.

EC16.1(e) Appropriate Scale

Were it to be accepted that the application site falls to be considered as an edge of centre site, which it is not, it is necessary for the applicant's to demonstrate that the proposal is of an appropriate scale. The reasons for dismissing the applicant's case on this point have already

been made clear however. The proposed scheme is far more intensive than the extant 2008 permission, which in any case is unlikely to be implemented, falls outside the parameters of the conditions imposed by the permission and will have far greater impact on the town centre in direct contravention of S2. Additionally, when the proposal is considered cumulatively with the Tesco / Briden scheme, there isn't sufficient capacity for both schemes further demonstrating that this proposal is inappropriate in scale.

EC10.2 Impact Considerations

Policy EC10.2 also sets out five criteria against which all planning applications for economic development must be assessed.

EC10.2 (a) Impact on CO2 emissions

In general terms it is accepted that the proposed building is likely to be more energy efficient than those currently found on site. Its credentials could be further enhanced through imposition of a 10% renewable energy condition (RSS policies EM17 & EM18) and through imposition of a condition requiring the building to achieve a BREEAM Very Good Standard. The main concern however is the potential for the store, as an out of centre site, to encourage a modal shift from foot, cycle or bus (in the case of visitors to the town centre) to car use to visit this proposal which would clearly adversely affect emissions.

EC10.2 (b) Accessibility

In general terms the Strategic Highways Manager (SHM) is satisfied that the site is accessible. The tests applied by the SHM however are different to those considered in terms of the retail impact. In this respect, the site lacks the accessibility of those within the town centre, is more difficult to access by bike or foot and is located in the northwest of the town when the majority of the population reside to the south of Middlewich. The site is not therefore as accessible as the town centre.

EC10.2 (c) Design

This matter is covered in more detail within the next section; suffice to say it is not considered that the scheme represents high quality design which would have a positive impact in terms of this particular test.

EC10.2 (d) Impact on Economic and Physical Regeneration

Whilst it is likely that the scheme would deliver some benefit through the removal of a number of somewhat unsightly buildings, any such benefits would be substantially outweighed by concerns over the impact that the proposed scheme would have on the delivery of the Tesco / Briden scheme that is of critical importance to town centre regeneration. Officers' expended significant time to secure a high quality scheme that was right for the town centre and which generates maximum level of linked trips. The applicant's proposal, for reasons discussed in detail in preceding sections, jeopardises the delivery of the Tesco / Briden scheme and would have a potentially negative impact on the economic and physical regeneration of Middlewich.

EC10 (e) Impact on Local Employment

Whilst the applicants suggest that the scheme is likely to generate 100 full time equivalent (FTE) jobs, this is not a figure accepted by officers. When the scheme is considered against the English Partnerships Employment Densities Manual the number of FTE jobs is likely to be only around 29. Given that existing jobs would be lost off the site, and because the applicants do not present a realistic trade draw assessment, we do not know if these 29 FTE jobs are

likely to displace any jobs in the town centre or other local supermarkets or superstores further afield. It is therefore officers' opinion that no weight can be attached to the employment generation claims of the proposal.

In conclusion, and to draw retail matters to a close, PPS4 Policy EC17.1 advises that planning applications for retail development should be refused where they fail to satisfy either the sequential approach to site selection (EC15) or the impact assessment (EC10 & EC16). The above sections clearly demonstrate the proposal satisfies neither of these policy tests and it is therefore recommended that the application is refused on retail grounds.

Design, Character and Impact

The application as originally submitted was considered to be extremely poor. It was utilitarian in appearance with only one glazed section to distinguish the entrance to the store in an otherwise bland and featureless elevation. It related poorly to scale, mass, character and appearance of buildings within the immediate area, particularly the Victorian Villa's on Chester Road which define the context in which the proposal sits and lacked any of the subtlety of the previously approved scheme which broke up massing with a series of glazed entrances and canopy features serving each individual unit. The proposed landscaping scheme would also only serve to provide limited benefit to mitigate the harm.

Whilst revised plans have now been submitted to address concerns over design, it is still our view that the proposed development does not achieve a high enough standard of design which serves to take the opportunity improve the character of the area and the way it functions (PPS1 paragraph 35).

The building remains utilitarian in appearance and stands isolated behind a sea of surface level car parking. The requirement for a retaining wall creates a large, oppressive and ultimately incongruous feature within the Newton Bank and Chester Road frontage that harms not only the character and appearance of the area but also physically severs and isolates the site with little regard to human scale. Whilst it is accepted that the previously approved scheme also utilised a retaining wall, it was implemented in far more appropriately with its scale mitigated through the presence of a two-storey unit that bridged the levels between the site and Chester Road.

Whilst it is accepted that the proposed development must be viewed against the poor quality buildings which currently occupy the site, the test within PPS1 is not merely whether the proposal is better than what is currently on the site but that *"design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions should not be accepted"*.

Nonetheless, on balance, it is difficult to advocate refusal of the scheme on design grounds simply because the scheme, for the most part, mimics the previously approved design in terms of scale, mass and to a certain degree elevational treatment. To that end, it is considered that a reason for refusal on design grounds could be difficult to sustain at appeal despite the fact a much better design solution could undoubtedly be negotiated.

Residential Amenity

In overall terms, whilst the relationship between the proposed development and adjoining neighbouring properties is very finely balanced, it is considered that the proposed

development would comply with the requirements of GR1 (iii), GR2 (I) (D), GR6 and GR7 providing conditions were imposed.

Visual Amenity, Light and Privacy

In terms of visual impact, the scheme largely replicates the scale, mass and positioning of the extant 2008 permission, albeit with a reduced width.

One area of concern however relates to the loss of existing hedges along the sites southern boundary, more particularly the attractive Beech hedge located adjacent to no5 Buckfast Way that provides and an attractive boundary treatment between the two properties and serves to provide a degree of 'soft' screening between the application site and dwelling that could have screened the proposed service yard area. Whilst retention of the hedge would therefore clearly have been desirable, we do not consider that a reason for refusal on such grounds could be sustained because the hedge could be removed, lopped or trimmed at any time without consent from the Council. It is also questionable whether it would have survived the construction works to erect the proposed retaining wall in any case.

In respect of the removal of the Holly Bushes adjacent to the rear gardens of properties on Lindisfarne Close, it is highly likely that removal of these would bring about amenity benefits to adjoining residents given their height, proximity and resultant loss of light. In addition the scheme makes provision for replacement planting which, whilst would clearly take time to establish, is considered to be sufficient to preserve amenity for these dwellings.

Whilst the biggest potential impact on visual amenity is likely to result from the impact of the service yard area to residents on The Crescent, Buckfast Way and Lindisfarne Close the scheme merely replicates the layout of the extant scheme albeit with alterations to service door arrangements.

Service Yard and Delivery Noise

The main concern in terms of impact however relates to noise from the service yard area and the impact this could have on the amenity of nearby residents, particularly dwellings at 5 Buckfast Way and 8 & 10 The Crescent.

In dealing with this matter, it is important to note that the extant 2008 permission related principally to the sale of comparison goods which would have been less intense and would require less deliveries than a solely convenience goods store. In addition, the service doors on the extant 2008 scheme were spread across the rear elevation at regular intervals thereby avoiding a concentration of activities in any one spot.

In the case of the scheme now proposed, it is considered the store will require more deliveries of fresh produce such as bread, milk and vegetables on a daily basis. Whilst this may not have been drawn out within the applicants Transport Assessment, or referred to by the highways engineer, this is based on experience of other food store schemes. In dealing with this issue, the applicant's assert that a restriction on delivery times (between 7am & 10pm), coupled with a 3m acoustic fence would protect amenity. Environmental Health are more cautious however indicating that the hours restriction needs to be more tightly controlled if amenity is preserved having specific regard to intensification, the single delivery point (with scissor lift access) and potential for significant noise from the steel cage pallets more commonly used for the delivery of frozen and refrigerated foods.

Taking all the factors into consideration, officers consider that providing the hours of delivery were restricted to those recommended by Environmental Health, the site could operate satisfactorily. Were the scheme recommended for permission, it would also be suggested an additional condition be imposed to secure a more comprehensive scheme for noise mitigation in the form of an acoustic screen around the loading bay entrance closest to the noise source.

Whilst the applicants may seek to argue this is overly restrictive, and likely to adversely affect the chance of attracting a tenant, it is considered that such restrictions are necessary to protect residential amenity and in order to comply with the requirements of policies GR1 (iii), GR2 (I) (D), GR6 and GR7. In this respect however, the onus would be on the future occupier to carefully consider the restrictions as part of the site selection process.

Highway Safety and Accessibility

Following detailed consideration of the proposed scheme and Transport Assessment, the Strategic Highways Manager is satisfied the proposed scheme is acceptable from a highway safety and accessibility perspective.

Whilst the proposed access leads directly onto the Newton Bank gyratory, which objectors consider cannot accommodate the development, the Strategic Highways Manager (SHM) is satisfied that the gyratory has capacity to accommodate development traffic albeit subject to the requirement for off-site highway works that would be secured by way of Grampian condition. This would involve part signalisation of an arm of the gyratory, installation of pedestrian crossing point adjacent to the site frontage with Chester Road and various improvements to pedestrian crossing points and pavements along Chester Road.

In terms of accessibility more generally, rather than the more detailed considerations associated with PPS4, the SHM is satisfied that the site is sufficiently accessible by a range of transport modes including pedestrian and cyclists. It would however be necessary for the applicants to enter into a S106 in order to secure the proposed Travel Plan along with a financial contribution towards the improvement of/or addition to local bus services to secure quality partnership standard bus-stops (totalling £25,000).

It is therefore considered that the proposed development would satisfy the requirements of Local Plan policies GR1, GR9 and GR18.

Environmental Health Related Matters

In terms of remaining Environmental Health considerations, it is considered that the proposed development would satisfy the requirements of Environmental Health. In the case of air quality, whilst it would be necessary to secure a number of measures to mitigate the potential impact of development traffic on an area that is falling close to being designated as an AQMA, these could be secured by way of condition on any permission.

In terms of contamination, whilst further investigations are needed, it is considered that a suitably worded condition could be attached to cover the requirements for assessment and remediation. Similarly, whilst the site is likely to require the installation of plant and equipment, Environmental Health is satisfied that a detailed scheme could be secured by way of condition prior to installation. The requirements

of Local Plan policies GR6, GR7 and GR8 would therefore met subject to imposition of conditions.

Trees and Landscaping

Following the submission of amended plans, the concerns in relation to the impact that the scheme would have on the protected trees within the curtilage of No67 Chester Road (Shown as 65 on maps and plans) have been addressed. The retaining wall that previously significantly encroached into the root protection zones (RPZ) has now been pulled back outside the RPZ thereby removing the cause of any potential harm to the trees.

Members will also have identified that the scheme results in removal of the majority of trees from within the site, in particular the large TPO Beech tree which is extremely prominent both from within the site and more immediate areas around the site. However, in this respect, the submitted scheme simply reflects what has already been approved under the extant 2008 permission and it is not therefore considered a reason for refusal could be sustained.

One new area of concern however relates to the proposal to remove the various hedges along the southwestern boundary of the site. Of particular concern in this respect is the loss of an attractive beech hedge in order to facilitate construction of a service yard retaining wall, but which also serves to provide a degree of soft visual screening between the site and No5 Buckfast Way (although this principally relates to residential amenity). Ultimately however, the hedge is not protected and could be removed at any point in the near future by the applicants without permission from the Council. Even were amended plans secured to seek its retention, it is questionable whether it would survive given the major engineering works that would take place to lower ground levels and construct a new concrete retaining wall.

Whilst the applicants have sought to address many of these concerns through the submission of a detailed landscape plans, the scheme submitted is unlikely to offset the loss of such a large number of mature trees. As a result, and were the scheme to be approved, it would be necessary to impose a condition to secure a further detailed, and more substantial landscape plan.

On balance therefore, it is considered that proposed development meets the requirements of Local Plan policies GR1 (II), GR2 (II) and NR1.

Flood Risk and Drainage

The applicant's Flood Risk and Drainage Assessment has demonstrated that the proposed development would avoid adverse impact upon flood risk within the area and complies with the requirements of PPS25 'Development and Flood Risk'. The Environment Agency concur with this view and confirmed that they have no objection to the proposed development although a number of conditions would be required to secure precise details of the proposed surface water and foul drainage strategies. It is therefore considered that the proposed development would comply with the requirements of PPS25 as well as local plan policies GR1, GR20 and GR21.

Archaeology

Similarly, following an assessment of the applicants statement by the Archaeological Unit, it is considered that a condition imposed on any permission would allow for the sites archaeological remains (an ice house on the western boundary) to be fully investigated and

recorded prior to its destruction. The scheme could therefore comply with the requirements of PPS5 'Planning for the Historic Environment'.

Ecology

The applicant's ecological assessment serves to demonstrate that there are no ecological issues that would prevent the grant of permission with the scheme. The site has limited ecological value and no adverse impacts would arise through its redevelopment in terms of protected species. The scheme therefore complies with the requirements of PPS9 and Local Plan policies GR1 (ix), NR3, NR4 and NR5.

CONCLUSION AND REASON FOR THE DECISION

The principle of retail development in the manner proposed is unacceptable and the fall back position is not accepted to carry significant weight. The proposal fails to meet the requirements of PPS4, more particularly Policy EC17. The applicants have not demonstrated compliance with the sequential approach (EC15) and there is clear and substantial evidence that the proposal has a number of significant adverse impacts under policy EC10.2 and EC16.1 including the fact it would harm the vitality and viability of the town centre and potentially discourage investment in the long-standing allocated town centre site which now benefits from planning permission for Tesco / Briden Investments. The proposals also contravene Local Plan policy S2 and policy W5 of the North West Regional Spatial Strategy.

Whilst the scheme is also considered to be poor in terms of its design, impact on the character and appearance of the area and overall loss of trees the reality is that the scheme is not so different from the extant planning permission on the site and it is not therefore considered that the scheme could be refused.

Similarly, in the case of residential amenity, the adverse impacts associated with the scheme in terms of noise could be addressed by way of planning conditions. Whilst visual amenity will be affected to a greater extent than the previously approved scheme, the hedge in question is not protected in any way and could be removed, lopped or trimmed at any time by the applicants and therefore whilst its loss is unfortunate, it is not sufficient to warrant refusal.

Matters relating to highway safety / accessibility, archaeology and flood risk have been adequately addressed by the applicants and the scheme therefore satisfies the relevant policies of the adopted Local Plan, RSS and national planning policy.

It is therefore recommended that planning permission be refused for the following reason: -

The proposed development fails to meet the requirements of PPS4 'Planning for Sustainable Economic Development' Policy EC17. The applicants have not demonstrated compliance with the sequential approach (EC15) and there is clear and substantial evidence that the proposal has a number of significant adverse impacts under policy EC10.2 and EC16.1 including harm the vitality and viability of the town centre and potential to discourage investment on an allocated town centre site. The proposal would also contravene policy S2 'Shopping and Commercial Development Outside Town Centres' Parts (A) Need, (B) Sequential approach, (C) vitality and viability and (E) accessibility of the Congleton Borough adopted Local Plan First Review 2005 and policy W5 'Retail Development' of the North West Regional Spatial Strategy.

Location Plan: Cheshire East Council Licence No. 100049045

