

CHESHIRE EAST COUNCIL

SOUTHERN PLANNING COMMITTEE

Date of meeting: 16th January 2013
Report of: David Malcolm – Southern Area Manager
Title: Development of New Agricultural Machinery Dealership
Comprising of Showroom, Workshop, Parts Counter, Ancillary
Retail Sales and Office Building; External New and Used
Vehicle Display Areas; Car Parking and Associated
Landscaping, Following Demolition of Existing Buildings and
Structures on Site at Wardle Bridge Farm, Nantwich Road,
Wardle, CW5 6BE

1.0 Purpose of Report

- 1.1 To consider proposed amendments to the resolution passed by Southern Area Committee in respect of application 12/3294N
- 1.2 The report has been presented to Southern Area Committee because the original application was approved by the Committee in November 2012.

2.0 Decision Required

- 2.1 To agree to the amendments to the previous resolutions as stated in this report.
- 2.2 The principle of the development has already been established by the previous resolution. Consequently, this report does not provide an opportunity to revisit that issue. This item relates solely to the proposed amendment to the requirements of the Section 106 Agreement.

3.0 Background

- 3.1 The application relates to a former farmstead of approximately 1.274ha in area, comprising a number of modern buildings for agricultural use, concrete storage clamps and general hardstandings. The site is bounded to the north by the railway line, to the east and south by Wardle Bridge Farm and to the west by Calverley Hall Lane. The site currently enjoys a single access from Calverley Hall Lane located towards the south west corner of the site.

- 3.2 Members may recall that in November 2012 Southern Area Committee resolved to grant planning permission for the erection of a building for use as an agricultural machinery sales and repair depot comprising showroom, repair workshop, offices, and visitor and staff parking, sales parking and marshalling yard, wash down area and landscaping. The footprint of the new building is 917 square metres with the first floor being a total of 515 square metres. The height from the ground to the ridge of the building is 8m with an eaves height of 6.6m.
- 3.3 The approval was subject to the satisfactory completion of a Section 106 agreement to secure a financial contribution of £3,000 for the introduction of a weight restriction on the railway bridge to the right of the site, as Members considered that, in accordance with the Community Infrastructure Levy Regulations 2010, it was a) necessary to make the development acceptable in planning terms, b) directly related to the development and c) fairly and reasonably related in scale and kind to the development because it would pay for an order to restrict the size/weight of vehicles travelling to/from the site in the vicinity of the school

and the following conditions:

- 1 Standard
- 2 Reference to plans.
- 3 Materials
- 4 Construction of parking and access
- 5 Submission / approval and implementation of travel plan
- 6 Submission / approval of landscaping
- 7 Implementation of landscaping
- 8 Construction Hours limited to Monday – Friday 08:00 to 18:00 hrs; Saturday 09:00 to 14:00 hrs; Sundays and Public Holidays Nil
- 9 Submission / approval and implementation of external lighting
- 10 Building to be used for the display, sale, storage and repair of agricultural machinery with ancillary offices / retail sales only
- 11 The unit shall not be used for retailing any goods other than those genuinely associated with a an agricultural machinery dealership, and shall not be used for the retailing of any of the following goods:
 - i. Fashion clothing and footwear (other than country, equestrian and leisure clothing and footwear normally retailed within a country store);
 - ii. Fashion accessories, including jewellery, cosmetics, toiletries and pharmaceutical products; books, newspapers and magazines (other than specialist publications or animal health products normally retailed within a country store);
 - iii. Electrical goods (other than those which would normally be retailed within a country store);

- iv. Kitchenware or goods associated with cookery
 - 12 Widening of left turn radius off A51
 - 13 Layby/passing bay between site and A51
 - 14 Provision of ghost island/right turn off A51
- 3.4 Since the committee's resolution the developer has raised concerns over the costs of the highways requirements, which they consider would render the scheme unviable. They are therefore seeking to remove conditions 12 – 14 of the committee's previous resolution. They are however, are prepared to commit to the s.106 contribution to the bridge weight limit, subject to reasonable costs.

4 Developer's Supporting Information

- 4.1 The applicant has stated that they have consulted their highway engineers regarding the required works. Until they listened to the debate at the Committee meeting, they had been unaware of any suggestion that such additional works would be included as a conditional requirement. They had viewed the very clear consultation response from your highway officer, which indicated that no off-site works were required, and had reasonably assumed that this would be the eventual outcome. No discussions had taken place with the applicants about the need for additional works and they were therefore not in a position to respond to these matters at the time.
- 4.2 The works that have been outlined in the conditions have now been 'costed' by our highway engineer and the overall total is circa £45,000.00 (forty five thousand). Moreover the concern is also that the costs of providing the ghost island / right turn from the A51 is potentially considerably greater if there is a need to widen the carriageway (to address safety audit) and almost certainly therefore relocate services in the carriageway verge. In these circumstances the costs could easily exceed £150,000.00.
- 4.3 Even assuming the lower figure, the applicants consider the costs of these works would render an already marginal scheme unviable, and they would not be in a position to proceed with the development. For these reasons they believe that the only appropriate course of action is to request that the committee review the necessity for these works, bearing in mind the formal response from the highway officer, and ask that they determine the application without the external works.
- 4.4 The developer would be prepared to consider the contribution towards the costs associated with the weight limits for the bridge, subject to clarification of these costs, but these are presumed to be very modest compared to the other elements.

- 4.5 Whilst it is open to the developer to appeal the conditions, this seems to be the least appropriate option, not least because it leaves the matter unresolved for a considerable period of time and the delay will further jeopardise the project.

5 Officer Comment

- 5.1 The NPPF places considerable emphasis on viability as a material planning consideration. Paragraph 173 states: *Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable*
- 5.2 The NPPF also stresses the importance of delivery of economic growth through the planning system. One of the 12 Core Planning Principles at paragraph 17 states that planning should: *proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth.*
- 5.3 The NPPF makes it clear that “*the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.*”
- 5.4 According to paragraphs 19 to 21, “*the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. Investment in business should not be overburdened by the combined requirements of planning policy expectations.*”

- 5.5 Another important material consideration is the Written Ministerial Statement: Planning for Growth (23 March 2011) by The Minister of State for Decentralisation (Greg Clark). Inter alia, it states that, *“the Government’s top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government’s clear expectation is that the answer to development and growth should wherever possible be ‘yes’, except where this would compromise the key sustainable development principles set out in national planning policy.*
- 5.6 Furthermore, it states that when deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate economic development. Local Authorities should therefore, inter alia, consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession; take into account the need to maintain a flexible and responsive supply of land for key sectors; consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits and ensure that they do not impose unnecessary burdens on development.
- 5.7 According to the statement, *“in determining planning applications, local planning authorities are obliged to have regard to all relevant considerations. They should ensure that they give appropriate weight to the need to support economic recovery.”*
- 5.8 The applicant has clearly stated that the proposed conditions would render the scheme unviable. Therefore, with the conditions remaining in place, this proposal is unlikely to come forward and will not deliver the premises, jobs and the expansion of an existing rural business which the government has made clear are vital to economic recovery and that the planning system should be supporting.
- 5.9 Therefore, to retain the conditions in place would be contrary to advice within the NPPF, unless, as stated in that document, any adverse impacts in highway safety terms of removing the conditions would significantly and demonstrably outweigh the benefits, of the development in terms of economic growth.
- 5.10 Furthermore, according to Circular 11/95 *“Use of conditions in planning permission”* conditions should be: necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other respects.
- 5.11 According to paragraph 15: *“in considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be*

imposed. If it would not, then the condition needs special and precise justification.”

- 5.12 Members should also note that at paragraph 32 of the NPPF it states that *“development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”*
- 5.13 Comments with regard to the severity of the highway safety implications arising from removal of the conditions in question were awaited from the Strategic Highways Manager at the time of report preparation and a further update will be provided to Members on this matter in due course.

8. Conclusion

- 8.1 The NPPF makes it clear that Local Planning Authorities should support applications for development which facilitate economic growth, which this proposal will do.
- 8.2 It also explains that in determining applications, economic viability is an important material consideration. In this case the highways conditions proposed would render the scheme unviable and as a result the development would not go ahead with the resultant economic benefits would be lost. This would be contrary to the advice in the NPPF.
- 8.3 In accordance with the advice in Circular 11/95 Members must consider whether the conditions are necessary and *whether planning permission would have to be refused if those conditions were not to be imposed, having regard to* paragraph 32 of the NPPF which states that *“development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”*
- 8.4 They should also have regard to *the fact that the NPPF states that there is a presumption in favour of development* provided that there are no significant and demonstrable adverse impacts which would outweigh the benefits. Members must also determine therefore, whether, without the conditions in question, the proposal would have a significant and demonstrable adverse impact on highway safety which would outweigh the benefits in terms of economic growth.
- 8.5 In the light of the above advice, unless any severe, significant and demonstrable adverse impact on highway safety is identified as a result of the on-going consultation with the Strategic Highways Manager, it is recommended that Members resolve to remove conditions 12 – 14 from their previous resolution.

9 Recommendation

That the Committee resolve to amend the previous resolution in respect of application 12/3294N to read:

APPROVE subject to the satisfactory completion of a Section 106 agreement to secure a financial contribution of £3,000 for the introduction of a weight restriction on the railway bridge to the right of the site, as Members considered that, in accordance with the Community Infrastructure Levy Regulations 2010, it was a) necessary to make the development acceptable in planning terms, b) directly related to the development and c) fairly and reasonably related in scale and kind to the development because it would pay for an order to restrict the size/weight of vehicles travelling to/from the site in the vicinity of the school

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10 Financial Implications

10.1 There are no financial implications.

11 Legal Implications

11.1 The Borough Solicitor has been consulted on the proposals and raised no objections

12 Risk Assessment

12.1 There are no risks associated with this decision.

13 Reasons for Recommendation

13.1 To allow negotiations in respect of the Section 106 to progress to signing, to enable the development works to commence in a timely fashion to assist in delivering the 5 year housing land supply for the Borough.

For further information:

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Background Documents:

- *Application 12/3294N*