

CHESHIRE EAST COUNCIL

SOUTHERN PLANNING COMMITTEE

Date of meeting: 24th June 2009

Report of: Head of Planning and Policy

Title: Report in Relation to the Determination of Planning Application P08/0865 for Change of Use from Public house to A3 Indian Restaurant at the Cheshire Cheese Public House, 56 Crewe Road, Nantwich.

1.0 Purpose of Report

- 1.1 To advise members of the planning history at the Cheshire Cheese Public House in Crewe Road, Nantwich and seek Members agreement that the planning application for the change of use of the public house to an A3 Indian restaurant at the Cheshire Cheese Public House, 56 Crewe Road, Nantwich should be refused.

2.0 Decision Required

- 2.1 Members confirm that:-

The applicant has failed to confirm through the use of a Section 106 Agreement, that if the development which is the subject of this application is implemented then the apartments permitted under the earlier planning permission reference P08/0498 will not be constructed and in the event that the apartments are constructed the applicant will not implement the development to which this application relates. Without such Agreement the application fails to ensure that there will be no disturbance to residents in the apartments as a result of the late night opening and activities at the proposed restaurant. To allow the development would be contrary to Policy BE.1 (Amenity) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

3.0 Financial Implications

- 3.1 None.

4.0 Legal Implications

- 4.1 None.

5.0 Risk Assessment

- 5.1 The refusal of the application could be subject to an appeal.

6.0 Background and Report

- 6.1 Planning application P08/0498 was submitted to the Crewe and Nantwich Borough Council on 18th April 2008 for the change of use of the public house and manager's flat to one dwelling and the erection of 9 apartments. The apartments were to be provided as a single building and located on the land at the rear of the public house. The Development Control Committee approved the application subject to conditions at the meeting on 27th July 2008.
- 6.2 A further proposal (P08/0865) by a different applicant was submitted on 4th July 2008 for the change of use from the public house to A3 Indian Restaurant. The development included modest single storey extensions on the rear of the premises and retained the existing car park to serve the restaurant. The application was recommended for approval subject to conditions in a report presented to the Development Control Committee on 11th September 2008 (See appendix 1 attached to this report). The report noted that the change of use on its own would not require planning permission being allowed under the General Permitted Development Order. However because the alterations include extensions the conversion work does require planning permission.
- 6.3 As a result of concerns raised between the time the report was drafted and the date of the committee meeting the recommendation was altered in the Additional Information report circulated to members before the Committee meeting (See appendix 2 attached to this report). This required the applicant to sign a Section 106 agreement to ensure that in the event the permission for the restaurant is implemented, the applicant would not commence construction of the apartments allowed under the earlier permission to take place. Also if construction of the apartments commenced then the applicant would not use the building as a restaurant. This was to ensure that there would be no conflict between the use of the premises as a restaurant and residents in the apartments located at the rear of the premises.
- 6.4 The application was approved with conditions by the Development Control Committee subject to the applicant first signing the Section 106 Agreement. The Council has written to the applicant's agent asking for the name and address of the applicant's solicitor in order to complete the Section 106 Agreement but no correspondence has been received despite a number of requests.
- 6.5 The application was considered by the Development Control Committee in September 2008 and since no details have been submitted since that time the application is now presented to the Southern Committee for further consideration.
- 6.6 The application for the apartments (P08/0498) was the first application on the site and the planning permission has been issued although no details have been submitted under the conditions of this permission to date.
- 6.7 Since the applicant and his agent have failed to progress the matter for the signing of the Section 106 Agreement in relation to the application P08/0865,

following the committee resolution on 11th September 2008, it is recommended that the application be refused in accordance with the wording in paragraph 2.1 of this report. It is considered that the proximity of the apartments to the proposed restaurant would be detrimental to residential amenities. This is particularly so since it was intended that the restaurant open until midnight Mondays to Fridays and until half past midnight on Saturdays and Sundays.

- 6.8 The Additional Information Report (see Appendix 2) notes that the application was originally submitted with the incorrect ownership certificate. The correct ownership certificate was received.

7.0 Reasons for Recommendation

- 7.1 To ensure that if construction of the apartments (permitted under application P08/0498) commences, the development which is the subject of the application for a change of use with extensions to form a restaurant (P08/0865) will not commence. Also if the works to commence the permission for a restaurant are implemented the permission for the apartments will not then be commenced.
- 7.2 To protect residential amenities in accordance with policy BE.1 (Amenity) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

For Further Information:

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Background Documents:

*Planning File and correspondence reference P08/0498 and P08/0865
Documents are available for inspection at:
Municipal Buildings, Earle Street, Crewe CW1 2BJ*