

Application No: 12/3427N
Location: Existing P.E.T. Hire Centre Limited 68- 70, EARLE STREET, CREWE, CW1 2AT
Proposal: Variation of Condition 2 on Planning Permission P01/0074 to Allow for A1 Non-Food Retail
Applicant: Carl Banks, P.E.T. Hire Centre Limited
Expiry Date: 02-Nov-2012

SUMMARY RECOMMENDATION: Approve subject to conditions

MAIN ISSUES:

- Key Issues;
- Condition2;
- Impact Assessment;
- Impact upon Town Centre Vitality and Viability;
- Sequential Test;
- Highways;
- Amenity; and
- Design

REFERRAL

The application is included on the agenda as the floor area of the building exceeds 1000m² and therefore constitutes a major proposal.

1. SITE DESCRIPTION AND DETAILS OF PROPOSAL

This application is for a variation of Condition 2 on planning permission P01/0074 to allow for A1 non-food retail at the existing P.E.T. Hire Shop, Earle Street. The applicants property is a large shed, which is set back from Earle Street with car parking located to the site frontage and the site is accessed via Rainbow Street. The application site is located in a predominately commercial area and is wholly within the Crewe settlement boundary.

2. PREVIOUS RELEVANT DECISIONS

P01/0074 - Replacement Premises – Approved – 29th March 2001

P93/0936 - Retail park with associated car parking, servicing, and new highway works – Approved – 20th January 1994

3. PLANNING POLICIES

National Policy

The application should be determined in accordance with national guidance set out in:

National Planning Policy Framework

Local Policy

The principle issue surrounding the determination of this application is whether the development is in accordance with the following policies within the Borough of Crewe and Nantwich Replacement Local Plan 2011:

BE.1 (Amenity)
BE.2 (Design Standards)
BE.3 (Access and Parking)
BE.4 (Drainage, Utilities and Resources)
BE.5 (Infrastructure)
E.7 (Existing Employment Sites)
NE.17 (Pollution Control)
TRAN.1 (Public Transport)
TRAN.3 (Pedestrians)
TRAN.4 (Access for the Disabled)
TRAN.5 (Provision for Cyclists)
TRAN.6 (Cycle Routes)
TRAN.9 (Car Parking Standards)
S.10 (Major Shopping Proposals)
S.12.2 (Mixed Use Regeneration Areas) Mill Street, Crewe

Cheshire East Local Plan Strategy - Submission Version

SE1
SD2
EG3
CO1
CO2
EG5

The above Policies are consistent with the Crewe and Nantwich Local Plan

4. OBSERVATIONS OF CONSULTEES

Highways: Comments are still awaited at the time of writing this report

5. VIEWS OF THE PARISH / TOWN COUNCIL:

No comments received

6. OTHER REPRESENTATIONS:

A number of letters of representation have been received from Turleys (Planning Agent) acting on behalf of Scottish Widows.

- The current premises can only be used for tool and plant hire and the proposal is to vary condition 2 of the operating planning permission (P01/0074) to allow the use of this property for A1 non food retail use. The site is in an out of centre location so applicants must show that more central sites have been rigorously assessed (the 'sequential test'). Where this test is failed, planning permission should be refused;
- Scottish Widows Investment Partnership (SWIP) represent the owners of the Market Shopping Centre in Crewe and are working closely with Cheshire East Council with regards to future investment and development in Crewe Town Centre. We are becoming increasingly concerned that any decision to approve this application will undermine attempts to regenerate the town centre and alongside other potential decisions, further weaken its position in the retail hierarchy. It will set a dangerous precedent for out of centre retail development and is contrary to the Council's town centre first policy.
- The applicant should submit a sequential assessment and from the information available online, we note that this has not been submitted. The requirement to undertake a sequential assessment for out of centre retail proposals is long-standing and clear. If no such assessment has been submitted to form the basis for assessment then your Council cannot make an informed judgement that this requirement has been passed;
- We are therefore concerned to learn that the application is likely to be approved albeit with a 'bulky goods only' restriction, applied by way of an additional condition. We understand that the rationale for this appears to be highway related (in terms of trip generation) albeit that the application remains untested against the clear requirements of the sequential test.
- The requirements of the sequential test set out in NPPF are clear in that where it is not satisfied, planning permission should be refused. This is the only reasonable conclusion your Council could reach in the absence of any updated information or assessment of the proposal's compliance with the sequential test. It is therefore perverse to suggest that planning permission should be granted;
- We note that the applicant has changed the description of the proposal to bulky goods retail only and that the sequential assessment is undertaken on this basis. The differences in trading formats of bulky goods retailers compared to open comparison goods retailers are acknowledged in the Practice Guidance (December 2009) (para. 6.31) however it is also stated in this Guidance that 'promotion of a particular business model will not justify discounting more central sites where they are available, suitable and viable' (para. 6.33). We consider that the applicant has been insufficiently flexible in considering sites on this basis. The reasons for this are explained below, leading to failure of the sequential test and a deemed refusal under NPPF para. 27;
- With regards to Car Parks 1 and 2 of the Market Centre Extension, the applicant has assessed the sequential suitability of these allocated town centre retail development sites. However, the applicant relies heavily on a historic approval of retail development at Grand Junction Retail Park, which considered the sequential availability, suitability and viability of these sites at that time. We expressed serious concern about that

- decision at the time and do not consider the conclusions drawn then remain valid or should indicate that the position remains the same;
- Planning decisions should be made with regard to all material considerations and up to date information, and involve proper interrogation of the issues and consequences of granting planning permission. The Planning Authority should not automatically reach the same conclusion on the sequential preference of these sites, based on a decision taken many years ago. These sites are allocated for development in a soon to be adopted development plan and could come forward within a reasonable timeframe. In this case, the Council's vision for the future of Crewe is a longer-term one, whereby a period of 5-10 years would be a reasonable assessment period with regards to availability
 - The applicant dismisses the availability of this site for development in the short-term but fails to consider a 'reasonable timescale' as required by the guidance. Furthermore, we do not accept that the sites are unsuitable or unviable for the development proposed based purely on the proposal now being for bulky goods. Your Planning Authority should be satisfied that there would be genuine difficulties in operating from a more central site and the applicant provides insufficient justification to support its conclusions in this regard. The applicant's approach to the sequential test is therefore insufficiently flexible, contrary to policy and guidance.

7. APPLICANT'S SUPPORTING INFORMATION:

Sequential Test
Transport Statement
Retail/Planning Statement

Two Reports by Martin Tonks (Retail Planning Consultant acting on Behalf of Cheshire East Council)

8. OFFICER APPRAISAL

Key Issues

The main issues in the consideration of this application are the acceptability of the development in principle having regard to its impact on residential amenity, vitality and viability of the town centre, highway safety.

Condition

Condition 2 states

'The site premises shall be used for Tool and Plant Hire and for no other purpose whatsoever, including any other purpose in Class B8/B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987

Reason: - The Local Planning Authority would wish to give further consideration to other uses within the specified Class(es) in this location'.

As part of the application, the applicant has submitted a sequential test, which is a key element of both the NPPF and Policy S.10 (Major Shopping Proposals). In support of this application a number of alternative sites within the town centre and edge of centre have been considered.

Impact Assessment

The scope of impact assessments is set out in paragraph 26 of the National Planning Policy Framework (NPPF) that advises they should include:

- The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and,
- The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to 5 years from the time the application is made.

The applicant consider that a proposal has to demonstrate there will not be a 'significant adverse' impact for either of these impact tests, which is agreed. They also advise that where an impact is adverse and 'significant adverse' then it should be weighed against positive social, economic and environmental impacts in the overall planning balance, and this interpretation of the NPPF is correct (para 27). Finally, the applicant considers an impact assessment isn't strictly necessary as the proposal is below the NPPF 2,500 sq m (gross) threshold and there isn't a threshold in the Adopted Local Plan. This is the same guidance as PPS4 and the Practice Guide (PG 7.5) still advise:

"In advance of LDFs being revised to reflect PPS4, it may occasionally also be relevant to consider the impact of proposals below this threshold, for example if they are large compared to a nearby centre, or likely to have a disproportionate effect or 'tip the balance' of a vulnerable centre."

Generally the approach that has been adopted by LPAs / PINS under PPS4 / PG in the absence of development plan thresholds is for much smaller edge / out-of-centre developments than this proposal to be supported by impact assessments proportionate in detail to the scale of the development.

The PG (7.17) advises with regard to this impact test:

"Where the LPA and / or private sector has identified town centre development opportunities and is actively progressing them, it will be highly material to assess the effect of proposals on that investment. Key considerations will include; the stage at which the proposal has reached; the degree to which key developer / occupier interest is committed; and the level and significance of predicted direct and indirect impacts."

PG (7.21) also advises *"any adverse impacts ...should be balanced against the positive effects of the proposals, in terms of; investment; employment generation; social inclusion; and physical and economic regeneration."* I consider the proposal against this guidance below.

Crewe Town Centre has secured significant new private sector retail investment in the form of the Delamere Place proposals approved in 2007, however, this development has not commenced.

The Delamere Place site is identified / designated in the Crewe and Nantwich Local Plan as a town centre investment for retail use (S6.1) therefore it must be afforded considerable policy weight and protection.

The 2011 WYG Study (CW.26) treated the Delamere Place as a commitment concluding along with the other commitments it will meet most of the identified capacity up to 2021. The applicant fail to demonstrate any capacity for additional comparison goods floorspace in the town, instead they compare the turnover of the proposal against the growth in comparison goods expenditure without taking into account commitments, that take up all capacity to 2021. However, the 2011 WYG Study was based upon constant market shares and WYG acknowledge the possibility of the commitments increasing market share which would allow further retail development in Crewe such as this proposal.

It is considered that the proposal and the town centre stores are competing for the same market opportunity. Whilst How refer to the proposal as a retail warehouse format potentially selling bulky goods they are seeking an open A1 non-food consent for the unit on site 1. There are a number of potential tenants at the Delamere Place scheme that also have retail warehouse formats such as the Arcadia Group (Top Shop, Burtons, Dorothy Perkins et al) who are not currently represented on the Grand Junction Retail Park.

The cumulative impact of the proposal in addition the Delamere Place proposals is potentially a cause for concern as they may be competing for the same market opportunity although it is expected Delamere Place to increase market share in the town's catchment area in which case cumulative impact should not be an issue.

It is considered that the development will lead to the redevelopment of a brownfield site and to a lesser extent will create some additional jobs, which are both important material planning considerations.

Overall, it is considered that the impact of the proposal on existing investment in the town centre without a bulky goods condition will be adverse but not significant adverse. The proposal therefore satisfies this particular NPPF impact test.

Impact upon Town Centre Vitality and Viability

The applicant has not undertaken a health check for Crewe town centre instead referring to the conclusions of the 2011 WYG study. This concluded:

“The centre has a strong proportion of convenience goods floorspace, and strong comparison goods provision, but service provision is below national average. Since 2000 the town centre has experienced a gradual increase in vacancies and since 2006 is above the national average, this coupled with the level of comparison goods provision declining. The centre position in the hierarchy has remained constant with moderate growth levels in rents and stable yields showing the centres resilience to current economic conditions, however despite good performance indicators Crewe may become vulnerable if conditions worsen.”

It is clear the centre is not performing that well on some key indicators of vitality and viability. The centre is in need of investment that will be realised by the Delamere Place development and the Earle Street proposal may discourage that investment if it is competing for the same market opportunity.

The applicant considers that the retail warehouse format of the proposal is likely to be complementary to the town centre rather than competitive. However, it is considered that unless the proposal is restricted to bulky goods it could be competing for the same market opportunity albeit in a slightly different format. The applicant also refers to academic research (without referencing it) that indicates in the right circumstances in-centre shops can benefit from new edge-of-centre retailers as they can generate linked trips.

The applicant consider that because the amount of comparison goods floorspace has declined in Crewe Town Centre this proposal will help to redress that balance. However, the amount of floorspace whilst lower than in 2000 has increased since 2005 and as this is based upon Experian Goad it will not include comparison goods floorspace in convenience businesses such as Asda. However, the proportion of comparison floorspace (45%) is still above the Experian Goad national average (38.2%).

Overall it is considered that the proposal will not have a 'significant adverse' impact upon the vitality and viability of Crewe town centre. It is considered that the proposal will have an 'adverse' impact particularly if it is not restricted to bulky goods retailing.

Sequential Test

The proposal satisfies most of the checklist criteria for assessing compliance with the sequential assessment. The edge-of-centre proposal is fairly well accessed by public transport although the pedestrian route to the town centre is unattractive and there are obstacles enroute. None of the discounted sites require further justification and it is unlikely that there are any vacancies in the town centre capable of accommodating the proposed floorspace. The proposal is modest in scale and even with a flexible approach it is unlikely smaller sites / premises capable of accommodating the proposed floorspace can be identified. Therefore the sequential assessment to site selection appears to be largely satisfied. However, there is a remaining concern that the former JJB unit and Delamere Place should have been assessed as without a restrictive bulky goods condition the proposal may be competing for the same market opportunity.

The application has been subject to a number of negotiations which have taken a considerable amount of time. Therefore, it was considered prudent for the applicant to reassess the current proposal and assess whether there have been any changes since the initial sequential test was produced. Paragraph 010 of this section of PPG advises it is for the applicant to demonstrate compliance with the sequential test. Wherever possible, the LPA should support the applicant in undertaking the sequential test, including sharing any relevant information. The guidance advises application of the test should be proportionate and appropriate for the given proposal. Where appropriate, the potential suitability of alternative sites should be discussed between the developer and LPA at the earliest opportunity.

Para 011 advises use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. It goes on to advise in such situations robust justification must be provided where this is the case.

The PPG recognises (para 012) new development in town centre locations can be more expensive and complicated than building elsewhere and LPAs need to be realistic and flexible in terms of their expectations.

The PPG does not retain the PPS4 Practice Guide (para 6.15) test of *'available within a reasonable timescale to accommodate such needs'* that is the main point of Turleys representation with regard to *'Car Parks 1 and 2 of the Market Centre Extension.'* The applicant discount these sites on the basis that the sites are in active use as surface car parks, they are not being marketed and are designated in the adopted local plan for longer term development (post 2016) therefore they are not available. Turleys counter this by stating the sites are allocated in *"a soon to be adopted development plan"* although this would dispute this as the emerging local plan is currently at the pre-submission consultation stage. Given the current use of these sites, the lack of marketing, the removal of the *"available within a reasonable timescale"* test from national planning guidance and the programme for the emerging local plan it is accepted that these sites are not available.

In terms of the suitability and viability of the sites for the proposal the applicant's agent concludes that the site is suitable as a town centre extension but not for bulky goods retailing such as that proposed by their client. They also conclude that the requirement to replace the existing car parking makes the site unviable for the proposed development. Turleys consider the site is suitable for bulky goods retailing when allowing for flexible formats. They do not comment on the viability issues raised by the applicants agent.

According to PPG (para 010) guidance indicates *'It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed'* whilst para 012 advises *'new development in town centre locations can be more expensive and complicated than building elsewhere and LPAs need to be realistic and flexible in terms of their expectations.'* Again I am inclined to agree with How Planning that these sites are not suitable for a small retail warehouse development restricted to the sale of 'bulky goods' even when allowing for flexibility. It is considered that the site is unviable for such a development.

Overall it is considered that these sites raised by Turleys can be discounted on all three tests of the sequential assessment – availability, suitability and viability. Turleys do not put forward any other sites and it is considered that all town centre sites have been considered. The proposal satisfies the sequential assessment therefore the NPPF planning balance exercise (para 14) has to be addressed as a final policy test: *"any adverse impacts... would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."* Consequently, provided the development is restricted to the sale of bulky goods, which will be conditioned accordingly, the proposal is in accord with the Local Plan and guidance advocated within the NPPF.

Highways

No comments have been received at the time of writing this report from the Highways Officer. Members will be updated in the update report once these comments have been received.

Amenity

Policy BE.1 (Amenity) states that development will be permitted provided that the development is compatible with surrounding land uses, does not prejudice the amenity of future or neighbouring occupiers, does not prejudice the safe movement of traffic and does not cause an increase in air, noise, water pollution which might have an adverse impact on the use of land for other purposes.

In view of the previous use of the site as a tool hire business. It is not considered that the nature of the proposed use will adversely impact on residential amenity of neighbouring occupiers.

A distance of over 35m will be maintained between the building and the dwellings on the opposite side of the road. It is therefore considered that there will be no adverse effect on the living conditions of these properties as a result of overshadowing or loss of privacy and as such the proposal complies with policy BE.1 (Amenity)

Design

According to the submitted application forms and plans no alterations are proposed to the external fabric of the building and as such the proposal complies with policy BE.2 (Design Standards).

9. CONCLUSIONS

The proposed variation of condition 2 of planning permission is acceptable in principle and, as conditioned, would not cause any detrimental harm to the amenities of nearby residents or the character and appearance of the area or have any significant adverse impact on the vitality and viability of Crewe Town Centre. It is concluded that the proposed development would be in accordance with Policies BE.1 (Amenity), BE.2 (Design Standards), BE.3 (Access and Parking), BE.4 (Drainage, Utilities and Resources), BE.5 (Infrastructure), E.7 (Existing Employment Sites), NE.17 (Pollution Control), TRAN.1 (Public Transport), TRAN.3 (Pedestrians), TRAN.4 (Access for the Disabled), TRAN.5 (Provision for Cyclists), TRAN.6 (Cycle Routes), TRAN.9 (Car Parking Standards), S.10 (Major Shopping Proposals), S.12.2 (Mixed Use Regeneration Areas) Mill Street, Crewe and E.7 (Existing Employment Sites) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

10. RECOMMENDATIONS

Approve subject to the following conditions providing no adverse comments from Highways are received:

- 1. Standard Time limit**
- 2. Plan References**
- 3. Bulky Goods:–**

The range and type of goods to be sold from the non-food retail units hereby permitted shall be restricted to the following: DIY and/or garden goods; furniture, carpets and floor coverings; camping, boating and caravanning goods; motor vehicle and cycle goods; and bulky electrical goods.

- 4. Materials**
- 5. Cycle Parking**
- 6. Car Parking**
- 7. Access**
- 8. Landscaping**
- 9. Hours of Operation**
- 10. No External Storage**
- 11. Drainage**

