

Application No: 15/5844C

Location: LAND AT, MANOR LANE, HOLMES CHAPEL

Proposal: Variation of condition 17 (hours of operation) and removal of condition 24 (dust mitigation measures) on approval 15/3673C - Erection of a foodstore (Use Class A1), together with associated service area, car parking, landscaping and access.

Applicant: Liberty Properties Developments Limited

Expiry Date: 23-Mar-2016

## **SUMMARY**

**This Section 73 application seeks to amend the wording of Condition 17 from planning permission 15/3673C to allow for longer hours of operation on Public Holidays. The application also seeks to remove Condition 24 from this permission as the matters are covered by an alternative condition (Condition 20).**

**The Council's Environmental Protection Officer (EPO) has reviewed the proposed changes and is satisfied with the revised hours of operation as this was previously agreed. This amendment corrects an error in the initial wording of the condition.**

**The EPO also accepts that Condition 20 duplicates the mitigation matters for dust as well as condition 24 and agrees that Condition 24 can be removed.**

**No new issues in relation to - Shopping and commercial development outside town centres, design, landscaping, accessibility, servicing and parking provision, public services, flooding, trees and woodlands and protected species would be created.**

**The variation/removal of the suggested conditions is considered to be acceptable in this case and would not change the environmental, social or economic sustainability considerations previously assessed as part of the original application.**

## **RECOMMENDATION**

**APPROVE Subject to conditions**

## **REASON FOR REFERRAL:**

The application has been called in by Cllr Les Gilbert for the following reasons:

*'These conditions were considered and agreed by Members of the Strategic Planning Board. This application is in effect an appeal against the Members' decision and it is inappropriate for such an application being dealt with under delegated powers as this would give the Planning Officer power to over-ride the Members' decision.'*

*I further propose that the wording of condition 17 should be amended to cover not only deliveries but also unloading failing which unloading could continue for hours after the cut-off for deliveries thereby causing disturbance to nearby residential occupiers.'*

## **PROPOSAL:**

A variation of condition application (Section 73) is sought to vary Condition's 17 and 24 on planning permission 15/3673C. That application was for the *'Erection of a foodstore (Use Class A1), together with associated service area, car parking, landscaping and access.'*

Condition 17 reads;

*'The hours of operation of the use hereby approved shall be limited to 08:00 to 22:00 hours on Monday to Saturday and 10:00 to 16:00 on Sundays and 10:00 to 22:00 on Public Holidays.'*

The applicant seeks to expand the hours of operation for public holidays from 10am-10pm to 8am-10pm.

Condition 24 reads;

*'The dust mitigation measures outlined in Appendix E of the Entran air quality assessment dated April 2015 reference E1351 shall be implemented throughout the construction phase.'*

The Applicant believes that these mitigation measures are too onerous and consider that Condition 20 satisfactorily covers dust matters. Therefore, they seek this condition to be removed.

## **SITE DESCRIPTION:**

The application sites comprises of a previously developed site located on the western side of Manor Lane within the Holmes Chapel Settlement Zone Line.

The site is located approximately 0.7 miles to the east of the Holmes Chapel Village centre on the Manor Business Park. The application site as a whole extends 0.87 hectares, fronts onto Manor Lane which links to the A54 and the A535.

To the north and west of the site is more land comprising of the former Manor Business Park. The site is vacant as the former buildings on the site have been demolished.

The application site calls partially within a Flood Zone 2 and Flood Zone 3 and the Jodrell Bank Radio Telescope Consultation Zone Line.

## **RELEVANT HISTORY:**

**16/0018C** - Variation of condition 22 (electric vehicle charging points) on approval 15/3673C - Erection of a foodstore (Use Class A1), together with associated service area, car parking, landscaping and access – Approved 12<sup>th</sup> February 2016

**15/3673C** - Erection of a foodstore (Use Class A1), together with associated service area, car parking, landscaping and access – Approved 21<sup>st</sup> December 2015

**10/4464C** - Extension to Time Limit. Ref: 08/0528/REM, 07/0604/REM, 06/0721/OUT - Re-design of Two Storey Office Building from 3no. Self-contained Units to 4no. Self-contained Units – Withdrawn 24<sup>th</sup> January 2011

**08/0528/REM** - Re-design of two storey office building from 3no. self-contained units to 4no. self-contained units – Approved 22<sup>nd</sup> May 2008

**07/0604/REM** - Phase 1 redevelopment of existing business park for mixed commercial use, including B1, B2, and B8 – Approved 13<sup>th</sup> November 2007

**06/0721/OUT** - Redevelopment of existing business park for mixed commercial uses including B1, B2 & B8 – Approved 19<sup>th</sup> September 2006

### **Local Plan Policy**

The following policies within the Congleton Borough Local Plan First Review 2005 apply; PS5 (Villages in the Open Countryside and inset in the Green Belt), S1 (Shopping Hierarchy), S2 (Shopping and Commercial Development Outside Town Centres), S7 (Shopping and Commercial Development in Villages), S8 (Shopping – Holmes Chapel), GR1 (New Development – General Criteria), GR2 (Design), GR4 (Landscaping), GR6 (Amenity), GR9 (Accessibility, Servicing and Parking Provision), GR19 (Infrastructure), (GR20 (Public Services), GR21 (Flooding), NR1 (Trees and Woodlands) and NR2 (Protected Species).

### **National Policy**

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

### **Cheshire East Local Plan Strategy – Submission Version (CELP)**

The following are considered relevant material considerations as indications of the emerging strategy;

PG2 (Settlement Hierarchy), PG6 (Spatial Distribution of Development), EG3 (Existing and Allocated Employment Sites), SD1 (Sustainable Development in Cheshire East), SD2 (Sustainable Development Principles), SE1 (Design), SE2 (Efficient use of Land), SE3 (Biodiversity and Geodiversity), SE4 (The Landscape), SE5 (Trees, Hedgerows and Woodland), SE6 (Infrastructure), SE8 (Renewable and Low Carbon energy), SE9 (Energy Efficient Development), IN1 (Infrastructure), IN2 (Developer Contributions).

### **CONSULTATIONS (External to Planning)**

**Environmental Protection (Cheshire East Council)** – Raise no objections to the change in hours of operation or the removal of dust mitigation condition

**Holmes Chapel Parish Council** - No objections

## **OTHER REPRESENTATIONS:**

Neighbour notification letters were sent to all adjacent occupants and a site notice was erected.

To date, 9 neighbouring letters have been received.

5 of these are for the general support of the food store development and another raising concerns about the access. The matters raised in these letters refer to matters not considered by this application (e.g. principle, access).

3 letters of objection have been raised with specific reference to the proposed change in the hours of operation. The specific concern these residents have relates to noise.

## **APPLICANT'S SUPPORTING INFORMATION:**

Covering letter

## **OFFICER APPRAISAL**

### **Principle of development / Amenity**

The principal acceptability of the food store has already been established. The only 2 matters under consideration are

1. The change in the hours of operation on public holidays from 10am-10pm to 8am-10pm (Condition 17)
2. The removal of a dust mitigation scheme condition (Condition 24)

Both of these conditions were originally requested by the Council's Environmental Protection Officer (EPO).

The Council's EPO has advised that they had previously considered the hours as now applied for were appropriate given the location of the site. As such they raise no objections to the proposed extension of opening hours on public holidays from 8 am to 10 pm.

With regards to the removal of Condition 24, the applicant believes that these mitigation measures duplicates the requirements of Condition 20 and considers that Condition 20 satisfactorily covers dust matters. Therefore, they wish condition 24 to be removed.

The Council's EPO has advised that they agree that Condition 20 (below) still allows the Council to review the proposed dust management measures before the construction starts and as such, raise no objections to the removal of Condition 24.

Condition 20 will remain in force

*'No development shall take place until a scheme to minimise dust emissions arising from demolition / construction activities on the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all dust suppression measures and the*

*methods to monitor emissions of dust arising from the development. The demolition / construction phase shall be implemented in accordance with the approved scheme, with the approved dust suppression measures being maintained in a fully functional condition for the duration of the demolition / construction phase.'*

It is therefore considered that the principle of the variation of Condition 17 and the removal of Condition 24 are acceptable and will not result in any adverse impacts upon the noise environment for nearby residents.

## **Other matters**

The proposed changes sought will not have any significant knock-on impacts upon matters of; Shopping and commercial development outside town centres, design, landscaping, amenity, accessibility, servicing and parking provision, public services, flooding, trees and woodlands and protected species.

The local Ward Councillor has concerns over the wording of the hours of delivery condition (Condition 18) to the approved food store. The Councillor wants to amend this condition to also cover unloading because he has concerns that unloading could continue for hours after the cut-off for deliveries stipulated within the condition thereby causing disturbance to nearby residential occupiers.

In response, the applicant has agreed to this minor change and as such, it is also proposed that Condition 18 be amended to include 'unloading' as per below;

*'Deliveries (including unloading) to the food store shall not be undertaken except between the following times 06.00 to 23.00 hours on Monday to Saturday and 09:00 – 17:00 on Sunday's for the first 12 months from the date of this decision notice. These delivery hours shall be discontinued on or before that date and shall revert to 07:00 to 22.00 hours on Monday to Saturday and 10.00 to 16.00 on Sundays and unless further permission to amend those opening hours has first been granted on application to the Local Planning Authority.'*

## **CONCLUSIONS**

This Section 73 application seeks to amend the wording of Condition 17 from planning permission 15/3673C to allow for longer hours of operation on Public Holidays. The application also seeks to remove Condition 24 from this permission as the matters are covered by an alternative condition (Condition 20).

The Council's Environmental Protection Officer has reviewed the proposed changes and is satisfied with the revised hours of operation as this was previously agreed. This amendment corrects an error in the wording of the original condition.

The EPO also accepts that Condition 20 considers the mitigation matters for dust as well as condition 24 and therefore agrees that Condition 24 can be removed.

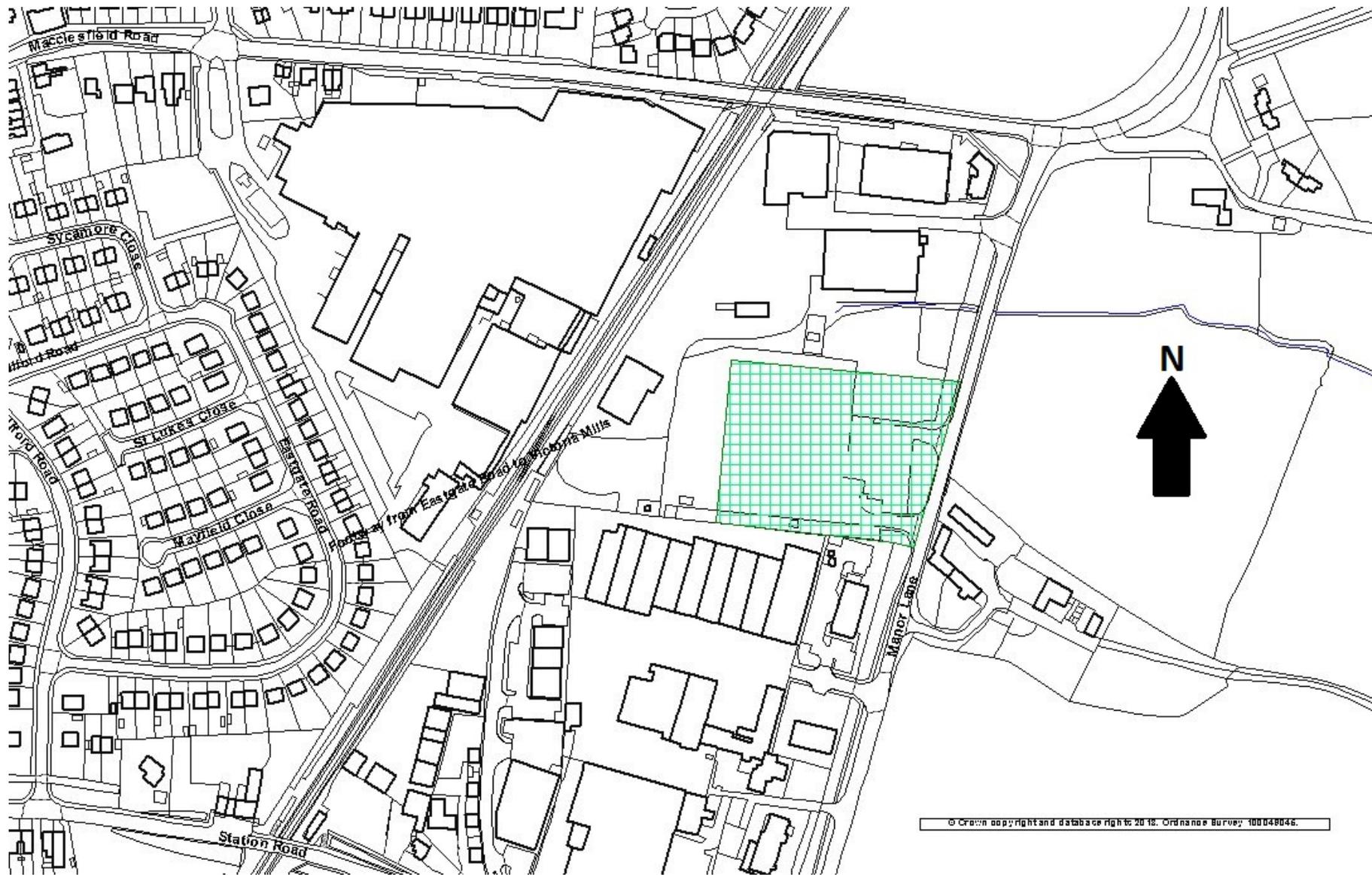
No new issues in relation to; Shopping and commercial development outside town centres, design, landscaping, accessibility, servicing and parking provision, public services, flooding, trees and woodlands and protected species would be created.

The application is therefore recommended for approval.

## **RECOMMENDATION**

- 1. Time – Works to commence before 21<sup>st</sup> December 2018**
- 2. Plans**
- 3. Prior approval of facing and roofing material details**
- 4. Prior approval of surfacing materials**
- 5. Landscape – Prior approval of details**
- 6. Landscape – Implementation**
- 7. Boundary treatment – Prior approval**
- 8. Prior approval of site hoarding details which will demarcate a construction exclusion zone around the site periphery**
- 9. Prior approval of a plan to demonstrate how access is reserved for servicing vehicles**
- 10. Protection of breeding birds**
- 11. Prior approval of a remediation strategy to deal with the risks associated with the contamination**
- 12. The submission of a verification report prior to the first occupation of the site**
- 13. No infiltration of surface water drainage into the ground shall be permitted where adverse concentrations of land contamination are present**
- 14. No piling or other foundation designs without the written consent of the LPA**
- 15. Proceed in accordance with submitted Flood Risk Assessment**
- 16. Site to be drained on a separate system**
- 17. Hours of operation - Monday to Saturday 08:00 – 22:00, Sundays 10:00 – 16:00 and Bank Holidays 08:00 – 22.00**
- 18. Hours of delivery - Monday to Saturday 06:00 – 23:00 and Sundays 09:00 – 17:00 for 12 months and then revert to hours of operation also restricted by condition**
- 19. Prior approval of acoustic specification and locations of any fixed plant equipment;**
- 20. Prior approval of a dust mitigation scheme;**
- 21. Prior approval of a floor floating method statement;**
- 22. The provision of 2 fast (7Kv) electric vehicle charge points**
- 23. Prior approval of a staff travel plan;**
- 24. The submission of the results of a watching brief for contamination prior to the first use of the site**
- 25. The submission of a verification report to demonstrate that the soil forming materials for use of landscaping is contamination free.**
- 26. Prior approval of a risk assessment detailing the use of any vibro-compaction machinery/piling machinery**
- 27. Prior approval of bus stop details**
- 28. Implementation of bus stop prior to first use of food store**
- 29. Prior approval of Electromagnetic Screening Measures (Jodrell Bank)**
- 30. Hours of construction**

In order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority is delegated to the Planning Manager (Regulation) in consultation with the Chair (or in their absence the Vice Chair) of the Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.



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