

Application No: 17/3882N

Location: LAND OFF UNIVERSITY WAY, CREWE, CHESHIRE

Proposal: Removal of conditions 29 & 31 on application 17/0341N for construction of 5 steel framed units to be part of a commercial development

Applicant: Mr Jonathan Beeson

Expiry Date: 24-Nov-2017

## **SUMMARY**

**This Section 73 application seeks to remove conditions relating to noise mitigation on an approved commercial development.**

**The Council's Environmental Protection Officer has reviewed the proposed changes and advised that she is satisfied that these conditions can be removed agreeing that they are not necessary. The provision of the acoustic fence as required by condition 6 (now proposed condition 29) is considered to offer a sufficient degree of noise mitigation.**

**As a result of the above reasons, it is agreed that the proposed changes would not result in the proposals breaching amenity planning policies.**

**The application is therefore recommended for approval.**

## **RECOMMENDATION**

**APPROVE subject to conditions**

## **PROPOSAL:**

A variation of condition application is sought to remove conditions 29 and 31 from planning permission 17/0341N. Planning permission 17/0341N was for the;

*'Construction of 5 steel frame units to be part of a commercial development of B2 and B8 use that is made up of a number of commercial units total circa 164,000sq.ft inclusive of office content. Allocated staff/visitor parking, service yards and fencing to be included with each Unit.'*

The conditions sought for removal are summarised below;

Condition 29

*Prior to the occupation of the hereby development, proposals for the hours of business / activity / use of the units 1, 2 and 5 shall be submitted to and approved in writing by the Local Planning Authority. The hours of business / activity / use shall be restricted to the agreed hours unless for these units otherwise agreed in writing by the LPA.*

*Reason: In the interests of neighbouring amenity and in accordance with Policy BE.1 of the Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011.*

#### Condition 31

*There shall be no HGV operations on the site between the hours of 23:00 - 07:00 Monday to Saturday and not at all on Sundays or bank holidays.*

*Reason: To ensure the proposal does not create any neighbouring amenity concerns and in accordance with Policy BE.1 of the Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011.*

The applicant does not consider that these policies meet the necessary national planning conditions tests and should therefore be removed.

The applicant also originally proposed to vary condition 6 to remove the requirement to provide an acoustic fence. However, they have since withdrawn this request.

#### **RELEVANT HISTORY:**

**17/0341N** - Proposed construction of 5 steel frame units to be part of a commercial development of B2 and B8 use that is made up of a number of commercial units total circa 164,000sq.ft inclusive of office content. Allocated staff/visitor parking, service yards and fencing to be included with each Unit – Approved 7<sup>th</sup> July 2017

**15/0587N** - An outline planning application for the provision of shared recreational open space, children's play space, landscaping and associated works - Refused 9th July 2015

**15/0586N** - An outline planning application for the erection of up to 106 dwellings, landscaping and associated works. All matters are reserved except access on to University Way. The application is not seeking approval of details for the internal highway / cycle / pedestrian network – Refused 9th July 2015

**13/2159N** - Extension of time limit for the outline application for the erection of five office buildings with associated car parking and landscaping – Approved 15<sup>th</sup> August 2015

**10/1146N** - Extension of Time Limit for the Outline Application for the Erection of Five Office Buildings with Associated Car Parking and Landscaping – Approved 16<sup>th</sup> July 2010

**P07/0017** - Outline Application for the Erection of Five Office Buildings with Associated Car Parking and Landscaping – Approved 4<sup>th</sup> April 2007

**P06/0990** - Outline Application for Five B1 Office Buildings – Withdrawn 1<sup>st</sup> December 2006

**P04/0478** - New Access Road off Crewe Green Link Road – Approved 25<sup>th</sup> May 2004

**P04/0226** - EIA Screening Opinion - Proposed Development of Land for Employment Uses – EIA not required 17<sup>th</sup> March 2004

**P00/0953** - Construction of Crewe Green Link Road (Northern Section) – Approved 4<sup>th</sup> January 2001

**P00/0620** - Request for screening opinion – EIA not required 2<sup>nd</sup> August 2000

**P98/0238** - Outline application for regional distribution depot and Crewe Green Link Road – Finally disposed of 17<sup>th</sup> April 2000

**7/13981** - New access road and sewers including new junction with improvement of A534 Crewe Road – Approved 19<sup>th</sup> March 1987

**7/11951** - Development of a high technology site – Approved 2<sup>nd</sup> August 1985

## **POLICY:**

### **Development Plan**

The following policies within the Cheshire East Council Development Plan are considered to be relevant to the application proposals;

*Cheshire East Local Plan Strategy (CELPS):*

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)

*Crewe and Nantwich Borough Replacement Local Plan 2011;*

E.1 (Existing Employment Allocations), E.1.1 (Crewe Business Park/Crewe Green), E4 (Development on Existing Employment Areas), NE.5 (Nature Conservation and Habitats), NE.9 (Protected Species), NE.20 (Flood Prevention), BE.1 (Amenity), BE.2 (Design Standards), BE.3 (Access and Parking), BE.4 (Drainage, Utilities and Resources), BE.6 (Development on potentially contaminated land) and TRAN.9 (Car Parking Standards)

### **Other Material Policy considerations**

*National Planning Policy Framework ("The Framework");*

17 – Core planning principles, 18-22 Building a strong, competitive economy, 56-68 – Requiring good design

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

**Environmental Protection** – No objections to the removal of conditions 29 and 31

**Crewe Town Council** – No comments received at time of report

**Crewe Green Parish Council** – Object to the removal of these conditions

### **OTHER REPRESENTATIONS:**

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

To date, letters of representation have been received from 5 neighbouring properties. The main areas of concern raised include;

- Highway safety – increase in number of commercial vehicles, visibility concerns
- Amenity – Impact of noise pollution
- Design – Finish of the proposals

## **OFFICER APPRAISAL**

### **Principle of development**

The principal acceptability of the erection of 5 steel frame units which form part of a commercial development for B2 and B8 uses on the application site was granted by the Council under application 17/0341N on the 7<sup>th</sup> July 2017. As such, the principle of the proposal has already been established. This application considers the acceptability of the following proposals only;

- Removal of conditions 29 and 31 which are both noise related

The sole consideration arising from this application is the impact of the removal of the conditions on residential amenity. Therefore the proposal is considered against the Council's relevant amenity policies only. These comprise of Policies GR6 and GR7 from the Congleton Borough Local Plan First Review 2005.

As such, matters relating to highway safety and design with regards to the overall proposals raised by objectors are not considered relevant in this instance and are therefore not considered.

### **Amenity**

Policy GR6 (Amenity and Health) of the Local Plan, requires that new development should not have an unduly detrimental effect on the amenities of nearby residential properties in terms of loss of privacy, loss of sunlight or daylight, visual intrusion, environmental disturbance or pollution and traffic generation access and parking.

Given the location of the application site in an industrial / university area of Crewe, there are no nearby neighbouring dwellings that could be impacted with regards to loss of privacy, light or visual intrusion. The closest residential property to the site would be over approximately 80 metres away.

In relation to environmental disturbance as part of the original application, the applicant submitted an acoustic report at the request of the Council.

The Council's Environmental Protection Officer reviewed the report and in consideration of this and concerns raised by neighbouring residents, advised that they had no objections to the proposals from a noise perspective, subject to a number of conditions including;

- Before first occupation of Units 1, 2 and 5, the proposed hours of operation shall be submitted in writing and approved by the Local Planning Authority.

- Any plant and equipment shall not be placed on the facades of the building facing residential properties. A scheme for the mitigation measures of any plant or equipment will be submitted to and approved by the Local Planning Authority.
- A scheme for boundary treatment shall be submitted too and approved by the Local Planning Authority. The scheme would need to address boundary treatment which is appropriate to mitigate noise from service yards and access roads close to residential properties.

The above, or variations of the above were recommended and subsequently approved as conditions; 29, 30 and 6 of the planning permission.

The applicant seeks to remove condition 29 as recommended by Environmental Protection.

Condition 31, also sought for removal, was added by Cheshire East Council Strategic Planning Board at the time of consideration by Members. Condition 31 reads;

*'There shall be no HGV operations on the site between the hours of 23:00 - 07:00 Monday to Saturday and not at all on Sundays or bank holidays.'*

The applicant advises that the noise assessment that was undertaken with the original application assessed the potential impact of the business activity/operations/HGV movements being carried out at the site over a 24 hour period. It concluded that based on a 'worst case scenario', the noise generated by the proposed development, incorporating recommended mitigation measures (which did not include an acoustic fence), would be within the acceptable levels defined by relevant guidance and would not be significant.

As such, the applicants are unclear of the rationale for imposing the conditions 29 and 31.

The applicant's advise that the overall proposals would not only adhere to the relevant amenity policies of the Local Plan, but the conditions would not meet the necessary conditions 'tests'. This is primarily because they were not deemed 'necessary' by an experienced noise consultant based on evidenced information.

It has also been stressed that these restrictions are discouraging potential occupiers of the approved units and that that many other operators located on the adjacent Orion Park are unrestricted in relation to noise.

The Council's Environmental Protection Officer has reviewed the application proposals and advised that they is satisfied that conditions 29 and 31 can be removed, agreeing that they are not necessary.

For the above reasons, it is considered that the conditions sought for removal, if removed, would not result in the proposal breaching Policies GR6 and GR7 of the Congleton Local Plan. As such, they are not deemed necessary in this instance.

The provision of the acoustic fence as required by condition 6 (now proposed condition 29) is considered to offer a sufficient degree of noise mitigation.

## **CONCLUSIONS**

This Section 73 application seeks to remove conditions relating to noise mitigation on an approved commercial development.

The Council's Environmental Protection Officer has reviewed the proposed changes and advised that she is satisfied that these conditions can be removed agreeing that they are not necessary. The provision of the acoustic fence as required by condition 6 (now proposed condition 29) is considered to offer a sufficient degree of noise mitigation.

The conditions were imposed with the genuine intention of safeguarding the residential amenity of the occupiers of the nearest properties to the site. However, these conditions are hampering the commercial use of the site and it has been demonstrated that the impacts on residential amenity will be acceptable in the absence of the conditions. As such the conditions are not necessary and should be removed.

The proposal is in accordance with policies of the Development Plan designed to protect amenity and the application is therefore recommended for approval.

## **RECOMMENDATION**

### **APPROVE subject to the following conditions**

- 1. Time (3 years)**
- 2. Plans**
- 3. Materials as per discharge – 17/3996D**
- 4. Landscape – Implementation as per discharge – 17/3996D**
- 5. Boundary treatment - Implementation as per discharge – 17/3996D (unless otherwise altered by another condition of this permission)**
- 6. Retaining wall - Implementation as per discharge – 17/3996D**
- 7. Levels - Implementation as per discharge – 17/3996D**
- 8. Tree Protection – Implementation**
- 9. Arboricultural Method statement - Implementation as per discharge – 17/3996D**
- 10. Woodland and Ecological Management Plan - Implementation as per discharge – 17/3996D**
- 11. Construction Management Plan - Implementation as per discharge – 17/3996D**
- 12. Hedgerow frontage retention**
- 13. Bat mitigation strategy – Implementation**
- 14. Attenuation pond design - Implementation as per discharge – 17/3996D**
- 15. Bat friendly lighting proposals - Implementation as per discharge – 17/3996D**
- 16. Updated badger survey and mitigation strategy - Implementation as per discharge – 17/3996D**
- 17. Nesting birds survey**
- 18. Provision of features for nesting birds - Implementation as per discharge – 17/3996D**
- 19. Proposals for the safeguarding of the adjacent watercourses during the construction process - Implementation as per discharge – 17/3996D**
- 20. Details of the safe provision of route(s) into and out of the site - Implementation as per discharge – 17/3996D**
- 21. The finished floor levels should be set no lower than - Unit 1 (48.8 metres Above Ordnance Datum (AOD)), Units 2 & 3 (49.4 metres above AOD).**

- 22. Foul and surface water shall be drained on separate systems**
- 23. Piling method statement - Implementation as per discharge – 17/3996D**
- 24. Dust mitigation scheme - Implementation as per discharge – 17/3996D**
- 25. Floor Floating Method Statement - Implementation as per discharge – 17/3996D**
- 26. Electric Vehicle Charging Infrastructure - Implementation as per discharge – 17/3996D**
- 27. Phase II contaminated land report - Submission / approval of remaining aspects of condition not discharge by 17/3996D**
- 28. No plant or equipment shall be installed on the facades of the buildings facing residential properties to the northeast unless mitigation approved in writing by the LPA**
- 29. Prior submission/approval of an acoustic fence details required along the north-eastern boundary of the site (extent to be agreed)**

**In order to give proper effect to the Board's intentions and without changing the substance of the decision, authority is delegated to the Head of Planning (Regulation), in consultation with the Chairman (or in her absence the Vice Chairman) of Strategic Planning Board, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.**

