

Planning Reference No:	10/0010C
Application Address:	Land at West Heath Shopping Centre, Sandbach Road, Congleton.
Proposal:	Construction of new foodstore with associated servicing facilities and alterations to existing car park.
Applicant:	Hollins Murray Group Ltd & Aldi Stores Ltd.
Application Type:	Full Planning Permission
Ward:	Congleton
Registration Date:	18 th January 2010
Earliest Determination Date:	11 th March 2010
Expiry Date:	19 th April 2010
Date report Prepared	19 th March 2010
Constraints:	Within the Settlement Zone Line

SUMMARY RECOMMENDATION

Grant planning permission subject to conditions

MAIN ISSUES

- The Principle of Development
- Principle of Retail Development and Impact Assessment
- Design and Siting of the Proposed Building
- Environmental Health
- Vehicles Movements and Highway Safety
- Other Matters

1. REASON FOR REPORT

The application proposes major development in excess of 1000m² retail floorspace.

2. DESCRIPTION OF SITE AND CONTEXT

The application site comprises a flat, hard surfaced parcel of land at the eastern end of West Heath Shopping Centre measuring approximately 0.42ha currently used as car parking for the shopping centre.

The shopping centre itself comprises one large single storey, flat roofed block subdivided into a series of smaller retail units. Co-op occupies the largest unit, located at the western end of the block, with remaining units occupied by a mix of small retailers, service providers and restaurants.

The shopping centre has recently been the subject to refurbishment and the exterior is now finished in white render with large sections of glazing giving the centre a refreshed, contemporary appearance.

The main vehicular access to the shopping centre lies to the south directly off the A534 Sandbach Road. However a further secondary access also exists from the north onto the A54 Holmes Chapel Road.

The application site is bounded to the north by the A54 Holmes Chapel Road, residential properties to the east, the A534 Sandbach Road to the south and by existing retail units within the centre to the west.

For the purposes of determining this application, the critical relationship for consideration is that of the proposed development with residential dwellings to the east within Ash Grove whose rear gardens directly adjoin both the shopping centre, and application site, boundary. In this respect, however, residents of properties on Thomson Grove to the north and Sandbach Road to south are also considered even though they benefit from a much greater degree of separation.

3. DETAILS OF PROPOSAL

The applicants seek planning permission for the erection of a new supermarket. The proposed unit would have a net trading area of 940m² with the remaining floorspace given over to ancillary uses including storage and office accommodation and the like.

The design proposes a single storey, flat roofed unit measuring 55m in length by 22m wide along the front elevation. The width would increase to 28.5m towards the rear as a result of the proposed docking bay. The proposed building would have a maximum height of approximately 5.5m, some 0.5m lower than the existing units to which it would connect.

In terms of the external appearance, the proposed store would reflect the general appearance of units within the existing West Heath Centre and to this end, would be finished with white concrete panels and silver powder coated window units giving a contemporary appearance.

The applicants propose to service the unit via a HGV delivery bay located on the buildings western elevation. This would allow delivery vehicles to access the site from the A54 Holmes Chapel Road, manoeuvre down the western elevation before reversing back down into a partially screened docking bay and fully sealed delivery bay.

The applicants propose store opening hours of 8am-8pm Mon-Sat and 10am-5pm on Sundays with deliveries hours any time between 7am–11pm.

4. RELEVANT HISTORY

The site has an extensive planning history amounting to 42 previous planning applications. The most relevant applications below.

Outline planning permission 37627/1 for '*Retail unit (with part first floor) and associated external works and car parking*' on the 31.08.2004. This permission related to the current planning application site but has now lapsed.

37620/3 - Part demolition of existing shopping centre, part extension of existing shop frontage, part new build including landscaping and car parking. Approved 01.11.2004.

36158/3 - Extension to existing shop units and new shop fronts. Two-storey leisure unit with shops beneath. Part demolition to existing units including new landscaping and parking scheme. Approved 11.11.2003

34659/1 - Part demolition, extension and alterations of existing shopping centre, including new landscaping and parking scheme. Uses are retail with one unit at first floor level which is proposed as health/leisure use. Approved 14.07.2003

30899/1 - erection of retail development, associated car parking, access and landscaping. Outline permission approved 08.11.1999

5. POLICIES

National Policy

PPS1 'Delivering Sustainable Development'
PPS4 'Planning for Sustainable Economic Growth'
PPG13 'Transport'
PPS23 'Planning and Pollution Control'

Regional Spatial Strategy

DP1 'Spatial Principles'
DP2 'Promote Sustainable Communities'
DP3 'Promote Sustainable Economic Development'
DP4 'Make the Best Use of Existing Resources and Infrastructure'
DP5 'Manage Travel Demand; Reduce the Need to Travel, and increase accessibility'
DP7 'Promote Environmental Quality'
W5 'Retail Development'
EM17 'Renewable Energy'

Local Plan Policy

PS4 'Towns'
S2 'Shopping and Commercial Development Outside Town Centres'
GR1 'New Development'
GR2 'Design'
GR6 'Amenity and Health'
GR7 'Amenity and Health'

GR8 'Amenity and Health'
GR9 'Accessibility, Servicing and Parking Provision'
GR14 'Cycling Measures'
GR17 'Car Parking'
GR18 'Traffic Measures'

Other Material Considerations

Cheshire Town Centre Study 2007 (**CTCS**)
PPS4 Practical Guidance on Need, Impact and Sequential Assessment

6. CONSIDERATIONS (External to Planning)

Strategic Highways Manager (SHM):

No objection to the proposed development.

Environmental Health:

No objections to the proposed development subject to conditions.

Environmental Health Comments

Conditions to secure implementation of the attenuation measures described within the noise impact assessment, restriction of hours of operation (8am – 8pm Mon – Sat and 10am to 5pm Sun) and hours of delivery as specified (7am – 11pm Monday to Saturday).

Contaminated Land

That the information submitted by the applicants does not allow for the risk to human health and controlled waters to be adequately assessed. It is therefore recommended that if the application is approved a condition be attached to ensure the risks are adequately addressed.

Air Quality

A number of outstanding points exist in relation to the submitted air quality assessment and therefore further work is required. However, this can be addressed through submission of revised information and/or planning condition.

7. VIEWS OF THE PARISH / TOWN COUNCIL

Approve subject to concerns regarding parking, complaints due to noise and the over development of a small site being taken into consideration.

8. OTHER REPRESENTATIONS

A total of 11 letters were received objecting to the development. The main reasons for objections are summarised below.

- The scheme contravenes PPS6 in terms of need, impact and sequential test (in that other sites exist within the town centre and that this site is out of centre).
- That the borough already has a proportion of convenience floorspace above the national average.
- West Heath centre could not cope with a second supermarket and already has a Somerfield / Co-op and that there are already enough shops in West Heath.
- Concern over the design of the proposed store
- Concern over the proposed stores proximity to housing
- Concerns over highway safety and traffic generation
- Concerns over Anti-social behaviour
- Noise pollution
- Loss of light and overshadowing
- Loss of property value and anti-social behaviour

A further 41-signature petition objecting to the development has also been received objecting to the scheme on the following grounds: -

- The development is not listed in the town plan.
- There is little proof of need for a second supermarket.
- The store size, appearance and design of the store do not complement that of the existing centre.
- Concern over highway safety as a result of re-arrangement of the car park and servicing arrangements.
- Increased traffic flows are unacceptable.
- No apparent consideration of nearby residential properties re servicing and tree planting.

Sustrans

Advised that they were pleased to see the reference to 10-cycle parking stands for shoppers but that they would also suggest secure cycle parking facilities for staff. They also suggest shared pedestrian/cycle link between Holmes Chapel Road and Sandbach Road to the side of the store and sought to enquire as to whether a contribution could be secured to improve access for pedestrians and cyclists in the vicinity of the development such as crossing of Sandbach Road and Holmes Chapel Road.

Congleton Cycling Campaign

Requested a financial contribution from the developer to sign the local cycle network. Queries whether they implement the proposed 5 Sheffield racks.

9. APPLICANT'S SUPPORTING INFORMATION

Planning Statement

PPS6 Retail Statement (superseded)

Transport Assessment

Air Quality Assessment

Noise Assessment

A PPS4 Retail Addendum was also submitted during the course of the application following the introduction of PPS4 on the 29th December 2009.

This addendum note presented the applicants case in terms of the sequential test and impact test from the proposed development. The applicants base their Retail Statement on the Cheshire Town Centre Study (CTCS) and their methodology has been to identify the expenditure growth in the Congleton zone of the 2007 CTCS (£15.5m to 2015) of which £3.4m might be expected to be spent in Congleton itself based on the town's current market share which is then compared against the expected turnover of the proposed store (c. £3.6m).

Appendix 1 of the addendum identifies percentage impacts in terms of trade draw as a percentage, trade draw in £m and % impact on existing food stores.

10. OFFICER APPRAISAL

Principal of Development

The application seeks planning permission to redevelop an unallocated site within the settlement zone line of Congleton. Under policy PS4, there is a general presumption in favour development provided it is in keeping with the towns scale and character, does not conflict with other policies of the local plan and providing that it is appropriate to the character of its locality in terms of use, intensity, scale and appearance.

In this case however, because the proposals involve the creation of new retail floorspace outside of the identified town centre boundary, a more detailed assessment is required to determine whether the principle of retail development on this site is acceptable and whether the impacts from the development are acceptable having regard to the advice contained within PPS4. This is discussed in greater detail below.

Principle of Retail Development and Impact Assessment

The planning application must be considered as out of centre development because West Heath Shopping Centre, despite fitting the typology of a local centre under Annex B of PPS4, is undesignated within the Local Plan.

On that basis, the starting point for assessing the proposed development site is policy EC17 of PPS4. This advises that planning applications for main town centre uses that are not in an existing centre and not in accordance with an up to date development plan should be refused planning permission where: -

- The applicant has not demonstrated compliance with the requirements of the sequential approach (policy EC15); or,

- There is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of impacts set out in policies EC10.2 and 16.1 taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments.

The application must therefore be assessed against policies EC10, EC15 (The Sequential Assessment) and EC16 (The Impact Assessment).

EC15 Sequential Assessment

It is considered the applicants have addressed the requirements of policy EC15. Their assessment demonstrates that no other more centrally located sites are suitable, available or achievable to accommodate the proposed development whilst I concur with their view that a more flexible format / disaggregation is not possible. On that basis, the site must be considered against other out of centre sites against which it would compare well when considering factors such as the role it plays within the local area and the fact it is easily accessible to a large number of residents.

EC10.2

Policy EC10.2 of PPS4 requires detailed consideration as to the impact of the proposed development against a range of indicators. When the proposed development is assessed against each impact consideration this serves to demonstrate that the proposed development would perform well against each of the impact considerations identified. These considerations are discussed in more detail below and this includes a summary of impact considerations a - e.

The development would perform well against impact considerations a) *emissions/climate change* and b) *accessibility and impact on the highway network*. It would utilise a previously developed site within a highly accessible urban location and would also be required to secure 10% of its energy requirements from renewable sources.

Whilst design is considered in more detail further into this report, the proposed developed would, for the most part, secure high quality and inclusive design and sit comfortably in the context of the shopping centre. Moreover, given the proposals utilise a derelict, and what could be considered as an underused parcel of land within West Heath, the proposal would improve the character and quality of the area more generally and thereby performs satisfactorily in terms of impact consideration c) *delivering high quality and inclusive design*.

West Heath is not subject to any economic and physical regeneration priorities. However, the proposed development would increase both the range of local retail provision at West Heath and introduce a discount retailer into the area thereby making a positive contribution towards impact consideration d) *social inclusion*.

The proposed development would also generate new employment opportunities

within the area, albeit on a relatively small-scale, which is viewed as a positive under impact consideration e) *job creation*.

EC16 Impact Assessment

Section EC16 requires that the proposed development be assessed against a range of impacts on centres (that is to say existing allocated centres). These are listed below: -

- a) 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*
- b) The impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer*
- c) The impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan*
- d) In the context of a retail or leisure proposal, the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made, and, where applicable, on the rural economy*
- e) If located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres*
- f) Any locally important impacts on centres under policy EC3.1.e*

An assessment of the potential impacts from the development when considered against the above listed impact considerations is discussed in more detail below.

The impact on investment is likely to be positive through the regeneration of a vacant site and through increased footfall in the prospective local centre which would arise from clawed back expenditure even though this is unlikely to amount to the 25% of turnover from leakage as suggested by the applicants planning consultant. It is considered that the proposal is of a sufficiently modest scale and sufficiently distant not to discourage the proposed investment in the Bridestone Centre extension in the town centre should the scheme gain planning approval.

The proposed development is not expected to divert significant expenditure from the town centre stores other than the Morrisons and in this respect the applicants point that Aldi generally impact on High Street specialists less than other supermarkets due to their special trading characteristics is accepted.

The impact on other stores from the proposed development are considered to be within reasonable limits. Similarly, the applicants undertake a sensitivity of sorts within their PPS4 Addendum to show that the impact on the nearby Co-op would still be within acceptable limits even if it doubles. The statement also refers to

stores overtrading in Congleton but it is difficult from the CTCS to determine which stores other than the Tesco and Aldi are over trading. The store that would suffer the greatest trade diversion however is Tesco which is out of centre and enjoys no policy protection.

It is therefore considered that the proposal will form part of a prospective local centre and trade as part of it, thereby helping to improve the vitality and viability of West Heath shopping centre. In balancing the desirability of maintaining and enhancing the turnover of existing facilities in West Heath shopping centre against the benefits of improved consumer choice, competition and access to new facilities, it is considered that the proposal must weigh in favour of the proposed development. Additionally, the proposal is considered to be of an appropriate scale for a district centre were it to be allocated as such in the forthcoming LDF.

EC17.2 & EC17.3

Where no significant adverse impacts have been identified under EC10.2 and EC16.1, section EC17.2 advises planning applications should be determined by balancing positive and negative impacts. In this regard, the positive benefits are considered to outweigh any negative impacts which might possibly include impact on town centre food operators even though these impacts have been found to be within acceptable limits. It is likely however that Aldi will draw most of its trade from other edge of centre sites which benefit from only limited policy protection or out of centre supermarkets which fail to benefit from any form of policy protection. Other material considerations in favour of the proposal include the regeneration of a vacant site and creation of new jobs.

Paragraph EC17.3 then goes on to advise that judgements about the extent and significance of any impacts should be informed by the development plan (where this is up to date). Recent local assessments of the health of town centres which take account of the vitality and viability indicators in Annex D of this policy statement and any other published local information (such as a town centre or retail strategy), will also be relevant.

As members will be aware the development plan for Cheshire East comprises RSS for the North West and 'saved' policies of the Local Plan at the local level; the most relevant for this section being S2. Whilst RSS provides guidance on directing retail development of an appropriate scale to the town centre although the applicants sequential assessment demonstrates why this is not possible here. The proposal is of a modest scale and appropriate to the position of West Heath in the future local retail hierarchy and the catchment of Congleton it seeks to serve. Similarly, for reasons also discussed within the preceding paragraphs, the proposals are considered to comply with policy S2 of the Congleton local plan.

The proposal is considered to be sufficiently far away from Congleton town centre so as not to exacerbate any of the negative indicators of vitality and viability identified in the CTCS, some of which were referred to by objectors.

Moreover, it is not considered that this proposal will delay or discourage any proposed investment within the town centre, most notably the proposed extension to Bridestones. The reality of the situation is that most of the trade for the proposed store is likely to come from the existing Aldi and the out of centre Tesco at Barn Road. The current Aldi is itself an edge / out of centre site so any diverted trade is unlikely therefore to reduce footfall in the centre significantly which could potentially be bolstered in any case by the Bridestones Centre extension were it to be approved.

It is recommended however that suitably worded planning conditions be attached to any permission to ensure that occupation of the proposed store is restricted solely to Aldi, that the net floor space available is restricted to the 940m² proposed and that the net trading area is restricted to 80% convenience goods and 20% comparison goods. The PPS4 practice note would support the use of conditions in this way because impacts from a different retailer, or sale of a different class of goods, would be very different and have not been fully tested within the PPS4 assessment. In overall terms therefore, and subject to these conditions, the proposals has adequately addressed the requirements of PPS4.

Design

In design terms, the single storey approach and contemporary external appearance is considered to be acceptable.

This replicates, to a large degree, the character and appearance of the existing centre and would ensure that the proposed supermarket juxtaposed neatly into the existing setting of the wider centre even when taking into account the 0.5m height difference between the roof line of the proposed and existing retail units.

Whilst the rear elevation of the proposed building presents a less attractive facade to the A54, the design is simply replicating the existing arrangement of the wider shopping centre and on that basis any concerns over this aspect of the design cannot be considered to amount to a sustainable reason for refusal.

In overall terms therefore, the proposed development would satisfy the requirements of PPS1, PPS4, RSS and policies GR1 and GR2 of the adopted local plan in terms of its design quality.

Siting of the Proposed Building

Interface

Whilst the proposed development would result in the erection of a new building in much closer proximity to dwellings in Ash Grove, sufficient interface distance has been retained (19.3m to the nearest dwelling, no8 Ash Grove) to ensure an appropriate level of amenity in accordance with policies GR1 and GR6. Furthermore, any impact would be mitigated by the relatively low height of the proposed building. This applies equally to the small number of dwellings on the

A54 and A534 that face directly towards the proposed building but which are separated by an even greater distance.

Outlook

In terms of outlook and visual amenity for residents, particularly in Ash Grove, the proposed development must be viewed within the context of a long established shopping centre. In this respect the proposed building, by virtue of its low height and roof material, would be considered to have little if any detrimental impact on the visual amenity of adjoining residents who currently overlook the existing car parking area and, from certain dwellings, the gable of the existing shopping centre. The requirements of GR1 and GR6 would therefore be met.

Loss of light

The scheme would not lead to any significant loss of light. The proposed building has a low overall height, flat roof and is positioned to the west and south west of dwellings within Ash Grove. Whilst residents objected to loss of light from new tree planting, no landscaping condition is being sought for this scheme due to the limited space within the site for new tree planting and the requisite problems new tree planting would be likely to cause thereby addressing any residents concerns. Policies GR1 and GR6 would also therefore be satisfied.

Environmental Health

Noise

Because the proposed building would be fitted with air conditioning plants / refrigeration equipment and be serviced by HGV movements, the planning application was supported by a noise assessment undertaken in accordance with the requirements BS4142 '*Rating industrial noise affecting mixed use residential and industrial areas*'.

Following a detailed consideration of the application, the Environmental Health officer was satisfied that the proposed development would be acceptable in terms of noise subject to imposition of planning conditions to secure noise attenuation and restrict delivery times and opening hours to those specified by the applicants.

Notwithstanding this, it is considered tighter control over delivery hours are required in this case to preserve the residential amenity of residents within Ash Grove. In this respect, discussions with the applicants confirmed they would be willing to accept restricted delivery times one hour either side of store opening but as a minimum between store open hours. On that basis, and in order to allow some flexibility, it is recommended that the delivery times to the store be restricted to between 7.45am – 8pm from Mondays to Saturdays and 9.45 to 5pm on Sundays.

Coupled with the overall package of noise attenuation measures, which Environmental Health have confirmed are acceptable to attenuate noise from

reverting alarms, refrigeration units and vehicle deliveries, residential amenity would be preserved in accordance with the requirements of policy GR1 and GR6.

Air Quality

Whilst further information is required, the Scientific Officer does not consider that the scheme would raise any issues which cannot be addressed with revised information and mitigation measures which could be secured by condition. An update note will however be provided on this issue for the committee.

Contamination

Similarly, whilst the information submitted by the applicants in relation to contamination is also insufficient and, in some respects, out-dated the site has not been subject to previous uses that would warrant refusal of the application on the grounds of contamination. Rather a condition will be attached to any permission to ensure further survey work is undertaken prior to commencement of development.

Vehicular Movements and Highway Safety

Despite the loss of 55 parking spaces the SHM has no objection because the existing shopping centre site would retain 141 car parking spaces. The SHM is also satisfied that vehicular movements associated with the proposed development can be safely accommodated within the existing access points and wider highway network. The applicants have also demonstrated that HGV deliveries to the store could be safely accommodated within the space available within the site boundary.

Whilst queries have been raised as to whether a financial contribution can be sought to secure off-site highway works to improve accessibility for cycle users, it is not considered that this is required in this case having regard to existing provision within the area and nature of the adjoining roads, many of which are quiet residential streets through which cycle traffic could pass.

In overall terms therefore, the scheme adequately addresses the requirements of policies GR1, GR9 and GR18 of the adopted local plan.

Other Matters

Members will be aware that loss of property value is not material consideration in the determination of the application. Similarly, concerns over anti-social behaviour and the sale of alcohol, as described in the objection letters, are not matters for the planning system and cannot therefore be taken into consideration.

11. CONCLUSIONS AND REASONS FOR THE DECISION

The proposed development would deliver sustainable economic development in accordance with the requirements of PPS4 and would have an acceptable impact upon the vitality and viability of Congleton Town Centre. The scheme would deliver high quality sustainable design that responds well to its context and which

has an acceptable relationship to adjacent dwellings in terms of outlook, separation, light and privacy. Any negative impacts from noise can be adequately controlled and attenuated by way of suitably worded planning conditions.

The application is therefore recommend for approval subject to the following conditions: -

- 1. 3-year time limit**
- 2. Development in accordance with the approved plans**
- 3. Development in accordance with the materials specified on plan**
- 4. That planning permission relates solely to Aldi foodstores and not any other retail operator**
- 5. That the net retail floorspace within the proposed building be restricted to the proposed 940m² as specified by the applicants**
- 6. That a restriction be placed on the net retail floorspace to restrict and control the types of good sold from the new development which shall be restricted to 80% convenience goods and 20% comparison goods**
- 7. Restriction on the hours of opening to
*8am – 8pm Mon – Sat and 10am to 5pm Sundays***
- 8. Restriction on the hours of delivery to
*7.45am – 8pm Mon – Sat and 9.45am to 5pm Sundays***
- 9. Precise details of the acoustic fence for the HGV docking bay area to be submitted for approval prior to the commencement of development**
- 10. Implementation of noise attenuation measures preventing use of reversing alarms, HGV refrigeration units, acoustic fencing and to ensure all loading and unloading deliveries take place through the docking bay entrance**
- 11. Contaminated land (Investigation and Mitigation)**
- 12. Air quality condition**
- 13. That precise details of external lighting be submitted and approved**
- 14. Scheme to secure 10% renewable energy**
- 15. Details for the provision of cycle parking facilities**

[illegible]

The Site