

<b>Planning Reference No:</b>	09/3658N
<b>Application Address:</b>	416 Newcastle Road, Shavington cum Gresty, Crewe, CW2 5EB
<b>Proposal:</b>	Variation/Removal of conditions
<b>Applicant:</b>	Mrs Grinnoli
<b>Application Type:</b>	Full Planning
<b>Grid Reference:</b>	370421 351110
<b>Ward:</b>	Doddington
<b>Earliest Determination Date:</b>	28 <sup>th</sup> March 2010
<b>Expiry Dated:</b>	12 <sup>th</sup> May 2010
<b>Date of Officer's Site Visit:</b>	4 <sup>th</sup> May 2010
<b>Date Report Prepared:</b>	5 <sup>th</sup> May 2010
<b>Constraints:</b>	Wind Turbine Development Consultation Area

## **SUMMARY RECOMMENDATION: Refuse**

### **MAIN ISSUES:**

- Principle of Development;
- Background Information; and
- Policy Context.

## **1. REASON FOR REFERRAL**

This application was to be dealt with under the Council's delegation scheme. However, Councillor Simon has requested it be referred to Committee on the grounds that the amount of play equipment that the applicant proposes to permanently keep outside on site will have little or no impact on the environment.

## **2. PREVIOUS MEETING**

At the Planning Committee meeting held on 19<sup>th</sup> May 2010, Members resolved to defer this application in order to undertake a site visit. No further correspondence or information has been received since the report laid out below was prepared.

## **3. DESCRIPTION OF SITE AND CONTEXT**

The application to vary conditions relates to an area of land measuring 33m wide by 35m long, which equates to 1155m sq. and is enclosed by a post and rail fence, located to the rear of a garage and a children's play centre. The land was granted planning permission for change of use from agricultural land to children's play area and also incorporates a sand pit and tyre track circuit (which do not have the benefit of planning permission). The land is designated as open countryside and is bounded on three sides by open fields. To the north of the site is a mix of residential/commercial properties.

## **4. DETAILS OF PROPOSAL**

This application is for variation/removal of conditions 1 to 3 to approved application no. P08/0616 at land to the rear of 416 Newcastle Road, Shavington, Crewe. The first condition states that the land must be restored to its former condition, by 25<sup>th</sup> July 2010. The

applicant considers that the condition should be changed to be in line with the life expectancy of Playworld Ltd. The variation of condition two relates to the hours of operation. Playworld and the outside play area both have different hours of operation. The applicant wishes to have the same hours of operation as Playworld and considers that the proposed changes to hours of operation will not have a detrimental impact on the amenity of adjacent residential properties. The third condition requires to all play equipment to be removed from the site outside the hours of operation. The applicant wishes to remove this condition due to the topography of the site, as she feels that removable items are unsafe.

## **5. RELEVANT HISTORY**

09/1890N Variation/Removal of Conditions 1 to 3 to Approved Application no. P08/0616 – Refused – 15<sup>th</sup> September 2009  
P08/0616 Change of Use from Agricultural Land to Children's Play Area – Approved – 29<sup>th</sup> July 2008  
P08/0368 Change of Use of Agricultural Land to Open Air Children's Play Area - Refused – 12<sup>th</sup> May 2008  
P07/1028 Renewal of P02/1157 – Construction of Car Showroom and Display Area – Approved – 11<sup>th</sup> September 2007  
P07/0615 Change of Use to Children's Play Centre and Mezzanine Floor – Approved – 10<sup>th</sup> July 2007  
P06/0399 Outline Application for Two Dwellings – Refused – 1<sup>st</sup> June 2006  
P02/1157– Renewal of Car Showroom – Approved – 18<sup>th</sup> December 2002  
P97/1018– Renewal of Permission for Car Showroom and Display Area – Approved – 5<sup>th</sup> February 1998  
P93/0064 – Car Showroom and Display Area – Approved – 11<sup>th</sup> March 1993

## **6. POLICIES**

### **Local Plan Policy**

The relevant policies in the Borough of Crewe and Nantwich Replacement Local Plan 2011 are:

NE.2 (Open Countryside)  
NE.5 (Nature Conservation and Resource)  
BE.1 (Amenity)  
BE.2 (Design Standards)  
BE.3 (Car Parking and Access)  
BE.4 (Drainage, Utilities and Resources)  
RT.1 (Protection of Open spaces with Recreational and Amenity Value)  
RT.2 (Equipped Children's Playgrounds)  
RT.6 (Recreational Uses in the Open Countryside)  
CF.2 (Community Facilities)

### **National Policy**

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

PPS1: Delivering Sustainable Development (2005)  
PPS7: Sustainable Development in Rural Areas (2004)  
PPG17: Planning for Open Space Sport and Recreation

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

**Environmental Health:** Verbally confirmed that they do not object to this application provided the hours of operation are restricted to the operating hours of Playworld i.e. Sunday to Thursday 09.30 to 18.00 hours and Friday to Saturday 09.30 to 19.30 hours.

**Highways:** No comments received at the time of writing this report.

## **8. VIEWS OF THE PARISH / TOWN COUNCIL:**

Hough & Chorlton Parish Council have considered the Planning Application 09/1890N and have decided that the original conditions on Planning P08/0616 should apply:

1. The approval is personal to Amanda Grinnel;
2. No buildings or construction of any kind on the site, other than safety fencing;
3. The land reverts to agricultural use, when use as a playground ceases or ownership of the nursery changes or it ceases.
4. Use is for a maximum of five years only.

## **9. OTHER REPRESENTATIONS**

One letter of representation received from Mr. David Taylor, Oligr Town Planning Services acting on behalf of Mr. Richard Ellwood (land owner). The issues raised are:

- To our mind the requirement to use removable equipment is intrinsic to planning consent P08/0616. This is a temporary permission to use playground paraphernalia in the open countryside which expires this year;
- After two years in operation and with the planning permission soon to expire, the applicant now seemingly wishes to propose permanently fixed play ground apparatus in open countryside and on land that does not belong to them;
- The applicant is running a licensed bar from the premises, is the LPA aware of this situation?

## **10. APPLICANT'S SUPPORTING INFORMATION**

No supporting information submitted

## **11. OFFICER APPRAISAL**

### **Principle of Development**

The principle issues surrounding the determination of this application are whether the development would adversely impact upon the residential amenity of neighbouring properties and whether the proposal is in keeping with the character and form of the surroundings, in accordance with policies BE.1 (Amenity), BE.2 (Design Standards), BE.3 (Access and Car Parking), NE.2 (Open Countryside) and RT.6 (Recreational Uses in the Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

The proposal will be assessed against Policy NE.2 (Open Countryside) which stipulates that within the open countryside only development which is *essential* for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service

authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. In addition, policies seek to achieve a high standard of design, respect the pattern, character and form of the surrounding area and not to adversely affect the character and appearance of the open countryside.

## **Background Information**

Planning permission was sought for a change of use from agricultural land to children's play area (P08/0616) and was approved on 29<sup>th</sup> July 2008. Having considered the application it was felt that the proposal would not materially harm the character or appearance of the area or the privacy and living conditions of neighbouring occupiers and would be acceptable in terms of highway safety subject to a number of restrictive conditions. Following the grant of this planning permission, the applicant is seeking to remove or vary a number of these conditions. In particular, conditions 1, 2 and 3 attached to planning permission P08/0616.

### **Condition 1 states;**

*'The use hereby permitted shall be discontinued and the land restored to its former condition, including removal of any means of enclosure, on or before 25<sup>th</sup> July 2010 in accordance with a scheme of work to be submitted to and approved by the Local Planning Authority.'*

*Reason: - The development is such that the Local Planning Authority wishes to review the development and its effects after this trial period'.*

The applicant would like this condition to be changed to be in line with the life of Playworld Ltd – when Playworld ceases to exist the land shall be restored to its former condition. The applicant contends that to restore the land by this July would be costly as they have paid to have fencing installed and it would also mean that an outdoor play area for children would close as the summer comes and school holidays commence. The applicant also stresses that the business would fail to operate. This condition was attached to P08/0616 in order to ascertain whether the proposal would have any detrimental effect on the amenities of the occupiers of nearby residential properties and the area generally. Colleagues in Environmental Health have been consulted regarding the application and they have no objection, furthermore, they have not received any complaints from neighbours regarding the children's play area. Therefore, it is considered that the rewording of this condition in line with the applicants wishes is acceptable and reasonable.

### **Condition 2 states**

*'The site shall only operate between the hours of Monday to Saturday 10.00 to 17.30 and Sundays and Bank Holidays 10.00 to 17.00.'*

*Reason: - To protect the character and appearance of the Open Countryside in accordance with Policy NE.2 (Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2011'.*

The applicant wishes to change these hours of operation so that they are in line with Playworld's operating hours. The applicant goes on to state that having the same hours as the business would make running the facility easier. The applicants current opening hours for Playworld are 09.30 to 18.00 hours daily Sundays to Thursdays and 09.30 to 19.30

hours on Fridays and Saturdays. It was accepted in 2009 that these hours as proposed will not have a detrimental impact on the living conditions of the occupants of nearby residential properties and as such should be permitted. Colleagues in Environmental Health have been consulted and they do not object to the proposed variation of the condition.

### **Condition 3 states**

*'All play equipment shall be removed from the site hereby approved outside the hours of Monday to Saturday 10.00 to 17.30 and Sundays and Bank Holidays 10.00 to 17.00.'*

*Reason: - To protect the character and appearance of the Open Countryside in accordance with Policy NE.2 (Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2011'.*

The applicant stated on her application forms that she wishes this condition to be removed for the following reason:

- I cannot operate a safe environment using removable items on this field.

The principle issues surrounding whether this condition should be removed is whether the proposal would adversely impact upon the residential amenity of neighbouring properties and whether the play equipment will have a detrimental impact on the character and appearance of the open countryside.

PPS7 states that

*'The Government's overall aim is to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all'.*

It then goes on to state that

*'Planning authorities should continue to ensure that the quality and character of the wider countryside is protected and, where possible, enhanced'.*

There is general presumption against inappropriate forms of development within the open countryside, however, each case must be determined on its own merits.

There is also a need to ensure that development in the open countryside does not detract from the amenity of the surroundings.

### **Policy Context**

As previously mentioned, the application site is located outside the settlement boundaries and as such is defined as Open Countryside and will be assessed against Policy NE.2 (Open Countryside), which restricts inappropriate forms of development in order to protect the character and amenity of the open countryside.

In addition to the above policy, the variation/removal of condition will also be assessed against Policy RT.6 (Recreational Uses in the Open Countryside) this policy states that proposals for recreational uses in the open countryside will be permitted providing that:

- They do not harm the character or appearance of the countryside;
  - They do not harm sites of nature conservation, historic or archaeological importance;
  - There is safe vehicular access to the site;
  - The access roads are suitable for likely traffic generation;
  - Car parking provision is proposed in accordance with adopted standards;
  - They can be integrated with existing visitor attractions in the Borough or in the vicinity;
- and
- They can be assessed by a range of means of transport.

The applicant in her submission states that the undulating nature of the land makes it dangerous for foldable play equipment to be used which would be unsafe for children to utilise. If this condition is not removed the business will be forced to close. The applicant insists that permanent structures will be safer for the children to play on. Whilst the concerns of the applicant are noted, it is considered that the suburbanising effect of the children's play equipment particularly if it was permanent and all the other paraphernalia associated with the use of land as a recreational play area will appear in stark contrast to the adjoining land and as such will have a detrimental impact on the open landscape which is contrary to policy NE.2 (Open Countryside) and PPS 7.

However, it is accepted that the hours of operation should be changed so that they run parallel with other conditions which have been changed as per this application. As previously stated the hours should be changed to 09.30 to 18.00 daily Sundays to Thursday and 09.30 and 19.30 hours on Fridays and Saturdays.

### **Other Matters**

The Parish Council has suggested that if the application is approved it should be personal to the applicant. The Conditions Circular 11/95: Use of Conditions in Planning Permission states at paragraph 92 'Since planning controls are concerned with the use of the land rather than the identity of the user, the question of who is to occupy the premises for which permission is to be granted will normally be irrelevant'. It is considered that the identity of the individual operating the site is immaterial. Such a condition could not mitigate the adverse effects on the countryside set out above. Without prejudice to the above arguments, if members are minded to approve the application, it would be more logical to condition the use of the land to the play centre, i.e. if the play centre ceases to operate the land should revert back to its former use, as stated above. The Parish Council also state that the use should only be permitted for a temporary period, 5 years in this case. However, the Local Planning Authority should be able to judge the impact that the proposal will have on the character and appearance of the area and impact on residential amenity without having to apply such a restrictive condition. As previously mentioned in this report, colleagues in Environmental Health have been consulted and they have not received any complaints regarding the operation of the site and as such do not raise objections.

A letter of representation states that the applicant is operating a licensed bar from the premises. The applicant submitted a licensing application to colleagues in Licensing and it was considered given the nature and scale of the proposal, that the bar was ancillary and a change of use was not required.

## **12. CONCLUSIONS**

There are no objections to the proposed variations of conditions 1 and 2. However, the site is located outside the village settlement boundary and is located wholly within the Open

Countryside. Policy NE.2 (Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 requires that within the open countryside only development which is essential for the purposes of agriculture, forestry, outdoor recreation or other uses appropriate to a rural area will be permitted. It is considered that to allow permanent play equipment to be erected at this locality will materially affect the character and appearance of the open countryside to its detriment. Furthermore, the play area with all its associated paraphernalia will lead to an urbanising effect on the open countryside which is contrary advice stated in the local plan and national guidance.

### **13. RECOMMENDATIONS**

#### **REFUSE**

**1. In the opinion of the Local Planning Authority the variation of condition 3 to allow the play equipment to be left on site on a permanent basis will suburbanise this piece of land which is designated as open countryside and will appear in stark contrast to the adjoining land and is contrary to policies NE.2 (Open Countryside) and RT.6 (Recreational Uses in the Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and advice contained within PPS 1 Delivering Sustainable Development and PPS 7 Sustainable Development in Rural Areas.**

## LOCATION PLAN:

