

Southern Planning Committee

Updates

Date: Wednesday, 3rd October, 2018
Time: 10.00 am
Venue: Council Chamber, Municipal Buildings, Earle Street, Crewe
CW1 2BJ

The information on the following pages was received following publication of the committee agenda.

5. **17/2879N 12, Cemetery Road, Weston CW2 5LQ: The use of land for the stationing of caravans for residential purposes for one family gypsy pitch together with formation of hardstanding and ancillary utility/dayroom, and the retention of the existing permitted stables for M Stokes (Pages 3 - 6)**
6. **18/3123N Land South East of Crewe Road Roadabout, University Way, Crewe: Erection of a new foodstore (Use Class A1), access, substation and associated car parking and landscaping for Mr George Brown, Aldi Stores Limited (Pages 7 - 10)**

Please contact Julie Zientek on 01270 686466
E-Mail: julie.zientek@cheshireeast.gov.uk with any apologies, requests for further information or to arrange to speak at the meeting

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SOUTHERN PLANNING COMMITTEE – 3rd October 2018

UPDATE TO AGENDA

APPLICATION NO.

17/2879N

LOCATION

12 Cemetery Road, Weston, Crewe, Cheshire, CW2 5LQ

UPDATE PREPARED

1st October 2018

Policy

The 'Other Relevant Documents' section references the Cheshire Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (March 2014) and Cheshire East Council Gypsy, Traveller and Travelling Showpeople Site Identification Study (April 2014).

These have been replaced by the Gypsy and Traveller Accommodation Assessment ("GTAA") (2018) which is discussed within the main report.

Human Rights and Race Relations

It is right and proper that Local Planning Authorities should consider the consequences of refusing or granting planning permission, or taking enforcement action, on the rights of the individuals concerned. Article 8 of the Human Rights Act 1988 states that everyone has the right to respect for his private and family life, his home and his correspondence. It adds there shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals or the protection of the rights and freedoms of others.

The applicant's are Travellers, a racial group protected from discrimination by the Equality Act 2010. Further, Article 14 of the Human Rights Act states that the enjoyment of the rights and freedoms set forth in that Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

The Public Sector Equality Act duty as set out in section 149 of the Equality Act 2010, which states that where any decision is likely to impact on a person

with a protected characteristic, the decision maker must have due regard to the need to:

- a. eliminate discrimination, harassment, victimisation and any other conduct prohibited under the act;
- b. advance equality of opportunity between persons who share a protected relevant characteristic and persons who do not;
- c. foster good relations between persons who share a relevant protected characteristic and persons who do not.

Race is a protected characteristic and the PSEA will apply in all gypsy and traveller cases potentially affecting ethnic Romany Gypsies or Irish Travellers.

In this particular case, the determination of this application will not have a direct impact on the occupier's rights given that the application site has not been laid out or is being occupied. Should the application be refused, the applicant has a right of appeal and any resultant enforcement proceedings would only be taken following due consideration of the aforementioned rights.

Considerations of the rights of gypsy and travelers have been taken into account within Local Plan Policy given the need to allocate sites up until 2023, this proposal will help to meet that need.

The impact of the development on the rights of the local residents has been fully assessed; both in this report and accordingly any impact are considered acceptable.

Representations

Since the last Committee meeting (4th July) several further representations have been received. These object to the proposal for the following reasons:

- No upper limit on the number of family limits that are permitted
- Who will enforce the conditions?
- The access to the site does not conform to fire safety regulations
- Rubble deposited on site
- Impact on nearby Listed Building
- Conditions are not enforceable
- No details of any lighting
- Historical value of neighbouring number 12 Cemetery Road and associated damage
- Increased use of and damage to the existing access
- Loss of amenity
- Absence of mains utilities
- Inaccurate description of the site.

Some of the points raised are new and have not been covered in the Officer report:

Conditions attached to any permission will be enforced by the LPA's Enforcement Team.

Any proposed lighting will be the subject of an appropriate condition.

There is a Listed Building approximately 55 metres to the south east of the application site. The Council's Conservation Officer will be consulted and a verbal response provided prior to the Committee meeting.

It is accepted that damage has been caused to properties along the access route into the site, however this is a private issue between the associated parties and not controllable by the LPA.

The absence of mains utilities to and from the site are not a material planning consideration and is a separate matter for the applicant.

The site is described as was during the case officer's site visit.

RECOMMENDATION

APPROVE subject to conditions

- 1. The development hereby approved shall commence within three years of the date of this permission.**
- 2. There shall be no more than 1 touring caravan and 1 mobile home stationed on the site at any given time, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended. Unless otherwise required/specified by other conditions, the development hereby approved shall be carried out in total accordance with the approved plans.**
- 3. Approved plans list.**
- 4. The materials to be used shall be in strict accordance with those specified in the application unless different materials are first agreed in writing with the Local Planning Authority**
- 5. Prior to the first occupation of the development hereby approved a scheme of landscaping for the site shall be submitted to the Local Planning Authority for approval in writing. The scheme shall indicate inter alia the positions of all existing trees and hedgerows within and around the site, indications of any to be retained together with measures for their protection during the course of development, also the number, species, heights on planting and positions of all additional trees, shrubs and bushes to be planted.**
- 6. Prior to the first occupation of the development hereby approved details of the positions, design, materials and type of boundary**

treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall not be occupied until the scheme has been implemented in accordance with the approved details.

7. Prior to the commencement of development, full details of the proposed foul and surface water drainage from the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be implemented in full before the building is first occupied or brought into use.
8. Prior to its installation details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details
9. The use of the stables (and associated land) will be limited to the occupiers of the gypsy/traveller site unless otherwise agreed in writing by the LPA.
10. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 paragraph 1 of the Planning Policy for Traveller Sites 2015 or any subsequent definition given in national guidance.
11. No commercial activities shall take place on the land at any time, including the storage of materials.
12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order), no development (as defined by Section 55 of the Town and Country Planning Act 1990) as may otherwise be permitted by virtue of Class(es) E and F of Part 1 and Class A of Part 2 Schedule 2 of the Order shall be carried out.
13. No development shall commence until there has been submitted to and approved by the Local Planning Authority a Construction Management Plan (CMP) to detail how the mobile will be constructed on the site as well as how it will fit in to the site. The CMP shall include the parking of delivery vehicles during the construction process. The construction of the development shall only be carried out in accordance with the approved CMP.

Informatives:

1. NPPF
2. Hours of construction
3. Contaminated Land

SOUTHERN PLANNING COMMITTEE UPDATE – 3rd October 2018

APPLICATION NO: 18/3123N

PROPOSAL: Erection of a new foodstore (Use Class A1), access, substation and associated car parking and landscaping.

ADDRESS: Land south east of Crewe Road Roundabout, University Way, Crewe

APPLICANT: Aldi Sores Ltd

Supporting Information

In response to the publication of the committee report the applicant has submitted letter, a legal opinion and a number of CGIs to show the proposed store with the landscaping after years 1, 5 and 10. These are summarized as follows;

- The site measures 1.87 hectares. The site forms 0.48% of the current land supply. Only 58% of the site is developable (the rest is given over to landscaping/habitat creation). This means that of the 386.12 hectares of employment land over the plan period only 0.28% would be lost.
- The Site Allocations Document states that the overall employment land requirement includes an allowance for existing and allocated employment sites that are lost to other uses.
- The planning benefits outweigh the small loss of employment land.
- The closure of the existing store in 2020 without replacement would result in a gap in provision.
- The consultation response from the Skills and Growth Company does not consider the suitability of the site in regard to its neighbours and surrounding environment.
- The Councils tree officer is now satisfied with the information which has been submitted.
- In terms of Great Crested Newts (GCN) the development would provide mitigation. It is inappropriate that the committee report states that the impact upon GCN fails the tests within the Habitat Directive. The impact upon GCN would be less than any B class development.
- The applicant considers that the replacement store is in the interests of public health/safety as the absence of the Grand Junction store will result in greater pressures on the highway network and increased environmental pressures for visitors to the Nantwich Road store.
- The social and indeed economic benefits of the proposal are highly important in regard to job creation. The allocated use of the site is not a reason to fail public health/safety test within the Habitat Regulations.
- There is no satisfactory alternative for B uses on this site as there is no such scheme.
- Strongly disagree with reason for refusal 4. Setting is not about visibility but the experience of the heritage asset. The proposals would preserve the significance of the heritage assets.

- The development would provide a substantial green buffer to the heritage assets. As officers have previously approved a large office scheme which was taller it would be contradictory to refuse this application of heritage grounds.
- Reasons for refusal 2, 3 and 4 are without merit and unsubstantiated
- Reason for refusal 1 is a departure to the development plan but would result in the loss of a nominal amount of employment land. As part of the planning balance and significant public interest of the scheme should be taken into account.

Officer Response

The comments made in relation to the loss of the employment site are noted. However these points were produced by the agent in earlier submissions and were not accepted.

As stated within the main report the reasons for refusal in relation to Great Crested Newts is a result of the failure of this development against the Habitat Directive tests (public health/safety test and the satisfactory alternative test), and the harm to heritage is due to the less than substantial harm not outweighed by the public benefits). Both reasons would fall if the decision taker found that the benefits of the scheme and loss of employment site was outweighed as part of a planning balance.

The Impact of the Proposal on the Vitality and Viability of Surrounding Centres

An update has now been provided from WYG into the existing retail units occupied by Aldi. WYG state that *'Unfortunately, there is of course the potential for the proposal to result in a retailer relocating from a town centre unit to the retail park and I can understand why that would be a concern to the Council and other town centre stakeholders, particularly given current vacancy rates and other town centre healthcheck indicators'*.

It has to be acknowledged that this situation could happen at any time should a retailer choose to vacate a premises from the retail park leaving a unit available. Without control over the use of the floorspace or the imposition of a 'no poaching' condition on the retail park, this could continue to take place.

However, in this case, Aldi could vacate the unit regardless of the proposed development, and an alternative retailer could occupy the unit without any further involvement from the Council (perhaps except elevational changes etc). In short, given that the application only relates to the application site and the current site is out of control of the applicant and retailer. There is no method by which the Council can control the current floorspace and restrict it from being occupied by another town centre operator unless a subsequent application was to be submitted on the existing unit for other material works.

In terms of the potential implications to the town centre should a retailer choose to relocate, the impact will be negative but WYG do not consider that

a retailer's relocation would cause a significant adverse impact on the town centre as a whole. In any event, as stated above, this is unfortunately uncontrollable by the Council given that this unfortunate (and far from ideal) circumstance could happen at any point without the Council's involvement. There is no way to force Aldi to stay at the retail park, and no way given the current controls to force a retailer to remain in the town centre.

Trees

Amended plans and additional information has been submitted which provides greater clarity and address most previous concerns in relation to the trees on and adjoining the site. This is subject to the imposition of planning conditions relating to tree protection measures, the submission of an Arboricultural Method Statement and a management plan for the Valley Brook woodland edge. Reason for refusal 2 has now been addressed and will be removed from the recommendation.

The proposed boundary fencing style has been revised for some sections which is welcomed. The 1.5 close boarded fence has been retained to the south of the access to the service area. The Councils Tree Officer is of the view that a more open style fence (perhaps an open mesh metal) would allow views to the Valley Brook woodland edge. This matter could be controlled by the imposition of a planning condition.

RECOMMENDATION:

REFUSE for the following reasons;

1. The proposed development is located within an area allocated for employment uses as part of Policy E.1.1 of the Borough of Crewe and Nantwich Replacement Local Plan 2011. The loss of the site for employment purposes would not maintain an adequate and flexible supply of employment land within this part of the Borough and insufficient reasons have been advanced to justify a departure from this policy. As a result the proposed development would be contrary to Policy E.1.1 of the Borough of Crewe and Nantwich Replacement Local Plan 2011, Policy EG3 of the Cheshire East Local Plan Strategy and guidance contained within the NPPF.

2. There is a small population of Great Crested Newts present at a pond a short distance from the application site and this proposed development would result in a Medium Level adverse impact on this species as a result of the loss of terrestrial habitat and the risk of any newts present on site being killed or injured during the construction process. The proposed development fails two of the tests contained within the Habitats Directive and as a result would also be contrary to Policies NE.9 of the Crewe and Nantwich Replacement Local Plan 2011 and SE 3 of the Cheshire East Local Plan Strategy and guidance contained within the NPPF.

3. The proposed development would result in less than substantial harm to the heritage assets which adjoin the site. As the principle of the proposed development on a site allocated for employment uses is not accepted there are not considered to be public benefits which outweigh the harm. The proposed development is contrary to Policy SE 7 of the Cheshire East Local Plan Strategy, BE.7 of the Crewe and Nantwich Replacement Local Plan 2011 and guidance contained within the NPPF.

In order to give proper effect to the Committee's intent and without changing the substance of its decision, authority is delegated to the Head of Planning (Regulation) in consultation with the Chair (or in their absence the Vice Chair) to correct any technical slip or omission in the resolution, before issue of the decision notice