

Application No: 18/1770N

Location: Northern Dairies, Groby Road, Crewe, CW1 4PE

Proposal: Change of use of part of premises, in to a 9 bedroomed House in Multiple occupation with shared kitchen / bathroom facilities .

Applicant: Mr Mitchell, Pegasus Mechanical Services Ltd

Expiry Date: 06-Sep-2018

## **SUMMARY**

The site is sizeable, set on a bend on Groby Road, with extensive hardstanding to the front, a single storey single skinned former depot 1950's style industrial building with attached (brick built) ancillary office to the Groby Road frontage. A yard is located to the rear adjoining the residential neighbours

This is a retrospective application for the retention of the use of part of the ancillary front office attached to the former Northern Dairies Milk Depot on the Groby Road frontage of the premises. The proposal seeks to retain the HMO use which comprises 9 bedrooms (some shared doubles) and associated communal living accommodation.

This application, together with its 2 sister applications concerning different parts of the same site, is submitted as a result of enforcement investigation.

From an economic sustainability perspective, the provision of the HMO supports the employment and economic activity associated with the use and there are some limited economic benefit and other economic spending benefits in the economy that would derive from that employment provision.

From an environmental perspective the proposal is considered to be acceptable in terms of the impact upon design parking, highway safety and traffic generation.

However, the noise assessments submitted clearly demonstrate that the adverse impact upon the amenity of adjacent residents in terms of noise that takes place within the premises is not capable of adequate mitigation that is either realistically achievable or adequately enforceable. This is equally applicable to the residential use of the front office part of this site. If permitted, there is no control over who could occupy the HMO facility and whilst currently this is stated to be for the workers on site, it could also be available to others not employed on site.

The application is recommended for refusal on the basis that the development is outside the settlement boundary, within the open countryside and would provide a poor environment for residents and it is contrary to the Development Plan.

**RECOMMENDATION:****REFUSE****PROPOSAL**

The proposal is for the retention the use of part of the brick built offices that front on to Groby Road as a 9 bedroom House in Multiple Occupation (HMO) and associated shared kitchen/ living room and bathroom accommodation. Some of the bedrooms are double rooms.

At time of site visit, 2 workers were living on premises and it is understood that the Applicant had re-housed other workers elsewhere.

The HMO accommodation is, at the present time, provided by the Applicant for workers he employs to fabricate the steel platforms in connection with his business use of the site (reported previously on the Agenda). He states that the workers employed all work at all the same times, all have the same breaks and all have the same hours of non employment.

**SITE DESCRIPTION**

The application site is approximately 10,000sq.m compound located on Groby Road on the outskirts of Crewe. The site is secured by 2m high security fencing and contains numerous buildings including the depot building, a brick built ancillary front office, various outbuildings that were originally cold stores associated with the former Dairy depot and now used for storage.

Adjoining the site to the north is a small complex of dwellings/barn conversions in separate residential occupations. A manege also adjoins this boundary, which is operated on a mixed commercial/ancillary residential basis by an adjoining resident of one of the barns. The wider area is open countryside.

**RELEVANT HISTORY**

There are 2 applications submitted by the same applicant related to this application to be determined (elsewhere on this Agenda);

18/1270N - Change of Use from Milk Dairy Storage and Distribution (B8) to Metal Fabrication Company with associated workshops, offices and yards (B2) - to be determined

18/1769N - Retrospective erection of new steel framed workshop to rear of main buildings - to be determined

No other relevant planning history

**NATIONAL & LOCAL POLICY**

It should be noted that the Cheshire East Local Plan Strategy was formally adopted on 27<sup>th</sup> July 2017. There are however policies within the legacy local plans that still apply and have not yet been replaced. These policies are set out below.

### **Cheshire East Local Plan Strategy 2010-2030 July 2017**

PG 2 Settlement Hierarchy  
PG6 Open Countryside  
SD 1 Sustainable Development in Cheshire East  
SD 2 Sustainable Development Principles  
SE 2 Efficient Use of Land  
SE 12 Pollution, Land Contamination and Land Instability  
PG 1 Overall Development Strategy  
PG6 Open Countryside  
EG 3 Existing and Allocated Employment Sites  
SC 3 Health and Well being  
SC4 Residential Mix

### **Borough of Crewe and Nantwich Adopted Local Plan 2011 (Saved Policies)**

BE.1: Amenity  
BE.4: Drainage, Utilities and Resources  
NE16: Re and Adaptation of a Rural Building for residential Use  
NE17: Re and Adaptation of a Rural Building for a commercial, Industrial or recreational Use  
NE.17: Pollution Control  
RES.9: Houses in Multiple Occupation

#### **National Policy:**

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

### **CONSULTATIONS:**

**Crewe Town Council:** The Town Council strongly objects to this application because the creation of living accommodation on a site in general industrial use is prejudicial to the amenity of future residents through noise, dust and disturbance. There is insufficient detail in the application to determine the internal layout and construction of the building and so ensure the wellbeing of residents. Approval of this application would set an unacceptable precedent for the provision of accommodation within industrial premises.

**Highways:** No objection.

**Housing Standards and Advice Team:** The HMO will require a licence. Having inspected the premises has no objection to the accommodation provided.

**Environmental Protection:** Objection on noise grounds.

### **REPRESENTATIONS:**

Neighbour notification letters were sent to neighbouring properties.

Objection has been received from a Planning Consultant representing various neighbouring properties. 3 objections from neighbours have also been received.

The following objections are raised

- Noise and disturbance
- Lack of information
- Extension already built - demonstrates the rapid extension of the use of the site/ use inappropriate in a rural area
- Loss of parking
- The residential use, given that the migrant workers live on site, results in late night activities/bonfires and noisy social gatherings.
- This is a commercial building built as a milk distribution centre not for residential use.
- The migrant workers are not key workers as per the definition for key workers referred to in Policy SC6 of Cheshire East's Local Plan
- The nature of the business requires workers to be on site, especially if operations are to be kept within reasonable working hours. Additionally the size and location of the site would not accommodate 9 workers.
- Threatening behaviour from staff living on site
- Inadequate detail on the floorplans submitted

Additionally, Councillor Brookfield objects on the following grounds

- Workers have been living in these industrial premises which are unsuitable for such use for a significant period. Upon learning of the presence of employees living on site I contacted Housing Standards with serious concerns. I was informed the workers were moved to residential accommodation in Edleston Road immediately. I am further informed by neighbours that workers are still living in the unsuitable commercial premises.
- I have concerns about the Modern Slavery Act and accommodation being tied in with employment in this setting.
- There has already been significant and serious anti-social behaviour arising from the employees living on the site including noise, pollution, abuse to neighbours, bonfires and activity 24 hours a day in what is basically a quiet rural location. The presence of what is HMO (Home of Multiple Occupation) is completely unacceptable.
- The planning application offers little or no detail of the accommodation being proposed for employees.
- I would question the definition of "key workers" and would suggest it is not applicable.
- There is no detail on the size/dimensions of the rooms being constructed. Do they meet the statutory requirements?
- There is no detail for natural light / window openings.
- There is no detail for kitchen, bathroom or laundry facilities being considered.
- There is no detail for domestic waste and how this will be dealt with.
- There is no detail of common areas for the employees or outside space for storage, laundry, waste, cycle storage etc.
- There is no detail for fire risk and safety.

One representation of support has been received from a neighbour which states that neighbour has no issue with the proposal

## APPRAISAL

The key issues to be considered in the determination of this application are set out below.

### Principle of Development

The site is the former Northern Diaries Milk Depot site which is an existing brownfield site, with substantial industrial premises set in a sizeable yard on Groby road. The building is of substantial construction and the site lies in the Open Countryside as designated by Policies PG6 of the Cheshire East Replacement Local Plan.

Saved Policy NE16 of the Crewe and Nantwich Local Plan refers to the re-use and adaption of a rural building in open countryside for residential use is permissible subject to various criteria, one of which is that the residential conversion is a subordinate part of a scheme for business re-use and that parking and site access are appropriate. It is considered that the proposal complies with this policy.

Saved policy RES.9 concerns Houses in Multiple Occupation stating that permission will be granted for the subdivision of buildings subject to the development for the residential HMO purposes not resulting in a loss of amenity/increased overlooking for neighbours or parking/highways problems and not needing to be extended in a manner that would be contrary to existing design policy. The policy recognises that it is not the role of the Planning Acts to replicate other statutory functions such as the Fire Regulations/Building Control Regulations or the HMO Licensing regime.

In land use principle terms it is considered that this proposal complies with the explicit wording of both these policies which would normally be acceptable.

The issue in question is whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the land use policy presumption in favour of the proposal.

### Sustainability

The National Planning Policy Framework definition of sustainable development is:

*‘The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs’*

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

**an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

**an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

**a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

These roles should not be undertaken in isolation, because they are mutually dependent. Any assessment should look at sustainable development as a whole.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Highways**

The Head of Strategic Infrastructure (HSI) has assessed the application and raises no objection to it. Parking is incorporated adequately within the yard.

### **Noise implications for residents of the HMO**

A noise report was not initially submitted in support of the application. Officers sought an assessment which was not deemed a realistic assessment, eg each piece of equipment was surveyed in isolation, not cumulatively. A further assessment was then required which assessed the use in realistic operation (ie with equipment operating at the same time).

The mains results can be seen in the following table -

### 3.2 BS4142 (From Source Levels – workshop equipment and fork lift truck)

**Table 8 – Plant and Activities (dBA) – Daytime – Levels at Houses**

BS4142 (1-hour reference period) dBA	Range of levels from Individual Equipment	Simultaneous Level – All Equipment (1 <sup>st</sup> )	Fork Lift Truck Only (Rear Yard)	Shot Blasting (New Building)	Simultaneous Level – All Equipment (Revisit)
LAeq, T dB Levels	19-34	42	36	22-24	38-39
Tonal Character Correction	2	2	0	2	2
Impulsive Sound Characteristics	3	0	3	3	0
Other Sound Characteristics	0	0	0	0	0
Intermittency Correction	0	0	0	3	0
Rating Level	24-39	44	39	32	41-42
Background Noise Level LA90 dB (Weekday)	40	40	40	40	40
Background Noise Level LA90 dB (Saturday morning)	35	35	35	35	35
Excess over Background [Rating – Background] dB (Weekday)	-16 to -1	+4	-1	-8	+1 to +2
Excess over Background [Rating – Background] dB (Saturday morning)	-11 to +4	+9	+4	-3	+6 to +7
Weekday	"Low Impact"	"Adverse Impact"	"Low Impact"	"Low Impact"	"Adverse Impact"
Saturday Morning	"Low Impact" to "Adverse Impact"	"Adverse Impact"	"Adverse Impact"	"Low Impact"	"Adverse Impact"

Additions for characteristics applied for internal plant but as noted are not likely to be audible at the receptors. General addition made of +3dB for fork lift trucks to cover any impact noise. Addition for tone, impulsive sound and intermittency added for the shot blaster. For other equipment, working continuously for the worst case calculation, an addition has been added for tone.

The Applicant advises that he provides the HMO accommodation as part of an employment package for workers he employs on a short term basis. If there are no orders to be fulfilled, the workers contracts are not extended. These workers are presently coming from Eastern Europe.

The Noise Report assumes that all workers all work and all have breaks at the same time. The Environmental Health Officer considers this to be unrealistic. The report makes no allowance for any resident who may be ill and unable to work.

It is accepted that the Building Control regime require extensive works to the internal parts of the depot and the office parts of this building, which would provide noise and vibration insulation that could ensure that a statutory nuisance was prevented. However, a planning assessment of noise implications for future residents is more concerned with the amenity levels for future residents.

The Noise Consultant retained by the Applicant suggests mitigation to seek to mitigate for the identified 'adverse impact'. This is suggested as being

1. Filling gaps/holes in the fabric of the main building
2. Plastic internal curtain walling
3. Having the existing openings shut when the premises are operational

The Environmental Health Officer has considered the 2 noise reports and advises that whilst 1. and 2. may be of limited benefit, 3 is an unrealistic suggestion from the Applicants retained Noise Consultant given the detailed design and age of the premises and the relationship with the extension the subject of this application, the likely operating practises of the Applicant and the nature of the activity.

In addition, it is considered that no planning condition which passes the tests set down in National Planning Guidance could be enforced or would be reasonable which would be able to

control who was living in the HMO premises. Whilst the applicant would wish to presently offer the HMO as part of an employment package offered to overseas workers he employs on site, there is no enforceable future control of this. The HMO could easily be occupied entirely separately.

Accordingly, it is considered that the adverse harm in noise terms identified in the noise report for residents in the HMO by virtue of the noise environment on site can not be adequately mitigated. A condition detailing who can live in the HMO premises is not enforceable in planning terms and therefore it is not considered that any planning condition to this effect would pass the tests in National Planning Guidance. The Environmental Health Officer recommends the application be refused.

## **ECONOMIC SUSTAINABILITY**

The Framework includes a strong presumption in favour of economic growth.

Specifically, in relation to the rural economy the Framework identifies that planning policies should support a prosperous rural economy.

Paragraph 83 requires that planning decisions should enable;

- a. the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well designed new buildings;
- b. the development and diversification of agricultural and other land based rural businesses;
- c. sustainable rural tourism....

It is clear that the Government requires the planning system to do everything it can to support sustainable economic growth and to encourage not impede sustainable growth in rural areas.

This is a business that is providing some employment and generating economic activity by virtue of the unauthorised activity undertaken to date.

The workers employed were originally living in the (unlicensed) HMO accommodation provided by the Applicant as part of the employment package (subject to a separate application reported elsewhere on this Agenda). The workers are from Eastern Europe. Clearly the extension has been built because of the rapid expansion needs of the Applicant who is using the entire site and all buildings in connection with the fabrication of steel platforms. It is presumed that the extension has been built to house the sand blasting and storage of plant and equipment as seen on the site visit, however, there would be no control over the activities within Class B2 and no ability to ensure the either internal or external doors are permanently shut. Undoubtedly the economic activity is of benefit to the Applicant and the businesses locally that he supplies with the platforms produced on this site. Some limited benefit is also generated for the employees, who are being employed on limited term temporary contracts to fill orders, for the duration of their employment.

## **Housing Standards**



The Housing Standards and Adaptions Team have been consulted and have confirmed that they have no objections to the proposal in terms of their statutory framework. Double rooms would need to measure at least 10.23sqm and single rooms at least 6.52sqm to receive a Licence. This is a matter for the licencing regime

Actual room sizes are shown in the tale below (based on the submitted floor plans):

Floor level	Room size
Bedroom 1	7.3sqm
Bedroom 2	8.3sqm
Bedroom 3	6.2sqm
Bedroom 4	7.1sqm
Bedroom 5	8.3sqm
Bedroom 6	8.6sqm
Bedroom 7	11.18sqm
Bedroom 8	17.11sqm
Bedroom 9	12.2sqm

## **SOCIAL SUSTAINABILITY**

Paragraph 92 of the Framework, which concerns the promotion of healthy and safe community, requires that amongst other things planning decisions should ensure an integrated approach to considering the location of housing and economic uses.

The approval for the retention of the Proposed HMO would support the current use of the whole depot premises for the manufacture of steel platforms; this would retain existing living accommodation to the benefit of the employees. This would have some limited social benefit for those workers, however, the anti-social elements of the proximity of proposed residential use appended to an existing commercial depot, regardless of whether the current use is continued or the lawful Class B8 (Storage and Distribution) is re-established . This is considered to outweigh the limited benefits of the proposal in terms of the provision of HMO accommodation.

Accordingly, the dis-benefits are considered to outweigh the benefits of the proposal to the economy and no conditions could reasonably be imposed that would adequately mitigate the harm to interests of acknowledged importance identified in this report.

## **Conclusion – The Planning Balance**

From an economic sustainability perspective, the proposal would provide for the re-use of parts of a building in a rural area. From an environmental and social perspective the proposal is considered to be unacceptable. The adverse impacts upon the amenity of future residents, which can not limited to those employed on site, by virtue of the noise environment in the depot building, would create poor living conditions that would be detrimental to the amenity of future residents of the HMO.

Saved Policy BE1 of the Crewe and Nantwich Adopted Replacement Local Plan requires developments to be compatible with surrounding land uses, and not to prejudice the amenity of the future occupiers

The use of the premises for HMO purposes is therefore considered to be an unsustainable form of development which is contrary to local planning policy and national planning guidance which seeks to protect amenity of those residents.

## **RECOMMENDATION**

### **REFUSE for the following reasons:**

- 1. The retention of the HMO, by virtue of the proximity of the residential use to the adjoining commercial use of the depot building and the noise levels generated, would be detrimental to the amenity of the future residents of the HMO premises contrary to saved policy BE.1 (Amenity) of the Crewe and Nantwich Replacement Borough Local Plan 2011 .**

**In order to give proper effect to the Board`s/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**

