

Application No: 18/3123N

Location: LAND SOUTH EAST OF CREWE ROAD ROADABOUT, UNIVERSITY WAY, CREWE

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

Applicant: Mr George Brown, Aldi Stores Limited

Expiry Date: 05-Oct-2018

Summary

The application site is an employment allocation as part of Policy E.1.1 of the C&NLP. The site has not been marketed for employment uses and the proposed retail development of this site would be contrary to Policy EG 3 of the CELPS.

The proposal is an out-of-centre retail development. There is no requirement for an impact assessment and it is considered that the proposed development would not have a significant adverse impact upon the vitality and viability of Crewe Town Centre or Haslington local centre. It is accepted that there are no sequentially preferable sites and the development complies with Policy EG 5 of the CELPS.

The highways implications of the development are considered to be acceptable and the proposed development would comply with the Councils parking standards. The proposed development would comply with Policies BE.3 of the C&NLP and C02 of the CELPS.

The amenity implications of the proposed development, including noise, air quality and contaminated land are considered to be acceptable and would comply with BE.1, BE.6 and NE.16 of the C&NLP and SE 12 of the CELPS.

The design of the proposed development is considered to be acceptable and there are no archaeology implications associated with this development. As a result the development complies with Policy SE 1 of the CELPS; and BE.16 of the C&NLP. However the proposed development would result in less than substantial harm upon the heritage assets. In this case the principle of the retail use on this employment allocation is not accepted. As a result the public benefits of the proposal does not outweigh the less than substantial harm.

The landscape implications of the proposed development are considered to comply with SE 4 of the CELPS.

There is currently insufficient information in relation to trees and the proposed development is contrary to Policy NE.5 of the C&NLP and Policies SE 3, SE 4 and SE 5

of the CELPS.

The impact upon protected species and habitats is largely acceptable. However as the principle of retail development on the site is not considered to be acceptable, the impact upon Great Crested Newts fails the tests within the Habitat directive and the development is contrary to Policies NE.9 of the C&NLP and SE 3 of the CELPS

The drainage and flood risk implications of the proposed development are considered to be acceptable and the development complies with Policies CE 13 of the CELPS and NE.20 of the C&NLP.

Finally the development of the site would have some economic benefits as identified above and this does attract some weight. However it should be noted that these benefits are likely to be less than those which would be secured if the employment allocation on the site was implemented.

RECOMMENDATION

REFUSE

PROPOSAL:

This is a full application for the construction of a new foodstore (use class A1) which would have a gross external area of 1,801sqm, a gross internal area of 1,315sqm and a net sales area of 1,315sqm. The store would be operated by Aldi.

The site would be accessed via an existing vehicle access off University Way to the west and would include 132 car parking spaces, 12 bicycle spaces, 4 electric vehicle charging points, a substation, a service area and landscaping.

SITE DESCRIPTION:

The application site is located to the eastern side of University Way and the site is set at an elevated position in relation to University Way. To the south of the site is a tree lined watercourse which is set at a lower level to the application site with an employment development which is currently under construction beyond.

To the north-east the site adjoins the boundary with the Crewe Green Conservation Area which is also located to the north and east of the site. To the east of the site is The Old Vicarage which is A Grade II Listed Building with further Listed Buildings to the heart of the Conservation Area located to the north-east of the site.

The application site is located largely within Flood Zone 1 although the access is located within Flood Zone 2 and the southern boundary along the existing watercourse is located within Flood Zone's 2 and 3.

RELEVANT HISTORY:

10/3689N - Extension to Time Limit on Approved application P07/1431 Outline Application for Proposed Office Development – Approved 16th December 2010

P07/1431 - Outline Application for Proposed Office Development – Approved 14th December 2010

P04/0489 - Outline Application for B1 Development on Area B, for B2/B8 Development on Plots B C F G H and I on Area C, for Car Showroom/Dealership and Related Activities on Area E1 and Open Space/Landscaping on Areas E2 and E3. Full Application for B2/B8 Development (Including Roads, Parking and Landscaping) on Plots A D and E of Area C – Approved 19th October 2004

7/19179 – Outline application for business development (class B1) and a hotel (class C1) – Approved 10th January 1991

7/16315 - Extension to Crewe Business Park – Approved 7th December 1988

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

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

POLICIES

Cheshire East Local Plan Strategy (CELPS)

MP1 – Presumption in Favour of Sustainable Development

PG1 – Overall Development Strategy

PG2 – Settlement Hierarchy

PG7 – Spatial Distribution of Development

SD1 - Sustainable Development in Cheshire East

SD2 - Sustainable Development Principles

SE 1 - Design

SE 2 - Efficient Use of Land

SE 3 - Biodiversity and Geodiversity

SE 4 – The Landscape

SE 5 – Trees, Hedgerows and Woodland

SE 6 – Green Infrastructure

SE 7 – The Historic Environment

SE 9 – Energy Efficient Development

SE 12 – Pollution, Land Contamination and Land Instability

SE 13 - Flood Risk and Water Management

EG3 - Existing and Allocated Employment Sites

EG5 – Promoting a Town Centre First Approach to Retail and Commerce

IN1 – Infrastructure

IN2 – Developer Contributions

Borough of Crewe and Nantwich Replacement Local Plan 2011

NE.5 (Nature Conservation and Habitats)

NE.9 (Protected Species)

NE.11 (River and Canal Corridors)

NE.17 (Pollution Control)

NE.20 (Flood Prevention)
BE.1 (Amenity)
BE.3 (Access and Parking)
BE.4 (Drainage, Utilities and Resources)
BE.6 (Development on Potentially Contaminated Land)
BE.7 (Conservation Areas)
E.1 (Existing Employment Allocations)
TRAN.3 (Pedestrians)
TRAN.4 (Access for the Disabled)
TRAN.5 (Cycling)

National Policy:

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

Of particular relevance are paragraphs:

11 Presumption in favour of sustainable development.

85-90 Ensuring the Vitality of Town Centres

102-107 Promoting Sustainable Transport

124-132 Requiring good design

Neighbourhood Plans

There are no Neighbourhood Plans covering Crewe or Crewe Green.

CONSULTATIONS:

United Utilities: Conditions suggested.

CEC Environmental Health: Conditions suggested in relation to piling works, dust control, floor floating, construction management plan, external lighting, electric vehicle infrastructure, travel plan and contaminated land. Informatives suggested in relation to contaminated land and construction hours).

CEC Spatial Planning: The Local Plan Strategy forms part of the Development Plan for Cheshire East alongside policies within the Crewe and Nantwich Local Plan 'saved' for decision making purposes. LPS Policy PG 1 sets the overall development strategy for the borough, which includes a requirement for a minimum of 380 ha of land for business, general industrial and storage and distribution uses over the period 2010 to 2030.

Table A.10 in Appendix A of the LPS shows a planned provision of 386.21 ha employment land over the plan period. The existing employment land supply forms an important component of the overall employment land provision. This supply consists of committed sites, sites under construction and allocated sites from the legacy local plans, such as the Crewe and Nantwich Local Plan.

It is vital that existing employment sites, premises and allocations that are viable for continued employment uses are safeguarded (Paragraph 11.23 of the Local Plan Strategy). The application site forms part an allocation for B1 employment in the Borough of Crewe and Nantwich Local Plan

2011 as E.1.1. Appendix B of the Local Plan Strategy notes that policy E1 (existing employment areas) is a 'saved' policy for the purposes of decision making. Allocation E.1.1 (Crewe Business Park / Crewe Green) states that land is allocated for *"B1 and (emphasis added) any uses required by and associated with Manchester Metropolitan University ("MMU"). For the avoidance of doubt, such uses include classroom/teaching facilities, residential accommodation for students, indoor and outdoor sport and recreational facilities"*.

The applicant notes that MMU have announced their intention to leave the Crewe Campus in 2019. However, as emphasised above, the allocation of site E.1.1 allocates land for B1 uses in addition to uses required by and associated with MMU.

Planning permission has recently been granted for 5 units for B2 and B8 uses (17/0341N) immediately south of the site and construction works have started. Beyond this is Orion Park which is another employment led scheme. As such it is considered that this site forms a viable employment allocation and should be protected, in line with the requirements of policy EG3 of the Local Plan Strategy.

The First Draft Site Allocations and Development Policies document, in policy EMP 2 (Employment Allocations), has reviewed and proposed to maintain the allocated employment site in the First Draft Site Allocations and Development Policies Document. Policy EMP2 is supported by an employment allocations review (2018) document which has reviewed the allocation. It is recognised that the Site Allocations document is in first draft, however, it does provide evidence that the Council has reviewed the suitability of the allocation and is proposing to maintain its allocation in the Site Allocations and Development Policies document.

Policy EG 5 of the LPS (promoting a town centre first approach to retail and commerce) notes how for Crewe, there will be a focus for high quality comparison retail, supported by a range of retail, service, leisure, tourism, office and other town centre type retail uses, including residential. Town Centres are promoted as the primary location for main town centre uses. Proposals for main town centre uses should be located within designated town centres or on other sites allocated for that particular type of development. Where there are no suitable sites available, edge of centre locations must be considered prior to out-of-centre locations. Edge of centre and out of centre proposals will be considered where:-

- There is no significant adverse impact on the vitality and viability of the surrounding areas: and it is demonstrated that the tests outlined in current government guidance can be satisfied.

Policy SD2 (Sustainable Development Principles) sets out a number of principles that development will be expected to achieve in the borough.

CEC Regeneration: The site forms part of an allocation for B1 use in the Borough of Crewe and Nantwich Local Plan 2011 as E.1.1. Appendix B of the Local Plan Strategy notes that policy E1 (existing employment areas) is a 'saved' policy for the purposes of decision making.

The site is well located in a very prominent position with direct access off University Way (A5020) and is extremely suitable for B1 use as allocated. Other land adjacent to the site has in recent years been developed for B1/B2/B8 uses both at Orion Park and immediately to the south of the applicant's site where 5 industrial units (B2 & B8 use) are currently being constructed. All developed land immediately to the east of University Way has been developed for B1/B2/B8 uses.

The delivery of these sites demonstrates the popularity, viability and suitability of this site for B1/B2/B8 uses.

There is strong current demand for land and units with B1/B2/B8 uses in Crewe both from existing expanding businesses and from inward investors. It is anticipated that demand will also be strong in the future. Crewe is an excellent location for business. This view is reflected in 'All Change for Crewe: High Growth City'. The aspiration of All Change for Crewe includes the need to ensure development of accompanying short to medium term employment sites to compliment the strategic sites at Basford and Leighton in Crewe. Delivery of a new Crewe HS2 Hub Station in 2027 could bring structural change to the business offer in the area and further demand for allocated employment sites such as at University Way, including the applicant's site, is anticipated to be high.

The application site should be protected for employment use as it is a suitable and required use on that site. It is entirely reasonable to believe that the site could be used for the allocated B1 employment use in the future if sufficiently marketed.

Natural England: No objection. Natural England considers that the proposed development will not have significant adverse impacts on statutory protected sites or landscapes. For advice on protected species refer to the Natural England standard advice.

CEC Head of Strategic Infrastructure: The access has previously been approved for an office development and is also acceptable for this proposal, as is the wider traffic impact. No objection subject to the imposition of conditions and an informative.

CEC Archaeology: There is sufficient information to justify a recommendation for further archaeological work.

CEC Flood Risk Manager: No objection in principle to the development subject to the imposition of conditions.

CEC Skills and Growth Company (SAGC): The site is in a successful employment area, close to a range of major business parks that have already attracted major businesses requiring office and light industrial premises. It is also in an ideal attractive location on the Crewe Green roundabout and is close to the new Crewe Green Link Road and the M6 motorway. The site is in a prime location with high demand from occupiers. SAGC would support the view that the site should be protected for employment use.

The 2018 Annual Commercial Property Review, details transactions completed in 2017 and indicates a significant demand for high-end industrial units outstripping supply. In terms of industrial transactions, 35 deals were completed in 2017 comprising a total of 56,455sqm with the majority of deals completed in Crewe, totalling 15. The report includes a headline analysis of the supply of vacant commercial assets and indicates a limited supply of high end industrial units. This view is consistent with the principle industrial agent/consultant for Crewe who has been involved in the key sites and schemes over the last 25 years. They also report that industrial land availability for small to medium enterprise (a company with under 250 employees and less than €50m turnover) is all but none existent in the town as proven by the significant interest we are experiencing at Apollo Park. The agency are therefore of the opinion that the site would be better served as an allocated B1, B2 and B8 development.

SAGC engage with over 500 businesses per annum and have good visibility of businesses expanding and relocating to the area. There is over 500,000sqft of industrial demand for Crewe (taking into account requests specifically for Crewe plus those searching for Crewe plus other areas within a wider Cheshire East search). The figures indicate that there is a strong pipeline for demand.

SAGC has not been contacted regarding the marketing of the site.

Environment Agency: No objection. Informative suggested.

VIEWS OF THE TOWN COUNCIL:

Crewe Town Council: Crewe Town Council makes the following observations:

- The additional employment which would be created is welcomed, but
- There is concern that approval would set a precedent for retail development on the edge of the town at the expense of the town centre and the environment
- There is a lack of public transport realistically available to shoppers visiting the site. The acceptable distances for commuting and education referred to in the applicant's transport assessment are not appropriate for retail development, and few of the residential areas within the store's catchment would be directly served by the existing bus routes. As a consequence, the majority of residents without access to a car would be denied access to low cost shopping at this site.
- The positioning of the building at the rear of the site does not positively contribute to the streetscene.

Crewe Green Parish Council: The Parish Council has been impressed by the professional approach to this Application shown by JLL, the Agents acting on behalf of their client Aldi Stores Ltd resulting in an Application that has been carefully conceived and presented.

Aldi Stores Ltd has shown proper consideration to the pre-Application process by actively engaging in a public consultation exercise, approaching the immediate neighbours and presenting their project to the Parish Council.

The Parish Council and immediate neighbours have raised concern with respect to potential operational and traffic noise, light nuisance and impact on existing trees and ecology which the development may cause. It is therefore imperative that these issues are properly addressed by ensuring full compliance with appropriate conditions.

It is understood that Aldi Stores Ltd are continuing to meet with the immediate neighbours to agree appropriate mitigation measures to address these concerns.

From a Planning perspective, this is clearly a departure from the allocated use for this site, but on balance the significant employment benefits must be properly considered for this alternative A1 use. Furthermore, the scale and design of the proposed building will certainly have less of an impact on the adjacent Conservation Area than the likely alternative allocated development.

Subject to the above issues being properly considered, the Parish Council fully support the Application.

REPRESENTATIONS:

Letters of support have been received from 37 local households which raise the following points;

- Support the new store and environment
- Lack of disabled access at the existing store
- Support based on the building being single storey with raised land banking and landscaping to the boundaries of the site
- Support the store but are concerned about traffic queues to access the site as experienced at the Nantwich Road Aldi
- The new store would be accessible by bicycle
- The store will provide benefits to local residents instead of the large warehouses being developed along University Way
- A mixed use development of housing and shops would be better
- The new store will be required to support the growing population of Crewe
- The new store will provide plenty of parking provision
- A new bus service should be provided to serve the store
- More out of town shopping is needed in Crewe
- Crewe should get a new Aldi like Holmes Chapel
- Reduced pollution in Crewe
- The store will provide job opportunities and more choice in store
- Better/easier access to the store
- The store would be ideally suited to serve the community
- There are traffic problems associated with accessing the existing store
- The store would be located away from the existing retail park, Earle Street, Hungerford Road and Macon Way which suffer from traffic problems
- More choice in store
- No bus service to the existing Aldi store
- The Aldi on the retail park is small and the aisles are too narrow
- The One Stop and Co-op stores in Haslington are too small and have little customer parking
- The development will help to ease congestion in Haslington
- The new store would be accessible on foot for some residents and reduce the carbon footprint
- Benefits to the local economy
- The access off University Way would be much better than the current store
- Approving the development would diversify this part of the town and allow access other stores to relocate
- Support the application provided that the proposed landscaping is carried out
- The landscaped setting of the store will enhance the store environment
- Reduced travel times

Letters of objection have been received from 10 local households and 1 local business which raise the following points;

- The proposed store would be detrimental to the Grand Junction Retail Park
- The out of town location would be inaccessible to most elderly, disabled and low income members of the public
- A new store is not needed
- Increase congestion in the area

- Increased traffic congestion at Crewe Green roundabout (despite the current redevelopment works)
- Aldi's business model is based on high footfall, long hours and reduced time in store which will increase traffic
- Increased HGV movements
- Impact upon local businesses including independent shops which make a positive contribution to the local community
- Lack of confidence that Aldi will maintain the proposed planting and screening
- The proposed store will be dependent on the private motor vehicle
- There is adequate grocery provision in the area
- Anybody without a car will have to cross main roads to access the car
- The proposed layout means that the building is set back from the road and visitors will be greeted by an expanse of lifeless car-parking
- Pedestrians would have to cross the car park to get to the store
- The store has many similarities to the proposed Lidl Store on Mill Street and members of the Southern Planning Committee were critical of this style of store. Members of the committee drew comparison to the Nantwich Road Aldi as a case of good comparison
- The new Crewe Green roundabout is supposed to ease traffic flows. The proposal will create more traffic
- There is an abundance of empty shops in Crewe Town Centre
- Approving this store will open the door for further retail development and the creation of a new retail park
- The site was allocated for office development
- Increased urbanisation of the area
- The proposal will drive trade further from Crewe Town Centre
- Noise nuisance is already significant from the other developments along University Way
- Increased noise pollution
- With the development of HS2 there will be demand for technical services which this site would suit
- There is no need for any new Aldi store
- The new roundabout is meant to decrease air pollution
- Impact upon protected species
- The area is under siege from recent developments
- The site is in close proximity to the Crewe Green Conservation Area which includes numerous Listed Buildings
- The noise assessment undertaken by Aldi is flawed as it ignores the impact of the car park activities which will occur 08:00-22:00 Monday to Saturday and 10:00-18:00 on Sundays. This is contrary to WHO guidelines
- There are inconsistencies with the traffic data which has been provided by Aldi. It is not clear what the traffic generation will actually be from the proposed store.
- The submitted TA is almost silent when it comes to vehicles turning right from or onto the northbound University Way. It is not clear how crossing traffic will be addressed to prevent traffic queues developing in all directions
- The submitted TA does not include 'Diverted Trips' or 'Transferred Trips'. In reality this will lead to additional vehicle movements on the Crewe Green roundabout and University Way. Furthermore if shoppers continue to shop at other retailers at Grand Junction Retail Park it would constitute an extra trip on the network
- The vacated Aldi store at the retail park will be taken by another retailer and will bring its own traffic

- The originally proposed office development would provide more varied employment for the local community
- Loss of habitat for protected species
- This type of business and the façade is not consistent with the Crewe Green Conservation Area
- Security concerns as the store carpark can attract gatherings at night
- The marginal changes to the plans do nothing to address the issue of the anti-pedestrian layout. The frontage of the site is dominated by car-parking
- Pedestrians would have to cross the car park to access the new store
- There are similarities between this scheme and the Lidl application on Nantwich Road
- The Co-operative Group currently operates a Co-op convenience store a short distance to the west of the application site which is considerably smaller than the proposed Aldi store but is of a suitable scale to provide top-up shopping facilities
- The application site is currently allocated for employment development under Policy EG3.
- The supporting planning statement does not address any marketing of the site for employment uses, the supply of employment land within the Borough or the overall demand for employment premises within this part of Cheshire East
- The applicant has presented only limited evidence to demonstrate that the development of the existing employment allocation is unviable
- Policy ECG3 of the CELPS states that sites should be marketed at a realistic price reflecting the employment status of the site for no less than 2 years
- The consultation response from the Skills and Growth Company states that there is significant demand for employment premises in this part of the Borough
- The supporting planning statement primarily justifies the loss of the allocated employment land on the basis that the proposal will not harm business and employment within the Borough, and that such development at the application site would have unacceptable amenity impacts on local residents. However, these criteria would only apply if it can be demonstrated that the application site was not suitable or viable for employment development under the terms of part 3 of Policy ECG3.
- The proposed development would harm wider business and employment opportunities by reducing the availability of high quality employment land in Crewe.
- In terms of impacts on residential amenities, it is clearly not possible to assess any adverse impacts associated with future employment development or to determine at this stage that appropriate design solutions would not be feasible.
- The second part of Policy ECG3 states that where there is a case for alternative development on existing employment land then '*all opportunities must be explored to incorporate an element of employment development as part of a mixed use scheme*'. It is clear that the application scheme does not incorporate any employment development.
- The Co-op recognises that its existing convenience store at Crewe Green is not protected, in planning policy terms, from the trade impacts of the proposed development. However, it does anticipate significant trade impacts on its existing store, which is one of a number of ancillary facilities to the west of University Way. These facilities have an established role supporting the needs of employees and visitors to Crewe Business Park. The proposed development would threaten the viability of the existing Co-op store and therefore the range of existing facilities within this cluster. The proposed Aldi store would perform a different role serving a much wider catchment area. The proposed Aldi would be of a scale that would be incompatible with the functioning of this key employment area
- The existing store occupies a freestanding building with a large service area to the west and vacant land to the rear that appear to provide various opportunities for an extension.

Furthermore, it is unclear whether the applicant has fully considered other opportunities that may be available at Grand Junction. The retail park contains two adjacent units occupied by Maplin and Carpertright that would be capable of amalgamation and are likely to be available following the collapse of Maplin and the widely publicised difficulties of Carpertright.

- The relocation of the existing store from an edge-of-centre location to an out-of-centre location is likely to reduce linked trips with Crewe Town Centre and is therefore likely to have adverse impacts on town centre trade.

A representation has been received from Cllr Brookfield which raises the following points;

- As one of the ward councillors whilst I do not object to the application I do have some concerns I would like to note and bring to the attention of the Committee.
- Firstly I would confirm that I welcome the employment any new store would bring to the area however I am concerned about the impact on other retail areas of the town namely Grand Junction Retail Park and the town centre which we hope to see development of in the near future. I am anxious not to set a precedent by allowing retail here and opening the floodgates to discover a brand new retail park on the edge of town - again diminishing the footfall to other established localities in the town.
- Recent covenants have been lifted in this area recently and I am concerned at the time of discussions the possibility of retail was not discussed. Clarity needs to be sought on this matter.
- Connectivity and transport are of concern as it is evident that unless you have a motor vehicle then access to this store may be difficult and this would prohibit a large section of the older generation and those on low incomes from accessing the store. Public transport along this stretch of road is inadequate.

APPRAISAL

Principle of Development

The NPPF requires the application of a sequential test for main town centre uses that are not in an existing centre nor in accordance with an up-to-date development plan. The application site is an out-of-centre location.

Policy EG5 of the CELPS states that Town Centre will be promoted as the primary location for main town centre uses. Point 7 of this Policy then states that;

Proposals for main town centre uses should be located within the designated town centres or on other sites allocated for that particular type of development. Where there are no suitable sites available, edge-of-centre locations must be considered prior to out-of centre locations. Edge-of-centre and out-of-centre proposals will be considered where:

- there is no significant adverse impact on the vitality and viability of the surrounding town centres; and*
- it is demonstrated that the tests outlined in current government guidance can be satisfied.*
- The sequential approach will not be applied to applications for small scale rural offices or other small scale rural development in line with the government guidance.*

Within the town centre the Cheshire Retail Study 2016 identifies that Crewe Town Centre has a higher number of vacant units than the national average but that the majority of the vacant units

are small to medium in scale. However the report also concludes that the town centre is well represented in terms of the convenience (food, drinks, tobacco, newspapers/magazines, cleaning materials, toiletries) and comparison goods provision (all other goods) but is under-represented in terms of its service provision.

The Cheshire Retail Study then goes on to conclude that the health of Crewe Town Centre has declined in recent years and that it is evident that positive steps have already been taken to attracting new investment in Crewe via the production of the Crewe Town Centre Regeneration Delivery framework for Growth in addition to the Council's acquisition of the Royal Arcade site with the intention of delivering a leisure-led mixed use development.

It should be noted that the council has employed a Retail Planning Consultant White Young Green (WYG) to assess the retail planning implications of this development.

Impact Assessment

An impact assessment is not required as the proposed development is below the threshold of 2,500sq.m as set out within the NPPF and referred to in the CELPS. However it should be noted that EG 5 of the CELPS requires that proposals for out-of-centre retail development to demonstrate that they will have no significant adverse impact upon the vitality and viability of the surrounding town centres. As a result WYG have stated that they consider it is necessary for the applicant to undertake a qualitative impact assessment to assess the impact of the proposal on the vitality and viability of surrounding centres.

Sequential Test

The NPPF advises that where an application fails to satisfy the sequential test then the application should be refused. This is supported by Policy EG5 of the CELPS.

The sequential test is a key element of the NPPF. In support of this the Planning Practice Guidance states that the sequential test should be proportionate and appropriate for the given proposal and should;

- Have due regard to the requirement to demonstrate flexibility. Has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location preference should be given to sites that are well connected to the town centre.
- Is there scope or flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can be accommodate precisely the scale and form of the development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.
- If there are no suitable sequentially preferable locations, the sequential test is passed.

The area of search for a sequentially preferable site has been identified with the Planning and Retail Statement from JLL (the agents for the applicant) and the approach identified has been accepted by WYG. The proposed store will serve a local catchment of up to 25,000 people within a five minute drive of the application site. WYG state that the catchment appropriately reflects the area from which the majority of the trade will be drawn to the proposed foodstore.

JLL assess four alternative sites within and outside Crewe town centre. These are the Royal Arcade (Crewe Town Centre), Lockett Street (out of centre), Rail House (out of centre) and Q110 (out of centre). An addendum report then considered two alternative sites Macon Way and Grand Junction Retail Park.

JLL have identified that Aldi trades from modern food stores with gross areas of between 1,800sqm and 2,400sqm. This application site has been determined that it would accommodate a smaller format 1800sqm store to serve the local catchment (a site of 0.75 hectares developable area is required). The applicant considers that they have applied flexibility to their site search by considering land between 0.5 hectares and 1 hectare and buildings between 1,600sqm and 2,000sqm.

WYG consider that the applicant has applied an appropriate level of flexibility and they also note that the lease on the current Aldi store at the Grand Junction Retail Park is due to expire in 2020 and that the existing store (1,162sq.m gross and 760sqm net) is too small and is not operating efficiently.

The sites were considered as follows;

- Crewe Town Centre – JLL state that the Royal Arcade site is not available as there is no information or certainty that the proposed foodstore development could be delivered within a reasonable timescale. In addition they consider that the site is unsuitable on the basis that it does not offer any units of an appropriate size which are directly connected to a carpark. WYG agree that the Royal Arcade site is not currently available, as any preferable sites would need to be available within a similar time period to the closure of the existing store. WYG do not accept the reasoning put forward by JLL that the Royal Arcade site is unsuitable given the early stage of the development process. WYG conclude that *'Notwithstanding the uncertainties as to whether the Royal Arcade scheme could be made suitable to accommodate the proposed foodstore development, the site is not considered to be available'*

In terms of the Royal Arcade site the comments made by JLL and WYG are noted. However it should be noted that the NPPF paragraph 86 states that *'Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered'*. The NPPF does not contain any definition of a 'reasonable period'. On balance the circumstances of the Royal Arcade (the uncertainty relating to its delivery and whether it could accommodate the proposed store) does mean that it is accepted that this site is not available. However as time moves on and the time frame for the development of the Royal Arcade does become clearer this position could change.

- Grand Junction Retail Park (Edge of Centre) – The former Maplin unit is too small (gross floorspace of 497sqm). The Carpetright unit is not vacant and the Crewe store is not identified as one of the 92 outlets which will close. The existing units at Grand Junction Retail Park do not constitute a sequentially preferable site. JLL discount the area of land in service use to the south of the existing Aldi building and an area of land to the south of the store. The service yard is required as a turning circle for delivery vehicles and is not available. The area to the south is available and has previously had planning permission for an extension to the Aldi store (14/3477N to achieve a sales area of 1,263sqm net). However JLL have discounted this site as the discussions with the landlord in relation to rental levels indicate that they would be 27%

higher than what Aldi can justify. WYG accept that the opportunities to extend the existing store have been explored and that due to the constraints of the site, the existing location is not suitable for an extended store (the opening hours of the retail park are restricted and parking problems during peak periods).

- Lockitt Street (Out of Centre) – Is unavailable as retailers are already signed up to accommodate the floorspace proposed and the redevelopment of the site for mixed use (retail units and residential has) has been refused on highways grounds and on design grounds.
- Rail House (Out of Centre) – WYG accept that the office development is not available for redevelopment, as the office space is only available for let. The site is not available or suitable for a foodstore development.
- Q110, Weston Road (Out of Centre) – This industrial/distribution centre is under construction. It has been discounted as it is being constructed for this specific use and its size (over 10,000sqm) would exceed the proposed requirements. WYG agree that the site does not constitute a sequentially superior site.
- Macon Way (Out of Centre) – The site has been discounted on the basis of its irregular shape which cannot deliver a store, sufficient car parking provision, access point and servicing requirements. This site is owned by CEC and is therefore available. However WYG accept that the site cannot suitably accommodate the development proposal. WYG state that it is *‘evident that JLL have explored a number of options at the site, but none of the options could accommodate the required level of car parking (minimum of 100 spaces) to serve the store. In addition, each of the options would have further constraints in terms of access, servicing and site safety. On this basis, we agree with JLL’s conclusions that although the Macon Way site is available, it could not suitably accommodate the proposed development and therefore does not provide a sequentially preferable site’*. Furthermore the site falls within Policy LPS 1 of the CELPS and the development of the site should include offices or other commercial uses (not retail).

In conclusion in terms of the sequential test WYG state that they are *‘satisfied that it can be demonstrated that there are no sequentially preferable sites which are available and suitable to accommodate the proposed development. WYG is satisfied that the proposal accords within Policy EG 5 of the Local Plan Strategy and paragraphs 86 and 87 of the NPPF’*.

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

As the proposal relates to the relocation of the existing Grand Junction Store the majority of the trade will be diverted from Grand Junction Retail Park rather than from Crewe Town Centre. The Cheshire Retail Study (2016) demonstrates that the existing store is trading well with a turnover being well in excess of its benchmark turnover. On this basis WYG consider that the closure of the Grand Junction Store without the provision of a replacement store would result in a gap in provision for customers located to the east of Crewe.

The existing Aldi store is located at the southern end of the retail park approximately 600m from the primary shopping area. Given the location of the existing store it is considered that linked trips brought by the closure of the existing Aldi store would not have a significant impact upon Crewe

town centre. However it should be noted that this proposed development would not result in any linked trips with Crewe Town Centre.

WYG agree with JLL that the provision of a larger replacement store will deliver qualitative benefits of a better customer shopping experience. This is due to the existing store overtrading. WYG then conclude that the proposed foodstore will not have a significant adverse impact on the vitality and viability of Crewe town centre.

There is a concern that the vacated Aldi unit could be occupied by another retailer possibly leaving the town centre. Any future occupier of the existing unit would not be restricted by the planning permission for the retail park (as there is no bulky goods condition) and there could be a cumulative impact on the town centre and other designated shopping centres. As a result of these concerns the case officer has approached WYG for further comments in relation to this issue and an update will be provided.

Other Economic Benefits

The applicant has stated that the proposed development will protect the 20 existing jobs and create a further 20 jobs at the new store. The supporting planning statement states that the development will create a range of jobs of varying skills including managers, graduates and apprenticeship roles. The supporting planning statement also states that Aldi pays above average wages within the retail sector and that additional employment opportunities will be created for local people during the construction phase of the development.

Employment Allocation

Paragraph 80 of the NPPF (July 2018) notes that planning decisions should help create the conditions where businesses can invest, expand or adapt. Significant weight should be placed on the need to support economic growth and productivity.

The site is identified under allocation E.1.1 (Crewe Business Park and Crewe Green) for '*B1 and any uses required by and associated with Manchester Metropolitan University. For the avoidance of doubt, such uses include classroom/teaching facilities, residential accommodation for students, indoor and outdoor sport and recreational facilities*'. The applicant notes that MMU have announced their intention to leave the Crewe Campus in 2019. However, the allocation of site E.1.1 allocates land for B1 uses in addition to uses required by and associated with MMU.

However Policy EG3 (Existing and Allocated Employment Sites) of the CELPS states that existing employment sites will be protected for employment uses unless;

- i. Premises are causing significant nuisance or environmental problems that could not be mitigated;*
- ii. or ii. The site is no longer suitable or viable for employment use; and*
 - a. There is no potential for modernisation or alternate employment uses;*
 - and b. No other occupiers can be found*

And that;

‘Subject to regular review, allocated employment sites will be protected for employment use in order to maintain an adequate and flexible supply of employment land to attract new and innovative businesses, to enable existing businesses to grow and to create new and retain existing jobs’

The footnote to the Policy clarifies that *‘To demonstrate that no other occupiers can be found, the site should be marketed at a realistic price reflecting its employment status for a period of not less than 2 years. The council will require evidence that a proper marketing exercise has been carried out including a record of all offers and expressions of interest received’.*

The First Draft Site Allocations and Development Policies document, in policy EMP 2 (Employment Allocations), has reviewed and proposed to maintain the allocated employment site in the First Draft Site Allocations and Development Policies Document. Policy EMP2 is supported by an employment allocations review document (2018).

In this case the proposed retail store would be contrary to the employment allocation on this site under Policy E.1.1 and Policy EG3.

In their supporting statement the applicants agent states that the proposed development will not harm business or employment opportunities and that the proposal will protect the 20 existing jobs and create a further 20 jobs at the new store. It is then stated that the site is highly unlikely to come forward or be supported for B1 uses for the following reasons;

- The previous B1 permission has expired and a lack of interest in the site for office development confirms that the site is not attractive to the office market
- The Employment Land Review for the CELPS noted that the development as an office park may be unrealistic with the concentration of offices on Electra Way.
- The agents own office team state that market interest in office space is low with a total of 6 enquiries in the past 2 years

The supporting statement then states that B2 and B8 uses are not compatible with the nearby residential properties which back onto the site at Crewe Road and Narrow Lane to the north and east of the site. The submitted report acknowledges the success of the development at Orion Park which it states range from 7.5m to 12m in height and that a large scale development would not be compatible due to the massing of the sheds and the 24/7 operations which are likely.

The report then states that the site lies adjacent to the Crewe Green Conservation Area and the massing of sheds for B2 and B8 uses are likely to be greater than the proposed development and impact upon the setting of the Conservation Area.

The Skills and Growth Company (SAGC) have stated that *‘The site is in a successful employment area, close to a range of major business parks that have already attracted major businesses requiring office and light industrial premises. It is also in an ideal attractive location on the Crewe Green roundabout and is close to the new Crewe Green Link Road and the M6 motorway’.*

The 2018 Annual Commercial Property Review details transactions completed in 2017 and identifies a significant demand for high-end industrial units outstripping the supply with 35 deals completed in 2017 comprising a total of 56,445sqm (the majority – 15 of these deals were in Crewe). The report indicates a limited supply of high end industrial units and that industrial land

availability for Small and Medium Enterprises is all but non-existent in Crewe as proven by the significant interest experienced at Apollo Park.

The SAGC liaise with over 500 businesses per annum and following discussions with businesses which are intending on expanding and relocating to the area and there is demand for over 30,000sqm of industrial demand in Crewe. This indicates that there is a strong pipeline for demand.

The supporting statement makes reference to office uses only within B1 and no reference is made to research and development of products and processes, light industry appropriate in a residential area which also fall within use class B1. No marketing of this site has been undertaken and the Council's only research information indicates that there is a strong demand for employment land in Crewe.

The applicant's assertions that alternative employment uses would harm residential amenity and the setting of the Conservation Area are not accepted and it is considered that a scheme could be designed and controlled through the use of planning conditions to protect residential amenity and the setting of the Conservation Area. It should also be noted that part of the allocation E.1.1 is currently under construction for alternative employment development to the south of the site and that the development of Apollo Park was also designed in relation to a sensitive heritage asset (it adjoins the Historic Park and Garden at Crewe Hall).

As a result the proposed development is contrary to Policy E.1.1 of the Crewe and Nantwich Replacement Local Plan 2011 and Policy EG3 (Existing and Allocated Employment Sites) of the CELPS.

Highways Implications

A B1 office development of over 6,000sqm, together with over 200 car parking spaces, received planning approval in 2007 and again in 2010. Both approvals have now expired.

The site is located approximately 2km east of the centre of Crewe, 1.5km west of Haslington, and 150m south of Crewe Green roundabout which has recently been extended and includes improved pedestrian crossings. University Way has a 40mph speed limit. There is an existing pedestrian and vehicle access into the site in the form of a ghost island junction.

Sustainable Access

University Way has standard footway on the eastern side and a 3m wide shared footway/cycleway on the western side. The site is approximately 400m from the bus stop on Crewe Road and approximately 450m from the bus stop on Crewe Green Road. These services provide a regular bus service to the wider Crewe and Cheshire East area.

The option of walking, cycling, or using public transport would be available to customers or employees.

Safe and suitable access

The access is already in place and visibility splays of at least 80m in each direction are available and acceptable. The parking provision is to CEC standards including that for disabled parking and for parent/infant parking. The proposed cycle parking provision also accords with CEC requirements.

As part of the Crewe Green roundabout improvements, there will be a new signalised Toucan crossing provided on University Way, replacing the two existing crossings. A pedestrian/cyclist refuge island has also been proposed just north of the access which would provide a safe crossing point within the desire line for pedestrians/cyclists approaching from Beswick Drive direction. The proposed and existing pedestrian and cycling infrastructure from the site to the surrounding area are sufficient.

The existing ghost island junction providing vehicle access into the site is acceptable. In this case 16.5m articulated delivery vehicles would utilise the access. Sufficient turning area will be provided within the site to allow these vehicles to enter and exit in a forward gear.

Network Capacity

The Crewe Green and the Weston Road roundabouts have been modelled using standard traffic modelling software. The Crewe Green roundabout has recently been redeveloped and the traffic impact on this junction is acceptable. The modelling of the Weston Road/University Way roundabout has underestimated the existing junction capacity constraints and the traffic impact of the development. Nevertheless, the impact of the development will not be severe in accordance with national policy and is therefore accepted.

Highways Conclusion

The access has previously been approved for an office development and is also acceptable for this proposal, as is the wider traffic impact. The Head of Strategic Infrastructure has confirmed that there are no objections to this application subject to the imposition of planning conditions.

Amenity

The nearest dwelling to the proposed store would be Stable House to the east of the site with a separation distance of approximately 50m. Given this separation distance it is considered that the proposed development would have minimal impact upon residential amenity in terms of over-bearing impact, loss of light or loss of privacy.

Noise

The applicant has submitted an acoustic report in support of the application. The impact of the noise from the proposed development on existing residential properties has been assessed in accordance with BS4142:2014 methods for rating and assessing industrial and commercial sound. This is an agreed methodology for assessing noise of this nature.

The report indicates that mitigation measures will not be required. A condition will be attached in relation to a construction management plan to mitigate the impacts during the construction phase of the development.

Within the report there is no specific reference to delivery hours and the applicants agent has stated that it is intended that deliveries should be unrestricted. The Councils Environmental Health Officer has stated that if noise complaints are received regarding deliveries then these will be investigated under the provisions of the Environmental Protection Act 1990.

Air Quality

Policy SE12 of the Local Plan states that the Council will seek to ensure all development is located and designed so as not to result in a harmful or cumulative impact upon air quality. This is in accordance with paragraph 181 of the NPPF and the Government's Air Quality Strategy.

Air quality impacts have been considered within the Air Quality Assessment submitted in support of the application. The report considers whether the development will result in increased exposure to airborne pollutants, particularly as a result of additional traffic and changes to traffic flows. The assessment uses ADMS Roads to model NO₂ and PM₁₀ impacts from additional traffic associated with this development and the cumulative impact of committed development within the area.

A number of modelled scenarios have been considered within the assessment. These were:

- Scenario 1: 2016 Verification and Base Year
- Scenario 2: 2021 'Do-minimum'
- Scenario 3: 2021 'Do-something'

The proposed development is considered significant in that it is highly likely to change traffic patterns and congestion in the area.

In the conclusion presented by the report, all of the receptors impacts are considered negligible. However, the consultant also conducted a sensitivity analysis of the impacts, i.e. using the scenario where background levels of nitrogen dioxide do not drop over the coming years as predicted which is considered a worst case scenario. Under this scenario, three of the receptors are predicted to experience a moderate adverse impact. Also there is a need for the Local Planning Authority to consider the cumulative impact of a large number of developments in a particular area. In particular, the impact of transport related emissions on Local Air Quality.

Crewe has three Air Quality Management Areas and as such the cumulative impact of developments in the town is likely to make the situation worse, unless managed.

Whilst the worst case scenario could be a cause for concern, the Environmental Health Officer considers that with appropriate mitigation the impacts of the development could be minimised. The imposition of conditions in relation to electric vehicle infrastructure and a travel plan would mitigate the impact from this development.

Contaminated Land

The geo-environmental report submitted in support of this application identifies that an area of historical development and a former potentially infilled pond were identified on the north west of the site. These areas were investigated during the ground investigation and the results and assessment demonstrated a low potential risk to identified receptors. Gas monitoring has been undertaken at the site, and four rounds of monitoring were done over the course of just over a month. The consultant's assessment identified a Characteristic Situation of 2 for the development,

meaning some gas protection measures are required as part of the development. Subject to the imposition of planning conditions the Councils Environmental Health Officer has raised no objection to the development from a contaminated land point of view.

Design

During the course of this application amendments have been made to the materiality on the front and rear elevations to introduce timber cladding rain screen. It is unfortunate that the green roof (suggested by the Councils Urban Design Officer) is not an option. However the changes to materials on the rear elevation and changes to the landscape scheme to the rear (a mix of deciduous and evergreen) would reduce the impact of the proposal in the context of the relationship to the heritage assets. This will be further improved by setting back the close boarded timber fencing behind the landscaping area. It will be important to secure this area of planting as early as possible and at a level of maturity that establishes the landscape screen as effectively and quickly as possible.

There are still concerns over the impact of the proposed boundary treatment but such issues could be controlled through the imposition of planning conditions.

The detailed design would not appear out of character in this location and the detailed design complies with the NPPF and Policy SE1.

Built Heritage

The site adjoins part of the Crewe Green Conservation Area with the north eastern corner of the site abutting the boundary of the Conservation Area. A character appraisal for the Conservation Area was prepared in 2008. It states at 4.30 that *“Outward views from within the Conservation Area are restricted by relatively high hedging close to the roadside edge and overhanging mature trees. In spite of the relatively wide carriageway of Crewe Road, this planting helps to contain this part of the Conservation Area from adjoining open land. This reinforces the impression that whilst Crewe Green lies within a relatively narrow gap between two built-up areas, it still has the sense of being a separate hamlet located within a rural area.”*

The Vicarage (grade II listed) is approximately 30-40 metres from the site boundary but there are intervening buildings and only modest vegetation. Views to The Vicarage are quite open from within the site.

To an extent the sense of being a separated hamlet has already been weakened by the expansion of the Crewe Business Park and development on the eastern side of University Way but this site is the employment allocation with the closest relationship with the heritage assets at Crewe Green.

This proposal would bring new development closer to the Conservation Area and would impact upon its setting. It would also bring urban development closer to the listed vicarage and its immediate environs, which is presently characterised by an open rural setting (albeit modestly impinged upon by the development of the Crewe Business Park and the employment units further along University Way). This site has a much more direct relationship with the Listed Building and the Crewe Green Conservation Area. Although substantial landscaping is proposed along the eastern boundary which has the most direct relationship to the assets, it will take considerable time to negate the visual impacts of the development. Therefore in the short to medium term at

least the character of the Conservation Area and the Listed Building will be harmed by the proposal due to the impact upon their respective settings. This would represent less than substantial harm (para 193 of the NPPF).

The changes to the materials on the rear elevation of the proposed development and changing the landscaping to the rear to a mix of deciduous and evergreen are, would in principle reduce the impact of the proposal in the context of the relationship to the heritage assets. This will be further improved by setting back the close boarded timber fencing behind the landscaping area. It will be important to secure this area of planting as early as possible and at a level of maturity that establishes the landscape screen as effectively and quickly as possible.

Where there is less than substantial harm to a heritage asset the NPPF paragraph 196 states that *'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'*.

In this case the principle of the retail use on this employment allocation is not accepted. As a result the public benefits of the proposal does not outweigh the less than substantial harm.

Archaeology

One of the letters of representation refers to World War II military tunnels crossing the site. In this case the Councils Archaeologist has stated that no features currently recorded on the Cheshire Historic Environment Record lie within the application area. The record includes known 20th-century military remains so, if these had been previously noted they would show up on the record. The Archaeologist has also taken the opportunity to check the readily available historic mapping and nothing of interest appears on the 19th century Ordnance Survey maps or the tithe map of 1840. Finally the archaeologist has looked at the available aerial photographs and there is nothing on the 1970s or 1940s material to suggest the presence of war-time remains.

As a result the Councils Archaeologist does not consider that there is sufficient information to justify a recommendation for further archaeology work.

Landscape

The application site covers an area of approximately 1.86 hectares. The application site is located to the east by University Way; there are a number of commercial units located along the length of University Way. There is existing green infrastructure around the application site, including trees and hedgerows. To the south of the application site is Valley Brook and its associated boundary vegetation.

The proposals, as shown on the submitted Landscape Plan indicate that the existing boundary vegetation will be enhanced and that additional planting will take place between Valley Brook and the store, as well as more ornamental planting at the entrance area and within the site.

The Councils Landscape Architect has raised no objection to this proposed development.

Trees

There is tree cover around the periphery of the site and on adjacent land. The trees are not subject of TPO protection although some off site vegetation to the north east of the site, overhanging the site boundary lies within the Crewe Green Conservation Area. The woodland associated with the Valley Brook Corridor to the south of the site is a priority habitat.

The submission is supported by an Arboricultural Report. The report identifies 5 individual trees, four tree groups and a hedgerow. The report identifies that the development would result in the loss of one Grade C tree group of self set Goat Willow, Cypress and Hawthorn with a backdrop of large Laurel shrubs (located at the north west corner of the site).

However there may be further arboricultural impacts associated with the erection of proposed new site boundary fencing, with the latter being sited inside the proposed line of tree protection fencing for some lengths.

Impacts may also arise in respect of proposed ground modelling. The submitted sections do not show existing levels and there are no sections provided for the southern part of the site. Section B does not appear to reflect a proposed 2m high spoil mound annotated on other plans. The Councils Tree Officer has requested additional site sections for sections A, B, C and D showing existing and proposed levels together with two representative sections from the service access road towards the southern boundary woodland area. On the latter sections, it would inform assessment if the line of proposed tree protection fencing was shown.

Further should also be consideration is given to the types of boundary fencing, perhaps reducing the scale proposed. For example, along the southern side of the service access road, as an alternative to 1.5m close boarded fence (shown as 2.4 m high on some plans), a more open style fence would allow views to the Valley Brook woodland edge. (In this respect the submitted site photographs are misleading as the access road boundary is shown in open to the south apart from a knee rail near the entrance.

As it currently stands it is considered that there is insufficient information included within this application to assess the impact of the development upon trees specifically in relation to any level changes which are proposed.

Ecology

Statutory Designated Sites

The application site falls into Natural England's SSSI impact risk zones for non-residential developments of over 1ha. In this case Natural England have been consulted and have raised no objection to the proposed development.

Valley Brook Wooded Corridor

The woodland located adjacent to Valley Brook supports a number of indicator species of established woodlands and is considered a Priority Habitat. Habitats of this type are a material consideration for planning.

To avoid a significant loss of biodiversity it must be ensured that the woodland is retained as part of the proposed development. However as noted above the application does not include sufficient information in relation to trees especially in terms of the proposed land level changes.

Great Crested Newts

A small population of Great Crested Newts is present at a pond a short distance from the application site. In the absence of mitigation the 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.

To compensate for the loss of terrestrial habitat the applicant is proposing to enhance the remaining habitats on site and the creation of a new wildlife pond. The risk of amphibians being killed or injured during the construction process would be mitigated through the erection of one way fence which allows animals to leave but not re-enter the footprint of the proposed development. This would be controlled through the imposition of a planning condition.

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places

(a) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment, and provided that there is

(b) no satisfactory alternative and

(c) no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK has implemented the Directive in the Conservation (Natural Habitats etc) Regulations 2010 (as amended) which contain two layers of protection (i) a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and (ii) a licensing system administered by Natural England and supported by criminal sanctions.

Local Plan Policy NE.9 of the C&NLP states that development will not be permitted which would have an adverse impact upon protected species or their habitats. Policy SE 3 of the CELPS states that development which is likely to have a significant impact on a site with legally protected species will not be permitted except where the reasons for or the benefits of the development outweigh the impact of the development.

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. "This may potentially justify a refusal of planning permission."

The NPPF advises LPAs to protect and enhance biodiversity: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) or adequately mitigated, or as a last resort, compensated for, planning permission should be refused.

Natural England's standing advice is that, if a (conditioned) development appears to fail the three tests in the Habitats Directive, then LPAs should consider whether Natural England is likely to grant a licence: if unlikely, then the LPA should refuse permission: if likely, then the LPA can conclude that no impediment to planning permission arises under the Directive and Regulations.

In terms of the Habitat Directive tests;

- The proposed development is not in the interests of public health or public safety. The site is allocated for employment uses (as explained above) and on this basis there are no imperative reasons of overriding public interest.
- There is satisfactory alternative and that would involve the redevelopment of the site for employment purposes in accordance with the policies contained within the Development Plan
- The submitted mitigation means that there would be no detriment to the maintenance of the species population at favourable conservation status in their natural range.

As the first two tests have not been met it is considered that the proposed development would be contrary to Policies NE.9 of the C&NLP and Policy SE 3 of the CELPS.

Common Toad

This priority species is also present on site. The formulation of a satisfactory Great Crested Newt mitigation and compensation strategy would also address potential impacts upon this species.

Other Protected Species

Evidence of other protected species activity was recorded around the site but no setts are present. The layout of the proposed development will maintain much of the existing habitat linkages for other protected species but will result in a localised loss of foraging habitat, which may have a minor impact.

The submitted report includes a suite of acceptable mitigation measures. If planning consent is granted this issue can be controlled through the imposition of a planning condition.

Barn Owl

A Barn Owl survey has been undertaken. No evidence of roosting or nesting Barn Owls was recorded on site. This species is not reasonable likely to be present or affected by the proposed development.

Trees with bat roost potential

A number of trees have been identified as offering potential to support roosting bats. These are identified as Target Notes: TN4, TN5 and TN6 on the submitted Phase One Habitat Plan. The tree at Target Note TN6 is off-site and so would not be affected by the proposed development. Tree TN5 is a large Oak tree which is shown as being retained.

The dead tree at TN4 is not shown for retention on the submitted plans. To avoid any impacts on roosting bats the Councils Ecologist advises that the submitted plans should be amended to

clearly show the retention of this tree. This could be controlled by the imposition of a planning condition.

A notable number of bat species was recorded on site during the bat activity surveys but the level of activity was however only moderate. The areas of highest bat activity will be retained as part of the proposed development. However to avoid any adverse impacts on bats resulting from any lighting associated with the development a condition could be attached requiring any additional lighting to be submitted and agreed.

Provided the above condition is attached and the eastern and southern hedgerows and associated vegetation are retained. The proposed development is not likely to have a significant adverse impact on foraging bats.

Hedgehog

Hedgehogs are a priority species and hence a material consideration. There are records of hedgehogs in the broad locality of the proposed development and so this species may occur on the site of the proposed development. Provided the Valley Brook woodland is retained together with a corridor of semi-natural habitat around the boundary of the site the potential impacts of the proposed development on this species are likely to be low. A condition could be imposed to require the provision of brash/wood piles as Hedgehog habitat.

Otter and Water Vole

No evidence of water vole or otter was recorded during the submitted survey. As a result these protected species do not present a constraint on the proposed development.

Reptile survey

No evidence of reptiles has been recorded on site and this species group is unlikely to be present or affected by the proposed development.

Loss of Biodiversity

The grassland habitats present on site, whilst not of Local Wildlife Site quality, do support a number of species which are indicative of higher quality habitats. Whilst not a significant constraint on development the loss of these habitats would result in a loss of biodiversity. Local Plan policy SE3 requires all developments to deliver an overall gain for biodiversity. The loss of the grassland habitats could be compensated for through the creation of the pond suggested above.

Habitat Creation and Management Plan

If planning consent is granted a condition is required to ensure that a detailed habitat creation management plan is submitted prior to the commencement of development.

Flood Risk/Drainage

The application site is located largely within Flood Zone 1 (low probability of flooding) although the access is located within Flood Zone 2 (medium probability of flooding) and the southern boundary

along the existing watercourse is located within Flood Zone's 2 and 3 (high probability of flooding). The built form of the proposed development (the supermarket, service yard and carpark) would all be located within Flood Zone 1.

In this case the Councils Flood Risk Manager, the Environment Agency and United utilities have all been consulted as part of this application and have raised no objection to the proposed development subject to the imposition on planning conditions. As a result the development is considered to be acceptable in terms of its drainage and flood risk implications.

Energy Efficient Development

Policy SE 9 (Energy Efficient Development) of the CELPS sets out that;

“non-residential development over 1,000 square metres will be expected to secure at least 10 per cent of its predicted energy requirements from decentralised and renewable or low carbon sources, unless the applicant can clearly demonstrate that having regard to the type of development and its design, this is not feasible or viable.”

It is considered reasonable to impose a condition on any planning approval for the submission of energy saving requirements in line with the above.

CONCLUSION

The application site is an employment allocation as part of Policy E.1.1 of the C&NLP. The site has not been marketed for employment uses and the proposed retail development of this site would be contrary to Policy EG 3 of the CELPS.

The proposal is an out-of-centre retail development. There is no requirement for an impact assessment and it is considered that the proposed development would not have a significant adverse impact upon the vitality and viability of Crewe Town Centre or Haslington local centre. It is accepted that there are no sequentially preferable sites and the development complies with Policy EG 5 of the CELPS.

The highways implications of the development are considered to be acceptable and the proposed development would comply with the Councils parking standards. The proposed development would comply with Policies BE.3 of the C&NLP and C02 of the CELPS.

The amenity implications of the proposed development, including noise, air quality and contaminated land are considered to be acceptable and would comply with BE.1, BE.6 and NE.16 of the C&NLP and SE 12 of the CELPS.

The design of the proposed development is considered to be acceptable and there are no archaeology implications associated with this development. As a result the development complies with Policy SE 1 of the CELPS; and BE.16 of the C&NLP. However the proposed development would result in less than substantial harm upon the heritage assets. In this case the principle of the retail use on this employment allocation is not accepted. As a result the public benefits of the proposal does not outweigh the less than substantial harm.

The landscape implications of the proposed development are considered to comply with SE 4 of the CELPS.

There is currently insufficient information in relation to trees and the proposed development is contrary to Policy NE.5 of the C&NLP and Policies SE 3, SE 4 and SE 5 of the CELPS.

The impact upon protected species and habitats is largely acceptable. However as the principle of retail development on the site is not considered to be acceptable, the impact upon Great Crested Newts fails the tests within the Habitat directive and the development is contrary to Policies NE.9 of the C&NLP and SE 3 of the CELPS

The drainage and flood risk implications of the proposed development are considered to be acceptable and the development complies with Policies CE 13 of the CELPS and NE.20 of the C&NLP.

Finally the development of the site would have some economic benefits as identified above and this does attract some weight. However it should be noted that these benefits are likely to be less than those which would be secured if the employment allocation on the site was implemented.

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. The Local Planning Authority considers that insufficient information has been submitted with this application in relation to the impact upon the trees which adjoin the boundaries of the site (including the woodland to the southern boundary) specifically in relation to the proposed changes in levels which are required as part of this development. As a result the proposed development is contrary to Policy NE.5 of the Crewe and Nantwich Replacement Local Plan 2011 and Policies SE 3, SE 4 and SE 5 of the Cheshire East Local Plan Strategy and guidance contained within the NPPF.**
- 3. 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.**

4. 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

