

<b>Planning Reference No:</b>	10/3028N
<b>Application Address:</b>	MMU Crewe Campus, Crewe Green Road, Crewe, CW1 5DU
<b>Proposal:</b>	Application for removal or variation of a condition following grant of planning permission
<b>Applicant:</b>	Manchester Metropolitan University
<b>Application Type:</b>	Full Planning Permission
<b>Grid Reference:</b>	371766 355205
<b>Ward:</b>	Crewe East
<b>Consultation Expiry Date:</b>	7 <sup>th</sup> September 2010
<b>Date for determination:</b>	30 <sup>th</sup> September 2010

## **SUMMARY RECOMMENDATION**

**REFUSE.**

### **MAIN ISSUES**

**Whether the condition is**

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects.

## **REASON FOR REFERRAL**

The application has been referred because the original application was dealt with by committee.

### **1. SITE DESCRIPTION**

The application relates to part of the existing MMU campus on Crewe Green Road in Crewe.

The wider campus consists of a mixture of buildings ranging from the original red brick and slate College buildings dating from 1908 to flat roofed buildings from the 60's and 70's that are generally now in poor condition and not fit for purpose. The best buildings are generally at the front of the campus, creating a quality frontage on entering the site.

The buildings at Crewe campus range from single storey to three storeys in height, with the older buildings generally being three storeys and the newer additions being a collection of single and two storey buildings. The rest of the site is made up of several single storey flat-roofed buildings, mostly to the centre of the main campus, and the taller, older buildings are visible on entering the site and have a strong visual impact, which helps to identify the main entrance.

The most recent development has taken place to the west of the site and includes a new Performing Arts Centre, which opened last year and the Exercise and Sports Science (ESS) Building with associated all-weather sports pitch and car parking, which is nearing completion. The ESS building incorporates a sports hall, changing suites, fitness suites, offices and laboratories.

The campus has an abundantly green setting. It is surrounded on three sides by strips of dense woodland, and the majority of the campus is undeveloped open parkland, groups of trees or sports pitches, with the main cluster of buildings sitting centrally. The front of the site is protected from the busy main road by a layer of mature trees and hedges. A stream runs through the site from the North West corner to the South and continues the other side of the main road. This stream is flanked by a strip of trees and shrubs, beyond which lie the halls of residence to the East and the public open space known as Macon Meadows to the north.

Macon Meadows is traversed by a network of footpaths which link Macon Way to the surrounding residential streets such as Hungerford Terrace, Ludlow Avenue and Mill bridge close. There is also an existing link into the university campus via a gate and footbridge in the north east corner of the campus from Lyncroft Close

## **2. DETAILS OF PROPOSAL**

Planning permission was granted on 8<sup>th</sup> October 2009 for the construction of the ESS building (09/1586N refers). Condition 21 of the permission states that:

*Prior to the first occupation of the development hereby permitted a scheme of improvement works to be carried out to the network of paths on the land to the rear of the site and the Macon Way Puffin Crossing, to make provision for use by cyclists (including details of the extent of the works and the proposed specification) have been submitted to and approved in writing by the Local Planning Authority. The approved improvements shall be carried out prior to the first use of the development hereby permitted.*

The reason given for the condition was “To ensure that the development is accessible by cyclists in accordance with Policy TRAN.5 (Provision for Cyclists) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.”

This application is seeking to remove that condition.

## **3. RELEVANT PLANNING HISTORY**

09/1586N – Erection of an Exercise Sports Science Facility, a Synthetic All Weather Pitch, Associated Car Parking and Access Works –Approved 8<sup>th</sup> October 2009

## **4. PLANNING POLICIES**

### **National Policy**

PPS 1: Delivering Sustainable Development  
PPG 13: Transport

## **Local Plan Policy**

BE.1 (Amenity)

BE.3 (Access and Parking)

TRAN.3: (Pedestrians)

TRAN.5 (Provision for Cyclists)

TRAN.9 (Car Parking)

## **5. OBSERVATIONS OF CONSULTEES**

### **Highways**

There have been considerable negotiations between the developer and the highways authority regarding these works, with an agreed reduction to the quantity earlier this year due to funding issues.

These works are fundamental in reducing associated traffic flows that the MMU will create as a direct result of this development.

Without any improvements to this network of paths the highways authority would have previously recommended refusal on highways safety reasons, and as such will take the same decision regarding this application.

## **6. VIEWS OF THE PARISH / TOWN COUNCIL**

N/A

## **7. OTHER REPRESENTATIONS**

None received at the time of report preparation.

## **8. APPLICANT'S SUPPORTING INFORMATION:**

### **Planning Statement**

In the context of severe Higher Education funding cuts the implementation of this condition is no longer viable in the current financial climate. To that end, this application seeks to remove the condition to allow the University to occupy the building in September 2010 ready for the 2010/11 academic year begins

This application should be considered in the context of the significant wider benefit the University brings to the town of Crewe and wider District both in terms of community access and the wider economic benefits the University brings to the District in Diving Knowledge Capital.

It is considered that the severe funding cuts and the implications this has on the university's business should be treated as a material planning consideration.

### **Letter of representation from the Pro Vice Chancellor**

- The Sports building will be completed on time for late September;
- It will be a bumper recruitment year in Cheshire with the University taking 150 students more than anticipated;
- There are some finishing works to complete;

- There are 2 grounds for requesting that the condition is removed;
  1. Local residents have made clear that they do not wish to have this access throughway for students as the noise late at night / early morning from returning students to the campus is disturbing them;
  2. The economic downturn is hitting the university hard, as it is Cheshire East Council and the expense to reinstate the pathway is prohibitive, especially so given the above;
- The university has completed a £70m programme of investment at Crewe which is remarkable at the current time.

## 9. OFFICER APPRAISAL

Advice on the use of conditions can be found in "Circular 11/95: Use of Conditions in Planning Permission". According to the circular, *"Secretaries of State take the view that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. As a matter of policy, conditions should only be imposed where they satisfy all of the tests described in paragraphs 14-42. In brief, these explain that conditions should be:*

- i. necessary;*
- ii. relevant to planning;*
- iii. relevant to the development to be permitted;*
- iv. enforceable;*
- v. precise; and*
- vi. reasonable in all other respects."*

The Circular continues by stating at para.15 that *"the same principles, of course, must be applied in dealing with applications for the removal of a condition under section 73 or section 73A: a condition should not be retained unless there are sound and clear-cut reasons for doing so."*

Therefore, in order to determine whether the condition serves a useful purpose it is necessary to examine it in the light of these tests.

### Necessary

In considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification. Therefore the starting point is usually the relevant Development Plan policies.

In this case the highways department has indicated that the application would have been refused had the condition not been imposed. Policy BE.3: "access and parking" states that proposals for new development will be permitted provided that a number of criteria are met including, inter alia, the provision of safe pedestrian access.

Policy TRAN.3: states that proposals for new development will only be permitted where appropriate provision is made for pedestrians. The borough council will, where appropriate, seek to improve conditions for pedestrians through the following measures, including, inter alia:

- improving an existing footpath where it is relevant to the development proposed;
- creating pedestrian routes between the town centres, car parks and transport interchanges;

- creating pedestrian routes through housing and employment areas.

Policy TRAN.5: states that major new development will be expected to provide, where appropriate, cycle routes which can form safe links between town centres, employment areas, housing areas, educational establishments and leisure facilities.

It is clear therefore, that local plan policies require the provision of safe pedestrian and cycle access to new development. In addition, in respect of major developments, policies require that, where appropriate, improvements are carried out to existing pedestrian and cycle routes.

The construction of the ESS building is a major development and will permit the relocation of facilities from the Alsager campus, which will result in an increase in the overall numbers of students and staff on site. This in turn will increase traffic generation and parking requirements. The Highway Authority examined the original application and raised no objections to the increased traffic generation subject to a number of mitigation measures, to off-set the impact of the additional travel demand.

One way in which the additional car-borne traffic can be reduced is the provision of easy and convenient pedestrian and cycle access, and therefore one of the mitigation measures recommended by the highway authority was a scheme of improvement works to be carried out to the network of paths on Macon Way to the rear of the site, the provision of a link into the Campus and the improvement of the Macon Way Puffin Crossing.

It is therefore considered that without the condition the proposal would not have complied with the relevant development plan policies, as it would not make adequate provision for pedestrians and cyclists. Furthermore, the lack of such provision would discourage the use of sustainable modes of transport, thereby increasing the amount of car-borne traffic generation from the site which would place an unacceptable additional burden on the local highway network and the off-street and on-street parking resource. This would also be contrary to Local Plan policy.

Where developments are not in accordance with the provisions of the development plan, the Planning Acts dictate that they should be refused, unless material considerations indicate otherwise.

### **Relevant to Planning**

The traffic implications of a development and their mitigation are a well established planning consideration as set out in both local plan policy and national guidance contained in PPG13.

### **Relevant to the development to be permitted**

Given that the condition was imposed as part of a package of mitigation measures to compensate for an increase in travel demand related specifically to the relocation of students from the Alsager campus it is considered that the condition is relevant to the development in question.

## **Enforceable**

It would be easy to determine whether or not the necessary work had been carried out prior to the premises were being occupied by the University and therefore condition is considered to be enforceable.

## **Precise**

The condition is specific and clear in its requirements and it is therefore considered to be in accordance with the precision test.

## **Reasonable in all other respects**

The crux of the University's case is that the condition would place an unacceptable financial burden on the University and that local residents are concerned about noise and disturbance resulting from students using the link. Although the planning statement by the university does not explicitly state which of the 6 tests it considers that the condition does not meet, these arguments do not appear to be related to the necessity, relevance, enforceability or precision of the condition, and therefore fall to be considered under the test of being "reasonable in all other respects".

## ***Financial Hardship***

With regard to the issue of financial hardship, Ministerial Advice is mainly to be found in The Planning System: General Principles, which accompanies PPS1. Para. 21 states that exceptionally the personal circumstances of an occupier, personal hardship, or the difficulties of businesses which are of value to the welfare of the local community, may be material to the consideration of a planning application. However, the guidance warns that such arguments will seldom outweigh more general planning considerations, which would include the well established planning policies relating to traffic generation and provision of access for pedestrians and cyclists quoted above.

Notwithstanding this point the University would have been aware of the cost implications of the condition prior to development commencing. The usual practice is to take into consideration the costs of meeting the requirements of any planning conditions when costing a project, letting a contract and making decisions as to whether to proceed. It is also noted that the University did not lodge an Appeal against the condition, within the 6 months following the issuing of the permission, and it is therefore assumed that it was considered to be reasonable at that time.

Furthermore, the highway authority has been sympathetic to the University's position and has agreed to compromise in terms of the extent of the works that it is requesting. Initially the scheme of works were to include, widening and upgrading of all the paths within the open space to 2 lane, pedestrian and cycle routes and the upgrading of the crossing on Macon Way. That has now been reduced to clearance of the existing paths, where grass has encroached onto the edges over the years, the provision of a gate into the campus at the northwest corner and the provision of 15m of new path to link that gate into the existing network of paths on the open space. Approximately 100m of new path would also be required to link the gate to the existing path network within the campus. This is now considered to be the bare minimum that can be undertaken in order to secure adequate pedestrian and cycle access.

As a percentage of the £70 million which the University has invested in the campus over the last 2 years, this amount is considered to be minimal, particularly as the contractors are already present on site, and given the economies of scale which can be achieved, for example from surfacing the 115sq.m of new paths at the same time as the 7,700 sq.m. of new carparking.

Unlike many viability arguments which have been presented to Committee over the last few months as a result of the economic downturn, where developers have stated that unless the terms of planning permissions are varied the development will not go ahead and the resulting benefits to the community in terms of new development or regeneration will not be realised, the new university building is nearing completion, and will be ready to open this September, regardless of whether or not the new paths are constructed.

As a result, it is not considered that the University's argument about the financial burden of the condition is a sufficient material planning consideration, to outweigh the development plan policies which require the imposition of the condition.

### ***Residential Amenity***

In considering the issue of residential amenity, it is important to note that the network of paths across the open space are already in existence and well used. They are unsecured and can be used at anytime of the day or night. The addition of a new link to the University campus will not change that situation. Similarly, within the campus the path would run from the boundary to the existing path adjacent to the new MUGA pitch and car park. This area will be intensively used, with resulting noise and activity, both during the day and in the evenings, as it is floodlit. It is therefore considered that any additional disturbance from users of the paths would be unnoticeable.

The new length of footpath would be approximately 45m from the boundary of the nearest residential property, which is in Ludlow Avenue to the West of the Site, and approximately 65m from the dwelling itself.

The provision of the new link would reduce the extent to which students travelling by foot or bicycle use other surrounding residential streets such as Stanhope Avenue, Lea Avenue, Holmlea Road, Hungerford Road and Hungerford Terrace, to access the campus, thereby reducing disturbance to those residents.

It is also noted that whilst the university have raised the issue of residential amenity, no evidence has been produced to substantiate their claims and no representations have been received in respect of the planning application.

Nevertheless, if Members were concerned about the use of the new pedestrian and cycle access late at night or early in the morning the terms of the condition could be varied to require it to be secured outside ESS building opening hours.

Furthermore, the provision of improved cycle and pedestrian access will discourage car use, which will reduced the extent of on-street parking within the surrounding areas, which will improve the level of amenity afforded to residents.

Therefore, it is not considered that the residential amenity argument is sufficient to outweigh the requirement for the condition.

## **10. CONCLUSIONS**

For the reasons set out above it is considered that the condition is necessary, and that without it the application would not have complied with the relevant development plan policies and would have been refused. The applicant has not challenged the necessity of the condition. The condition is also considered to be, relevant to planning; relevant to the development to be permitted; enforceable and precise.

Whilst the University's financial position is noted, having regard to the advice in PSP1 relating to financial hardship, and the extent of the works required it is not considered that the condition places an unreasonable burden on the University.

With regard to the amenity arguments, is considered that the impact of the new cycle and pedestrian path would be minimal and it may even result in an improvement in the standard of residential amenity afforded to many of the neighbouring properties. For this reason it is considered to be reasonable in all other respects. The condition therefore complies with all 6 tests as set out in Circular 11/95 and should be retained. Accordingly the application is recommended for refusal.

## **11. RECOMMENDATION**

**REFUSE** for the following reason:

**In the opinion of the Local Planning Authority the condition is necessary, and without it the application would not have complied with the relevant development plan policies BE.3 (Access and Parking), TRAN.3: (Pedestrians), TRAN.5 (Provision for Cyclists) and would have been refused. The condition is also considered to be, relevant to planning; relevant to the development to be permitted; enforceable and precise. Whilst the University's financial position is noted, having regard to the advice in PPS1 in respect of financial hardship, and the extent of the works required it is not considered that the condition places an unreasonable burden on the University. It considered that the amenity impact of the new cycle and pedestrian path would be minimal and for these reasons the condition is considered to be reasonable in all other respects. The condition therefore complies with all 6 tests as set out in Circular 11/95 and should be retained.**



