

Please ask for: Mrs. W. Rowe
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27 July 2022

PLEASE NOTE THE DAY OF THE MEETING IS THURSDAY

Dear Councillor,

Planning Control Committee

3:00pm, Thursday 4 August 2022

Council Chamber, Civic Centre, Cannock

You are invited to attend this meeting for consideration of the matters itemised in the following Agenda.

The meeting will commence at 3.00pm or at the conclusion of the site visit, whichever is the later. Members are requested to note that the following site visit has been arranged: -

Application Number	Application Location and Description	Start Time
CH/22/0177	The Bridge Inn, 387 Cannock Road, Chadsmoor, Cannock, Staffordshire, WS11 5TD Demolition of existing structures, change of use of Public House (sui Generis) to form a (Class E) drive thru coffee shop.	2.15pm

Members wishing to attend the site visit are requested to meet at The Bridge Inn, 387 Cannock Road, Chadsmoor, Cannock, Staffs, WS11 5TD at 2.15pm as indicated on the enclosed plan.

Please note - there will be short 30-minute training session for Members of the Planning Control Committee in the Council Chamber at the conclusion of the meeting.

Yours sincerely,



Tim Clegg
Chief Executive

To: Councillors

Thompson, S.L (Chair)
Beach, A. (Vice-Chair)
Cartwright, S.M. Kruskonjic, P.
Crabtree, S.K. Muckley, A.M.
Fisher, P.A. Pearson, A.R.
Fitzgerald, A.A. Smith, C.D.
Fletcher, J. Thornley, S.J.
Hoare, M.W.A. Wilson, L.J.
Jones, V.

Agenda

Part 1

- 1. Apologies**
- 2. Declarations of Interests of Members in Contracts and Other Matters and Restriction on Voting by Members**

To declare any personal, pecuniary, or disclosable pecuniary interests in accordance with the Code of Conduct and any possible contraventions under Section 106 of the Local Government Finance Act 1992.

- 3. Disclosure of Details of Lobbying of Members**

- 4. Minutes**

To approve the Minutes of the meeting held on 6 July 2022 (enclosed).

- 5. Members' Requests for Site Visits**

- 6. Report of the Interim Development Control Manager**

Members wishing to obtain information on applications for planning approval prior to the commencement of the meeting are asked to contact the Interim Development Control Manager.

Details of planning applications can be accessed on the Council's website by visiting www.cannockchasedc.gov.uk/residents/planning and then clicking on the square marked 'Planning Applications'.

Site Visit Application

Application Number	Application Location and Description	Item Number
1. CH/22/0177	<i>The Bridge Inn, 387, Cannock Road, Chadsmoor, Cannock, Staffordshire, WS11 5TD</i>	6.1 - 6.25
	Demolition of existing structures, change of use of Public House (Sui Generis) to form a (Class E) drive thru coffee shop (260 sq m gross) with single storey front and side extension, rear drive thru pod and canopy, enclosed bin store and plant area, drive thru lane, car and cycle parking and associated works.	

Planning Application

Application Number	Application Location and Description	Item Number
2. CH/22/0078	<i>1-7, Park Road, Cannock, Staffordshire, WS11 1JN</i>	6.26 - 6.49
	Installation of external air conditioning units (re-submission of CH/21/0407).	

Cannock Chase Council
Minutes of the Meeting of the
Planning Control Committee
Held on Wednesday 6 July 2022 at 3.00pm
in the Council Chamber, Civic Centre, Cannock

Part 1

Present:

Councillors

Thompson, S.L. (Chair)

Beach, A. (Vice-Chair)

Buttery, M.S. (<i>substitute</i>)	Kruskonjic, P.
Cartwright, S.M.	Muckley, A.M.
Crabtree, S.	Pearson, A.D.
Fisher, P.A.	Smith, C.D.
Fitzgerald, A.A.	Thornley, S.J.
Fletcher, J.	Wilson, L.J.
Hoare, M.W.A.	

8. Apologies

An apology for absence was received from Councillor V. Jones. Councillor Buttery was in attendance as substitute for Councillor V. Jones.

9. Declarations of Interests of Members in Contracts and Other Matters and Restriction on Voting by Members

Councillor Crabtree declared he had predetermined application CH/20/218 and would not vote on the application.

10. Disclosure of Details of Lobbying by Members

Councillors Thompson, Cartwright, Fisher, Fitzgerald, Fletcher, Hoare, Kruskonjic, Muckley, Pearson, Smith, Thornley, and Wilson all declared they had been lobbied in respect of applications CH/20/218 and CH/20/306.

11. Minutes

Resolved:

That the Minutes of the meeting held on 8 June 2022 be approved as a correct record.

12. Members Requests for Site Visits

Councillor Pearson requested site visits be undertaken for the following applications -

- CH/22/0228 - 10 Avril Drive, Rugeley, WS15 2RR: 'Change of use from Public Land to Domestic Private Land'.
- CH/22/0229 - 314 Green Heath Road, Hednesford, WS12 4HB: 'Change of Use of land at side of property from public to private'.

Planning reasons for requesting the site visits would be clarified with Councillor Pearson outside of the meeting.

13. Application CH/22/0121, 10 Dartmouth Road, Cannock, WS11 1ER - Partial demolition of existing structure and the construction of a new single storey rear extension

Consideration was given to the report of the Interim Development Control Manager (Item 6.1 – 6.14) *(presented by the Senior Planner)*.

The Senior Planner provided a presentation to the Committee outlining the application showing photographs and plans of the proposals.

Resolved:

That the application be approved subject to the conditions contained in the report for the reasons outlined therein.

14. Application CH/20/218, Timber Yard, Power Station Road, Rugeley, WS15 2WD - Demolition of existing buildings at the site of a Timber Yard and the erection of a Class E Food Retail Store, with associated access, car parking, servicing, and landscaping

Consideration was given to the report of the Interim Development Control Manager (Item 6.15 6.132) *(presented by the Interim Planning Services Manager and the Planning Officer)*.

The Committee received an update that had been circulated in advance of the meeting (attached as Annex A to these Minutes). A further letter of representation had also been received and circulated to Members in advance of the meeting.

The Planning Officer also provided the following introduction:

General Introduction

“Both the Lidl and Aldi applications on the meeting agenda today were previously presented to Planning Control Committee on 13th January 2021 when it was resolved to approve both applications subject to completion of a S106 securing monies for the implementation of a travel plan at the sites and in the case of the Lidl proposals, the safeguarding of an area of land within the site to assist in providing quality access to Rugeley Power Station redevelopment. Both applications proposed retail food stores in the vicinity of Power Station Road in Rugeley.

Following on from the issue of the planning permissions, on 18 January 2021 the Council received a pre-action protocol letter from Tesco challenging the grant of planning permission and threatening judicial review. Judicial Review proceedings were issued, and

the Council settled the Judicial Review by Consent Order in April 2021 and conceded that it had not considered the cumulative impacts of permitting the two food stores when reaching its decision.

The Judicial Review ordered the remission back to Planning Committee for redetermination. Additional work is submitted as part of both applications to examine cumulative impacts alongside other new information as set out in the Officer reports. The applications have been readvertised in line with the Development Management Procedure Order, the Council has sought its own detailed advice from a Retail Planning Consultant and both applications are now back before Planning Committee for determination.

Application CH/20/218 - Aldi

The application seeks full planning permission for the demolition of existing buildings at the site of an existing Timber Yard and the erection of a Class E Food Retail Store, with access, car parking, servicing, and landscaping. The application proposes the closure of the existing Aldi within Rugeley with this to be secured by legal agreement, so the application would effectively deliver a relocated and enlarged Aldi store in Rugeley with an additional 565sqm of tradeable floor area.

1. The site is located not far from the Tesco supermarket in Rugeley. On the location plan shown the existing buildings can be observed. These are in relatively poor condition and do not present well onto Power Station Road in terms of their existing orientation.
2. The new proposed food store would be positioned towards the rear of the site with 115 car parking spaces to the front closer to the road. Main access will be taken from an arm off the existing roundabout with a secondary site access provided into the new car parking area.
3. There will be a large expansive open space internally that will function as the main sales area, a loading area to the side of the store and staff and office area provided at the opposite end of the store.
4. The building will have a mono pitched type roof falling to the rear.
5. The elevations to the building will be contemporary in appearance using extensive glazing, modern materials like metallic silver and anthracite cladding, powder coated aluminium and similar.

Officers recommend approval of the application subject to a S106 agreement securing the closure of the existing Aldi store and travel plan contributions. In addition, Members should note the content of the update report relating to this item. Among other items relating to wording within the Officer report, two slight wording changes to conditions 27 and 30 are proposed for precision and completeness. Approval is therefore recommended subject to the comments and updated condition as referenced in the Update Report papers.”

The Planning Officer then provided a presentation to the Committee outlining the application showing photographs and plans of the proposals.

Prior to consideration of the application, representations were made by Robin Williams who was speaking in support of the application.

Resolved:

- (A) That the applicant/owner be requested to enter into a planning obligation(s) under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure monies for the monitoring of the implementation of the travel plan and the imposition of a restriction relating to prohibiting retail sales on the site currently occupied by Aldi in Rugeley.
- (B) That, on completion of the Section 106 planning obligation(s), the application be approved subject to the conditions contained in the report for the reason outlined therein and subject to the comments and updated condition as referenced in the Update Report papers for the reasons stated therein.

(Councillor Crabtree did not vote on this item having predetermined the application.)

15. Application CH/20/306, Land at Power Station Road, Rugeley - Removal of existing hardstanding and erection of a retail foodstore with associated car parking, access, landscaping, and associated engineering works

Consideration was given to the report of the Interim Development Control Manager (Item 6.133 6.243) *(presented by the Interim Planning Services Manager and the Planning Officer)*.

The Committee received an update that had been circulated in advance of the meeting (attached as Annex A to these Minutes). A further letter of representation had also been received and circulated to Members in advance of the meeting.

The Planning Officer also provided the following introduction:

Application CH/20/306 - Lidl

“This application seeks full planning permission for the removal of existing hardstanding and erection of a retail food store with associated car parking, access, landscaping, and associated engineering works. The store would have a building area of 2,279 sqm gross external area (GEA) with a net sales area of 1,410 sqm. Included as part of the application is the proposed safeguarding of a portion of land adjacent to the proposed route of the pedestrian/cycle access into the redeveloped former power station site and the inclusion of a travel plan payment.

1. The site is located at the junction of Power Station Road and the A51. The site is in close proximity to Towers Business Park and the relatively modern developments adjacent including a fast-food drive through, builders merchants and public house. The exists next to the redundant railway spur that previously served to deliver coal into the former Rugeley Power Station.
2. The new proposed food store would be positioned to the east of the site with access taken from Power Station Road. A total of 160 parking spaces are proposed in the site layout. In the plan shown towards the northwest of the application site is a red shaded area. This is the proposed land to be safeguarded to widen the pedestrian

and cycleway access along the old railway connection into the Rugeley Power Station site. This will benefit the visibility and width of the route to the new 2300 site, linking with Love Lane and the canal corridor to the west.

3. The food store has a relatively common format. The entrance is to the right-hand side of the image shown providing access into the main food sales area. Additional refrigerated storage and loading will be provided in the area to the left of the image.
4. The roof will have a monopitch design falling to the rear of the building. As can be seen in the slide, photovoltaic solar panels are proposed across a large amount of the roof area.
5. The elevations to the building will be contemporary in appearance using modern glazing and materials including Silver and White aluminium cladding.

Officers recommend approval of the application subject to a S106 agreement securing the transfer of the Freehold interest in the safeguarded land to the Council and the payment of travel plan contributions. In addition, Members will note the content of the Officer Update Report. Amongst other items, a slight change is proposed to condition 25 for precision and completeness. Approval is therefore recommended subject to the comments and updated condition as referenced in the Update Report papers”.

The Planning Officer then provided a presentation to the Committee outlining the application showing photographs and plans of the proposals.

Prior to consideration of the application, representations were made by Laura Beech and Robin Canning who were speaking in support of the application and shared the ten minutes between them.

Resolved:

- (A) That the application be approved subject to the attached conditions and the completion of an Agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) to provide for:
 - (i) the transfer of the freehold interest in the safeguarded land; and
 - (ii) payment of the Travel Plan Sum of £ 7000 for the monitoring and review of the Travel Plan.
- (B) That, on completion of the Agreement, the application be approved subject to the conditions contained in the report for the reasons outlined therein and subject to the comments and updated condition as referenced in the Update Report papers for the reasons stated therein.

The meeting closed at 4:19pm

Chairman

Planning Control Committee

6 July 2022

Officer Update Sheet

Application No: CH/20/218
Received: 29-Jun-2020
Location: Timber Yard, Power Station Road, Rugeley, WS15 2WD
Parish: Rugeley
Ward: Western Springs Ward
Description: Demolition of existing buildings at the site of a Timber Yard and the erection of a Class E Food Retail Store, with associated access, car parking, servicing, and landscaping
Application Type: Full Planning Application

Report wording changes

Further to the issuing of the Planning Committee report relating to the above site, Officers have noting minor drafting errors that require correction. These include:

On Item 6.84 within the agenda pack, at Para 10.1 a) point (iii) should have read 'Regeneration of Rugeley Town Centre'. This header would then be consistent with the titling in the remainder of the report.

On Item 6.85 within the agenda pack, Para 12.1 of the report should have read:

The first stage in the determination of the application is to determine whether the development is in accordance with the development plan which includes local planning policies and whether the application also aligns with national policy in the form of the NPPF.

At Item 6.108 (Para 15.7) and at Item 6.113 (Para 18.3) similar text relating to Policy CP11 is included in the report. Upon reviewing this text Officers consider additional clarity would be achieved by changes to the wording as follows:

At the same time the proposals would complement [comply with] the ambition within CP11 to promote [a sequential approach to the regeneration of the town centre, provide for new choice in convenience shopping,] the development of Rugeley town centre for retail, align with the ambition to [convey] improve[ments] to the attractiveness of the town centre and [seek to allow developments that] would complement or build upon the positive environmental enhancements and linkages to the Canal Corridor carried out as part of the Tesco development, and more latterly County Council on behalf of the Canal and Rivers Trust.

On Item 6.111 within the agenda pack, Para 17.2 the wording 'As relevant to Para' at the end of the paragraph should be deleted.

On Item 6.112 within the agenda pack, Para 17.4 contains an incorrect reference to Policy RTC1 which should be deleted for clarity.

Additional Representation

Officers have received a further representation from the representatives of Tesco Stores Ltd, Martin Robeson Planning Practice (MRRP). The representation in full is Appended to this report. Officers are aware that a summary email from MRRP was also sent to Planning Committee Members by email directly. The representation in summary raises the following points:

Concerns in relation to the manner which the availability and suitability of the sequential test sites have been assessed

The lack of adequate assessment of the impact on planned public and private investment that will likely arise if the application(s) are approved

The significance of the emerging Local Plan. That it would be premature to grant the application because a decision on this application would predetermine decisions on the town centre regeneration policy content in the emerging Local Plan

In relation to the availability of sites, the Officer Report at Section 13 (Item 6.86) onwards discusses the applicant's submissions, objections from Tesco and others and then specific analysis is reported by the Council's retail consultants Alder King. Of the available sites known, Alder King present their own analysis of the sites and reasoning as to whether or not these can be discounted in sequential test terms (Para 13.7 of the main report onwards). In particular, criticism of 'what a reasonable time period is' is made in the recent MRRP objection. This is addressed in the May 2022 advice from Alder King and discussed at Para 13.16 and Item 6.97 of the Officer report pack. Officers will avoid repeating these points here.

In relation to suitability, MRRP highlight the Rugeley Market Hall / Bus Station (RTC6) and the Land at Wellington Drive (RTC7) sites and suggest the suitability of these sites should not be questioned owing to allocation by the Council in the Local Plan. Officers would comment it is not one aspect of these sites that leads to them to be considered as unsuitable, it is a combination of factors. These include the size, configuration, land ownership position, extent of active uses/ need for vacant possession, townscape and heritage considerations, servicing needs, need for replacement town centre car parking provision or bus facilities. This is discussed at Item 6.95 in the Officer report pack.

In relation to impacts on planned investment, *the PPG guidance (Paragraph: 015 Reference ID: 2b-015-20190722) states that 'Where wider town centre developments or investments are in progress, it will also be appropriate to assess the impact of relevant applications on that investment. Key considerations will include:*

- *the policy status of the investment (i.e., whether it is outlined in the Development Plan)*
- *the progress made towards securing the investment (for example if contracts are established)*
- *the extent to which an application is likely to undermine planned developments or investments based on the effects on current/forecast turnovers, operator demand and investor confidence'*

In considering planned investment impacts or impacts on Allocated sites in the extant Local Plan, it is important to note there has been no progress with the main sites cited by MRRP. There is no land assembly, no developer for the site, the scheme is not being progressed through the planning process, we are not aware of any contracts or other interest from respective landowners since the S106 could not be signed in the early 2000's because all landowners would not participate. Whilst investment does not need to be at a very advanced stage to be relevant, it is reasonable to expect some progress since this time. Therefore, despite being allocated, and linked to the above point about reasonable time frames, Officers in conjunction with Alder King assess that in the period of testing impact in this case (18 months or 3-4 years maximum) there is no indication development of the allocated sites (aka 'planned investment') is likely to come forward – and hence there is no relevant 'investment' to be impacted upon.

In relation to prematurity, Para 50 of the NPPF is clear that refusal of planning permission on the ground of prematurity will seldom be justified where a draft plan has yet to be submitted for examination – as is the case for the Council's Emerging Local Plan. The Council's Planning Policy Team is working to progress to Regulation 19 consultation in Autumn 2022. The draft local plan is anticipated for submission Spring 2023, but other factors could mean further adjustments to the timetable.

Accordingly, whilst noting the content of the submissions from MRRP, Officers consider the majority of the points are already addressed in relevant paragraphs of the of the Officer report and would not otherwise result in changes to the Officer recommendation for the reasons stated.

Amended conditions

In relation to recommended condition 27, Officers consider a change to the wording is necessary to cover off future potential changes under the Use Classes Order. The revised condition 27 as recommended would therefore read:

27. Notwithstanding the provisions of the Town and Country Planning (General Development) (England) Order 2015 (as amended) [and/or the Town and Country Planning (Use Classes) Order 1987 (as amended)] or any Orders revoking or re-enacting or amending those Orders with or without modification), the Class E(a) (retail) floorspace hereby permitted shall be used primarily for the sale of convenience goods with a maximum of 282sq m of the net sales are devoted to comparison goods. There will be no sale of tobacco and related products. In addition, no provision of the following in-store facilities/services:

Fresh meat counter

Fresh fish counter

Delicatessen counter

Hot food counter

Pharmacy

Dry cleaning service

Photography service

Post office counter

Café/restaurant

Finally for consistency Officers seek to amend the wording of recommended condition 30 on the basis that the condition should be consistent with conditions in the Lidl Planning Committee Report. The strikethrough text as shown should be omitted from the condition. The remaining conditions and reasons are unchanged:

30. The development hereby approved shall only be used as a Class E(a) retail food store and shall be restricted to 'limited product line deep discount retailing' and shall be used for no other purpose falling within Class E of the Town and County Planning (Use Classes) (Amendment) Regulations 2020 (or any order revoking or re-enacting or amending that order with or without modification). 'Limited product line deep discount retailing' shall be taken to mean the sale of no more than 4,500 product lines, except for the Christmas period (November – December Annually) where up to 5,000 products lines can be sold.

Planning Control Committee

6 July 2022

Officer Update Sheet

Application No: CH/20/306

Received: 03-Sep-2020

Location: Land at Power Station Road, Rugeley

Parish: Brereton and Ravenhill

Ward: Brereton and Ravenhill Ward

Description: Removal of existing hardstanding and erection of a retail foodstore with associated car parking, access, landscaping, and associated engineering works

Application Type: Full Planning Application Major

1. REPORT WORDING CHANGES

- 1.1 Further to the issuing of the Planning Committee report relating to the above site, Officers have noting minor drafting errors that require correction. These include:
- 1.2 At Item 6.177 within the agenda pack, a letter dated 17th February 2022 from Martin Robeson Planning Practice representing Tesco is not referenced in the responses received. The planning considerations raised in the letter are addressed within the Officer's report as drafted, and represent the same considerations raised as part of the Aldi proposals also on this agenda. However, for completeness Officers provide a text summary of this representation at Appendix 1 of this update report.
- 1.3 On Item 6.143 within the agenda pack, Para 2.5 of the report, the reference to red edge land at Local Plan Fig. 5 is incorrect and should be deleted:
- In the context of consideration against Policy RTC1 and the accompanying diagram, Officers recognise the environmental improvements to the prominent site that would result as well as the benefits to the setting of the wider regeneration area that the proposals would bring through the removal of the existing vacant, scruffy, and underutilised land. ~~In addition, it is noted there is overlap between the red area in Local Plan 'Fig. 5' and the site in question.~~
- 1.4 On Item 6.190 within the agenda pack, Para 12.1 of the report should have read:
- The first stage in the determination of the application is to determine whether the development is in accordance with the development plan which includes local planning policies and whether the application also aligns with national policy in the form of the NPPF.

- 1.5 At Item 6.216 (Para 15.7) and at Item 6.113 (Para 18.3) similar text relating to Policy CP11 is included in the report. Upon reviewing this text Officers consider additional clarity would be achieved by changes to the wording as follows:

At the same time the proposals would ~~complement~~ [comply with] the ambition within CP11 to promote [a sequential approach to the regeneration of the town centre, provide for new choice in convenience shopping,] ~~the development of Rugeley town centre for retail, align with the ambition to~~ [convey] improve[ments] to the attractiveness of the town centre and [seek to allow developments that] would complement or build upon the positive environmental enhancements and linkages to the Canal Corridor carried out as part of the Tesco development, and more latterly County Council on behalf of the Canal and Rivers Trust.

- 1.6 On Item 6.219 within the agenda pack, Para 17.5 contains an incorrect reference to Policy RTC1 which should be deleted for clarity.

2. ADDITIONAL REPRESENTATION

Officers have received a further representation from the representatives of Tesco Stores Ltd, Martin Robeson Planning Practice (MRRP). The representation in full is Appended to this report. Officers are aware that a summary email from MRRP was also sent to Planning Committee Members by email directly. The representation in summary raises the following points:

Concerns in relation to the manner which the availability and suitability of the sequential test sites have been assessed

The lack of adequate assessment of the impact on planned public and private investment that will likely arise if the application(s) are approved

The significance of the emerging Local Plan. That it would be premature to grant the application because a decision on this application would predetermine decisions on the town centre regeneration policy content in the emerging Local Plan

In relation to the availability of sites, the Officer Report at Section 13 (Item 6.191) onwards discusses the applicant's submissions, objections from Tesco Stores and others and then specific analysis is reported by the Council's retail consultants Alder King. Of the available sites known, Alder King present their analysis of the sites and reasoning as to whether or not these can be discounted in sequential test terms (Para 13.7 of the main report onwards (Item 6.200)). In particular criticism of 'what a reasonable time period is' is made in the recent MRRP objection. This is addressed in the May 2022 advice from Alder King and discussed at Para 13.23 and Item 6.203 of the Officer report pack. Officers will avoid repeating these points here.

In relation to suitability, MRRP highlight the Rugeley Market Hall / Bus Station (RTC6) and the Land at Wellington Drive (RTC7) sites and suggest the suitability of these sites should not be questioned owing to allocation by the Council in the Local Plan. Officers would comment it is not one aspect of these sites that leads to them to be considered as unsuitable, it is a combination of factors. These include the size, configuration, land ownership position, extent of active uses/ need for vacant possession, townscape and heritage consideration, servicing needs,

need for replacement town centre car parking provision or bus facilities. This is discussed at Item 6.95 in the Officer report pack.

In relation to impacts on planned investment, the PPG guidance (Paragraph: 015 Reference ID: 2b-015-20190722) states that 'Where wider town centre developments or investments are in progress, it will also be appropriate to assess the impact of relevant applications on that investment. Key considerations will include:

- *the policy status of the investment (i.e., whether it is outlined in the Development Plan)*
- *the progress made towards securing the investment (for example if contracts are established)*
- *the extent to which an application is likely to undermine planned developments or investments based on the effects on current/forecast turnovers, operator demand and investor confidence'*

In considering planned investment impacts or impacts on Allocated sites in the extant Local Plan, it is important to note there has been no progress with the main sites cited by MRRP. There is no land assembly, no developer for the site, the scheme is not being progressed through the planning process, we are not aware of any contracts or other interest from respective landowners since the S106 could not be signed in the early 2000's because all landowners would not participate. Whilst investment does not need to be at a very advanced stage to be relevant, it is reasonable to expect some progress since this time. Therefore, despite being allocated, and linked to the above point about reasonable time frames, Officers in conjunction with Alder King assess that in the period of testing impact in this case (18 months or 3-4 years maximum) there is no indication development of the allocated sites (aka 'planned investment') is likely to come forward – and hence there is no relevant 'investment' to be impacted upon.

In relation to prematurity, Para 50 of the NPPF is clear that refusal of planning permission on the ground of prematurity will seldom be justified where a draft plan has yet to be submitted for examination – as is the case for the Council's Emerging Local Plan. The Council's Planning Policy Team is working to progress to Regulation 19 consultation in Autumn 2022. The draft local plan is anticipated for submission Spring 2023, but other factors could mean further adjustments to the timetable.

Accordingly, whilst noting the content of the submissions from MRRP, Officers consider the majority of the points are already addressed in relevant paragraphs of the of the Officer report and would not otherwise result in changes to the Officer recommendation for the reasons stated.

3. CHANGES TO CONDITIONS

- 3.1 In relation to recommended condition 25, Officers consider a change to the wording is necessary to cover off future potential changes under the Use Classes Order. The revised condition 25 as recommended would therefore read:

25. Notwithstanding the provisions of the Town and Country Planning (General Development) (England) Order 2015 (as amended) [and/or the Town and Country Planning (Use Classes) Order 1987 (as amended)] or any Orders revoking or re-enacting or amending those Orders with or without modification), the Class E(a) (retail) floorspace hereby permitted shall be used primarily for the sale of convenience goods with a maximum of 282sq m of the net sales are devoted to comparison goods. There will be no sale of tobacco and related products. In addition, no provision of the following in-store facilities/services:

- (i) Fresh meat counter
- (ii) Fresh fish counter
- (iii) Delicatessen counter
- (iv) Hot food counter
- (v) Pharmacy
- (vi) Dry cleaning service
- (vii) Photography service
- (viii) Post office counter
- (ix) Café/restaurant

APPENDIX 1:

**EXTRACT FROM LETTER DATED 17TH FEBRUARY 2022 FROM MARTIN ROBESON
PLANNING PRACTICE REPRESENTING TESCO**

3.2 Further Letter of Representation dated 17 February 2022

On behalf of our client Tesco Stores Limited we submit further representations of objection to the above planning application. Tesco opened a town centre store in Rugeley in 2013 and as such have historically invested in the town and continue to invest today. Their store plays an important role in supporting the vitality and viability of the wider town centre.

Through opening this facility and providing a series of contributions towards town centre regeneration initiatives, Tesco also continue to support the delivery of the Rugeley Town Centre Area Action Plan.

We previously made objections to the application on 9th December 2020 and 12th January 2021 which are appended to this letter and remain valid. This representation updates our previous comments upon considering the content of the applicant's July 2021 Planning Statement Addendum and advice provided by the Council's retail assessor, Alder King. We comment on the matters arising, as follows:

The need to have regard to worst-case cumulative retail impacts

Our previous objections raised the need for cumulative assessment of both proposals together bearing in mind the exceedance over the NPPF threshold. The Council consented to judgement on this matter. The respective applicants' consultants have now provided their individual assessments of cumulative impact. Unfortunately, they do not provide a consensus as to what this impact would be on the town centre. Surprisingly that cumulative impact on town centre convenience goods trade ranges from -11.8% (on behalf of Aldi) to -6.7% (on behalf of Lidl). It appears that the Council's consultant has suggested that the level of impact on the town centre will be around the "mid-point" of those assessments (see paragraph 4.10 of their latest December 2021 advice). However in exercising its judgement, the local planning authority ought to have regard to the worst case likelihood of cumulative impact on the town centre i.e. -11.8%. Bearing in mind the town centre is only displaying "reasonably good levels of vitality and viability" (as reported in the Council's 2021 Retail Study) and that Aldi's updated health check has more recently observed a worsening town centre vacancy rate, this level of trade diversion is likely representative of a 'significant adverse impact' which is the level at which planning permission should be refused.

Inappropriate rejection of a sequentially preferable town centre opportunity Paragraph 87 of the 2021 NPPF requires 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" (our emphasis). Whilst the term 'reasonable period' is not explicitly defined in the Framework, the NPPG offers useful guidance that "When considering what a reasonable period is for this purpose, the scale and complexity of the proposed scheme and of potentially suitable town or edge of centre sites should be taken into account" (our emphasis).

However, in the above Framework context the applicant fails to appropriately assess whether alternative sites, could, with appropriate intervention, be 'expected to become available within a reasonable period'. In particular, we maintain that Site RTC7 in the Rugeley Town Centre Area Action Plan: ('Land at Wellington Drive') has not been robustly assessed for such 'availability'. The site is inappropriately dismissed by Aldi's agent (Turleys) as 'unavailable' on the basis that "the prospects of successful CPO of the land and property required to deliver any scheme at this site currently are vanishingly small, particularly if it involves acquisition of land and property outside the allocation site" (paragraph 7.44). The site, however, is already of a suitable size to accommodate the broad type of development proposed, thus there would be no obvious need to acquire additional land beyond the allocated site boundary (despite the agents attempts to assert this through providing an inappropriate overlay of the exact same size and configuration of store as that proposed superimposed onto the site's area). Furthermore, the Inspector's Report to the Plan's examination (paragraph 94) notes the scope for effective land assembly through the "possible use of CPO powers for specific sites, if necessary" that is "confirmed" in the RTCAAP policies. The RTCAAP recognises this in connection with the RTC7 site and when stated within a statutory development plan this provides a clear message of the site's likely availability. Turleys' assertion of the alleged "vanishingly small" prospects of CPO are without justification or evidential basis. In any event, it is necessary to consider sites that are expected to become available within a 'reasonable period' in order to achieve the development of sustainable town centre sites to place them at the 'heart of local communities' (see NPPF chapter 2). Moreover, the RTC7 site is allocated in the RTCAAP for retail use. In particular, its suitability to provide for an "additional town centre foodstore" had been noted by officers in their responses to the Rugeley TCAAP Preferred Options

3.3 Consultation

Failure to consider edge of centre and well connected and accessible out of centre potential opportunities . Despite the applicant's agent's best attempts to assert otherwise, the application site for the proposed Aldi foodstore occupies an out of centre location. The site's out of centre policy status is noted by the Council's retail advisor and by Lidl's agent in respect of their out of centre proposal at Power Station Road (see paragraphs 1.8 and 1.9 of Alder King's October 2021 advice). This has implications for sequential testing since Turleys' (incorrect) assertion that the proposal is edge of centre, leads them to have only considered in-centre opportunities to accommodate their proposal (see paragraph 7.1 of their July 2021 Statement). However in line with the sequential approach, other edge and out of centre of centre opportunities need to be reviewed for their 'suitability' and 'availability'.

Notwithstanding that, even if town centre or edge of centre sites are considered 'unsuitable' or 'unavailable', the NPPF requires that preference will then be given to out of centre sites that are 'accessible' and 'well connected' to the town centre (paragraph 88). Not all out of centre sites are equal and decision-makers are entitled to consider the question of 'sequential superiority' on the basis that an alternative site is considered to be a 'potential opportunity' (this approach taken by an Inspector was endorsed in the leading case of *Telford and Wrekin v SOS* [2014] EWCA1).

Failure to consider the Lidl site as an out of centre opportunity The site at Power Station Road subject to an application by Lidl is a 'potential opportunity' to accommodate the type of development proposed, and yet has not been considered in the sequential assessment undertaken on behalf of Aldi. If, it is considered that the Lidl site is 'sequentially superior', then it is a requirement of the sequential test that the Aldi and Lidl sites must come forward

in the sequentially preferred order. Indeed, this temporal sequence to the sequential approach is fundamental to the delivery of the Town Centre First principle that underpins policy CP11 of the Local Plan. That the site at Power Station Road is subject to an application by another retailer is demonstrative of its 'availability' for retailing. That the site may only be available to Lidl is not relevant as decided case law confirms that 'available' does not mean available to a particular retailer². Indeed, that the site is subject to an application for discount retailing of a similar size, type and range of goods as that sought by Aldi confirms its 'suitability' for the 'broad type of development proposed'.

3.4 The need for an independent review of the sequential assessment

We maintain our concerns that sites have not been robustly assessed and that reasons for rejecting sites do not appear valid. We are therefore surprised to see that the retail advice provided on the Council's behalf by Alder King is confined solely to the matter of retail impact. Demonstrating compliance with the sequential test, the other significant plank of national and local planning policy on town centres, is undoubtedly critical to the determination of both applications. The sequential assessments undertaken by Lidl and Aldi ought to therefore be independently reviewed.

3.5 Failure to consider all relevant Strategic Town Centre policies

We maintain our position in previous representations that the application proposal is likely to be conflict with policies CP11, RTC1 and RTC2. These policies are of central importance to both the Lidl and Aldi proposals. In respect of policy RTC2, whilst it is asserted by Aldi's agent that the AAP policies do not "...seek to prevent retail development from being permitted within either Rugeley town centre outside the PCA, or outside the town centre, in 1 Sullivan LJ confirmed in *Telford and Wrekin & Another v SOS* [2014] EWCA Civ 507 in that "... (the Inspector) was entitled to consider the question of sequential superiority on the basis that Station Road was a potential opportunity.

Only if she had come to the conclusion that this potential opportunity was sequentially superior would she have had to reach firm conclusions as to the extent to which that potential was a reality in terms of the availability and suitability of Station Road".² The reasoning for this was explained in the judgment of *Aldergate Properties v Mansfield D.C* [2016]: "[...] A town centre site may be owned by a retailer already, to use itself for retailing, who is not going to make it available to another retailer. It is plainly available for retailing, though only to one retailer. That does not mean that another retailer can thus satisfy the sequential test and so go straight to sites outside the town centre. "Available" cannot mean available to a particular retailer but must mean available for the type of retail use for which permission is sought". principle" (paragraph 4.31) and that therefore the "policy is not engaged" (paragraph 8.75),

it is still pertinent to demonstrate that the proposal could come forward without undermining the RTC2 objectives. The thrust of the policy seeks to protect the vitality and viability of the town centre and the PSA specifically. Whilst the policy does not set specific criteria for out of centre proposals to accommodate main town centre uses, it is nonetheless relevant, as an important consideration, to consider (with appropriate supporting evidence) the effect of two out of centre proposals coming forward on the policy's objectives.

Failure to appropriately consider impacts on existing investment and the likely significant adverse effects arising from the proposal

Notwithstanding the primacy of the development plan, the NPPF is also material to the determination of the application. Paragraph 90 of the Framework requires that in undertaking a retail impact assessment, "this should include an assessment of....a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal" (our emphasis).

As noted in our previous representations, Tesco invested heavily in the town centre through regenerating a key town centre site identified in the RTCAAP and in providing a series of contributions towards town centre infrastructure enhancements, including upgrades to the Trent and Mersey canal environment. The RTCAAP specifically describes "the canal corridor acting as a catalyst to link with the new Tesco superstore at Leathermill Lane". This is essential to deliver on the objectives of the AAP by opening a pedestrian throughfare, generating higher levels of footfall between the Tesco regeneration site and the wider town centre. The effects of Tesco's investment in these respects are still ongoing.

However, the applicant's agent, whilst having considered (albeit superficially) impacts on planned investment of other identified sites in the RTCAAP, has failed to consider, in the appropriate policy context, impacts of their proposal on existing investment in which Tesco has played a major part in delivering. We are also concerned that this has been overlooked by the Council's retail advisor, Alder King. Any risk of undermining a town centre strategy in a statutory development plan must not be taken lightly.

This out of centre proposal undoubtedly runs counter to the RTCAAP objectives, not least because the Aldi proposal involves the closure of an edge of centre store. The RTCAAP in this respect specifically seeks to "promote edge of centre retail development balanced by a strengthened core town centre" (see the reasoned justification for the RTCAAP at paragraph 4.1 of the development plan). Moreover, the effect of two out of centre retail proposals using up available market spend is likely to reduce rather than enhance prospects of other regeneration sites in the RTCAAP coming forward, leading to associated losses in investor confidence and thereby deterring future planned investment.

Whilst Turleys' July 2021 Statement considers effects on existing investment, their analysis (see paragraphs 8.71 to 8.73) has not been carried out in the appropriate development plan policy context. The agent asserts that effects of the existing investment in respect of Tesco's contributions towards the RTCAAP objectives had "already been addressed in detail in the above retail impact assessment". However, impacts on town centre vitality and viability and on town centre investment are separate considerations, as set out in paragraphs 90 a) and 90 b) of the NPPF, respectively. Given that the existing town centre investment in Rugeley has policy status in the development plan, it is appropriate to assess impacts on investment first and foremost in this policy context, and whether the effect of two out of centre proposals coming forward would undermine those improvements. Turleys' attempts to downplay the existing investment on the basis that the "improvements, associated with the Tesco store development, have been delivered" (paragraph 8.71) fails to properly assess matters. That the investment has been 'delivered' is quite literally what 'existing' investment means. It is real and impacts on it can therefore have identifiable effects.

3.6 Lack of clarity of, and the need to disclose Heads of Terms relating to, the planned closure of Aldi's existing premises

The applicant is proposing to “cease trading” from their existing edge of centre store on Market Street (paragraph 5.16 of the July 2021 Planning and Retail Statement) following the grant of consent for the out of centre application proposal. The future of Aldi’s existing store, and how it is controlled, is of significant importance to the consideration of this application, as accepted by the applicant.

Whether there will be a mechanism to regulate the situation, what it might be, and how it will operate, are matters about which there must be clarity now. Whilst the applicant’s agent’s (Turleys’) Statement proposes an approach via a planning obligation to regulating the future use of Aldi’s existing store, we are not aware of any draft Heads of Terms for any mechanism having been made available in the public domain. Only once they have been made publicly available can interested parties take relevant considerations into account in their representations, officer’s in their advice and any recommendation, and members in their decision making.

It should be stressed that different mechanisms could lead to very different controls on the future of Aldi’s Market Street store. Whilst a planning obligation may be able to regulate the activities on the land being developed or restrict the use, the wording of any such obligation is key to understanding the ‘strength’ of any such restriction. For example, a ‘soft’ planning obligation that only requires a temporary period of marketing may not provide a permanent restriction against continued retail use. A ‘revocation’, or ‘modification’, on the other hand, is a more certain mechanism that goes to the heart of the matter. It is that approach that the Council is asked to adopt, i.e. to remove the lawful use of the existing premises.

3.7 The resulting unevidenced approach to retail impact assessment

The applicant’s impact assessment assumes that the operator’s existing store will cease trading, and that therefore it is only the floorspace ‘uplift’ that needs to be assessed³. That approach has largely been justified by Turleys’ on the basis of their erroneous contention that Aldi’s existing store has an edge of centre policy status.

Notwithstanding that, were the local authority to accept the applicant’s approach to retail impact assessment in this regard, it would be necessary that the Heads of Terms offered provide the permanent restriction against continued food retail use. Since what is proposed is a wholly new out of centre store, with (at present) no clarity of a restriction against continued retail use, it would seem necessary for the impact assessment to be carried out on the basis that both (edge and out of centre) stores will continue to trade at 3 Paragraph 8.34 of the applicant’s July 2021 Planning Statement Addendum states, “The trade draw model assumes that the existing Aldi store at Market Street (£10.98 million at 2024) will be absorbed into the turnover of the replacement store at Power Station Road...” and that “The impact modelling therefore measures the net increase in the turnover of the replacement store above that of the existing store...” their full potential (and in this regard, the identity of the specific retailer is not a material consideration).

However, even if there is clarity on a restriction against continued retail use, the approach to only assessing the floorspace ‘uplift’ would not seem appropriate in the context that the existing store is edge of centre whereas the proposed is out of centre. The loss and uplift should therefore be taken into account, since both have effects on the town centre.

Turleys’ assertion that both edge and out of centre stores are equally as well connected to the town centre and that therefore effects on the town centre would be merely de minimis, is entirely unevidenced, and is premised on their flawed contention that the

application site is edge of centre. It would seem necessary, at the very least, to provide sensitivity testing that accounts for both the loss and uplift in floorspace to ensure a robust approach is taken and so that all likely impacts are accounted for.

Thereafter, in making a complete assessment of the likely impacts, the Council should seek independent retail planning advice in order to ensure that matters are thoroughly reviewed.

3.8 Conclusions

There is no consensus between Lidl's and Aldi's agents as to what the cumulative impact of their proposals would be on the town centre. The approach of the Council's retail advisor to apparently select the "mid-point" of this range is not robust. In exercising its judgement, the local planning authority should have regard to the worst case likelihood of cumulative impact on the town centre.

A town centre site at Wellington Drive has not been robustly assessed for its 'availability'. The possible use of CPO powers in site assembly cannot be relied upon as a reasonable basis to reject the site in sequential testing.

The applicant has failed to consider the site at Power Station Road subject to an application for a similar foodstore development as a potential opportunity to accommodate the broad type of development proposed. It would be reasonable, and indeed appropriate, for the Council to consider which of the Aldi or Lidl sites is 'sequentially superior'. Policy CP11 also requires sites to come forward in a temporal sequence i.e. in the sequentially preferred order.

Paragraph 90 of the NPPF requires an assessment of the impact of the proposal on existing town centre investment. The applicant has not appropriately considered the impacts of their proposal on existing investment in which Tesco has played a major part in delivering to help realise the objectives of the Town Centre Area Action Plan.

There is conflicting information in the applicant's Planning and Retail Statement as to the suggested approach of regulating the future use of Aldi's existing premises. Draft Heads of Terms do not exist in the public domain and should be made available at the earliest opportunity. There is no certainty of a continued restriction against food retailing use.

Consequent to the lack of clarity on the above, it is wholly appropriate that trading impacts are assessed on the basis that both out of centre stores are trading at their full potential.

Even if that clarity can be provided, the applicant's approach of only assessing the 'uplift' in floorspace is not appropriate or reasonable in the circumstances that the proposed store is out of centre, whereas the existing store is edge of centre. It should not be assumed, without supporting evidence, that there would be no further effects on the town centre from this loss and uplift in floorspace.

For reasons set out above and in our earlier representations, planning permission should be refused.

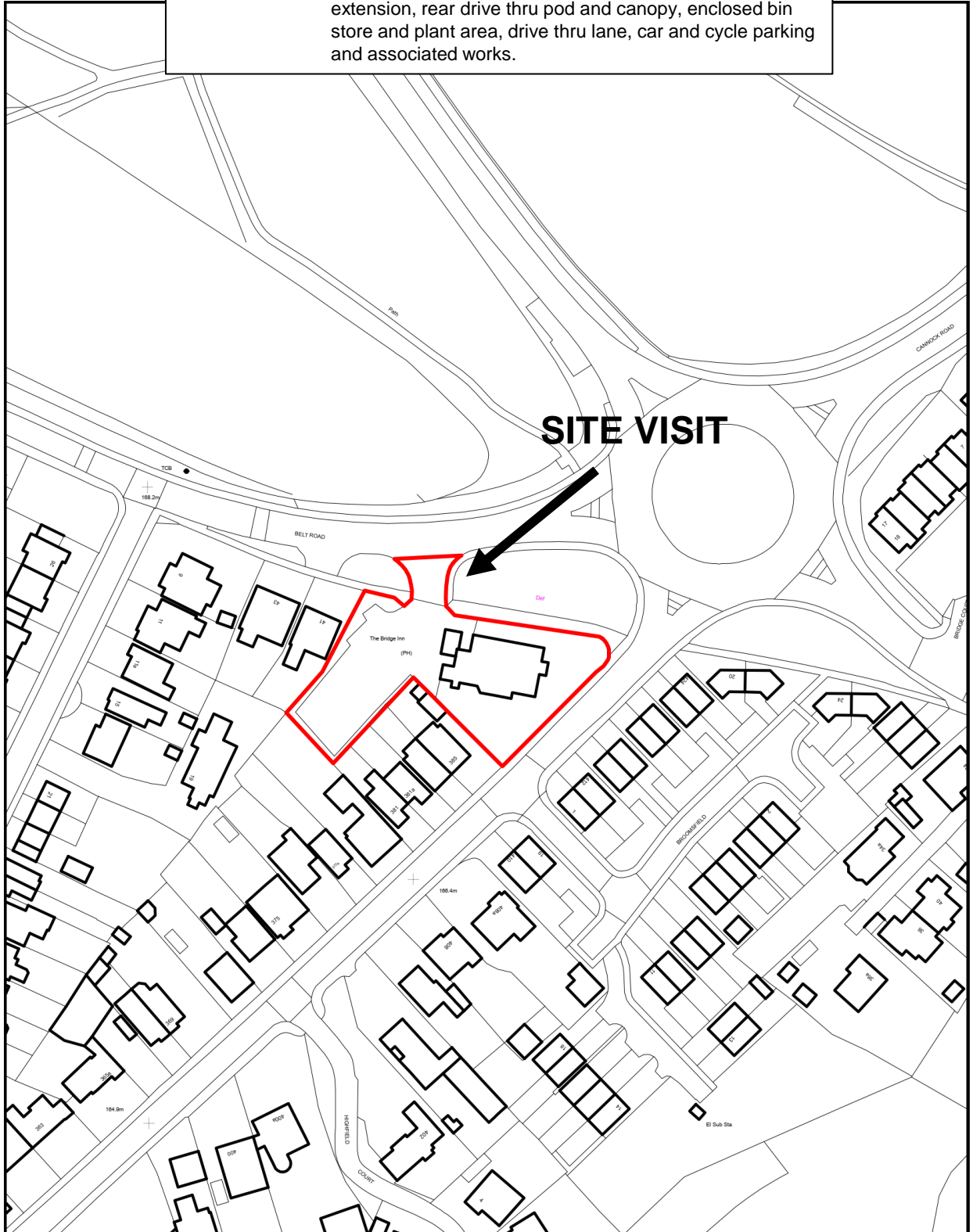


Application No: CH/22/0177

Location: The Bridge Inn, 387 , Cannock Road, Chadsmoor, Cannock, Staffordshire, WS11 5TD

Proposal: Demolition of existing structures, change of use of Public House (Sui Generis) to form a (Class E) drive thru coffee shop (260 sq m gross) with single storey front and side extension, rear drive thru pod and canopy, enclosed bin store and plant area, drive thru lane, car and cycle parking and associated works.

Item No. 6.1

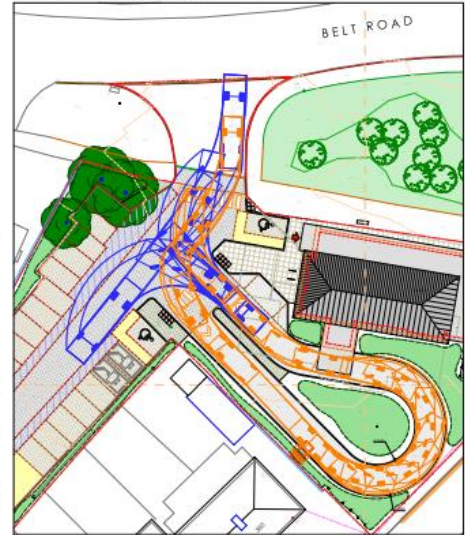


Site Plan

THE BRIDGE INN, CANNOCK ROAD - HEDNESFORD



VEHICLE TRACKING PLAN - SCALE 1:200



A.C. Area of boundary to retain existing metal fence
 2m solid acoustic barrier, side facing dwelling to incorporate acoustically absorbent material
 2m solid acoustic barrier
 NOTE: Above to be read in conjunction with Echo Acoustic Wall Assessment



NO.	DESCRIPTION	DATE
1	Issue for comment	10/01/2024
2	Issue for comment	10/01/2024
3	Issue for comment	10/01/2024
4	Issue for comment	10/01/2024
5	Issue for comment	10/01/2024
6	Issue for comment	10/01/2024
7	Issue for comment	10/01/2024
8	Issue for comment	10/01/2024
9	Issue for comment	10/01/2024
10	Issue for comment	10/01/2024

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Project: THE BRIDGE INN, CANNOCK ROAD - HEDNESFORD
 Drawing: LORCO-24-01-01
 Date: 10/01/2024
 Scale: 1:200

Author: [Name]
 Checker: [Name]
 Approver: [Name]

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Contact Officer:	Claire Faulkner
Telephone No:	01543 464 337

<p>Planning Control Committee 4 August 2022</p>

Application No:	CH/22/0177
Received:	05-May-2022
Location:	The Bridge Inn, 387 , Cannock Road, Chadsmoor, Cannock, Staffordshire, WS11 5TD
Parish:	Hednesford CP
Ward:	Hednesford Green Heath, Cannock East
Description:	Demolition of existing structures, change of use of Public House (Sui Generis) to form a (Class E) drive thru coffee shop (260 sq m gross) with single storey front and side extension, rear drive thru pod and canopy, enclosed bin store and plant area, drive thru lane, car and cycle parking and associated works.
Application Type:	Full Planning Application

Recommendation:

Approve subject to conditions

Reason(s) for Recommendation:

In accordance with paragraph 38 of the National Planning Policy Framework the Local Planning Authority has worked with the applicant in a positive and proactive manner to approve the proposed development, which accords with the Local Plan and the National Planning Policy Framework.

Conditions (and Reasons for Conditions):

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

1660-101 Rev K Proposed Site Plan

1660-102 Rev D Proposed Plans _ Elevations

Planning Statement produced by ELG Planning

Air Quality Assessment Report No. 102755V2 produced by Miller Goodall dated 24 February 2022

Noise Assessment produced by Echo Acoustics dated 3rd May 2022

Phase 1 Desk Study & Coal Mining Risk Assessment Ref. 21-887 produced by Arc Environmental dated 4th March 2022

Transport Assessment Ref: P1828 produced TPS Transport by dated May 2022

Reason

For the avoidance of doubt and in the interests of proper planning.

2. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason

To comply with the requirements of Section 91 of the Town & Country Planning Act 1990.

3. No part of the development hereby approved shall be undertaken above ground level until details of the materials to be used for the external surfaces have been submitted to and approved by the Local Planning Authority.

Reason

In the interests of visual amenity and to ensure compliance with Local Plan Policies CP3, CP15, CP16, RTC3 (where applicable) and the NPPF.

4. No part of the development hereby approved shall commence until a scheme detailing the external environment-landscape, planting (including along the boundaries of the car park), fencing, walls, surface treatment & construction details for the site has been submitted to and approved by the Local Planning Authority. The details shall be in the form as specified in Annex C of the Supplementary Planning Guidance 'Trees, Landscape and Development'.

Reason

In the interest of visual amenity of the area and in accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

5. The approved landscape works shown pursuant to Condition 4 above shall be carried out in the first planting and seeding season following the occupation of any buildings or the completion of the development whichever is the sooner.

Reason

In the interest of visual amenity of the area. In accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

6. The premises shall not be open for business or deliveries outside the hours of 07:00hrs to 23:00hrs on any day.

Reason

To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to ensure compliance with the Local Plan Policy CP3 - Chase Shaping, Design and the NPPF.

Item No. 6.8

7. Notwithstanding the approved documents, the development hereby approved shall not be commenced until details demonstrating that ground gas has been considered and addressed in any new structures where gas may accumulate.

Reason

In order to enable the development to proceed in a safe environment and to protect the health and safety of its occupiers and to ensure compliance with Local Plan Policy CP3 and the NPPF.

8. Notwithstanding the approved plans, no development hereby approved shall be completed above ground floor level until a scheme for the provision of bat and bird boxes has been submitted to and approved in writing by the Local Planning Authority.

The submitted scheme shall indicate integrated bat and bird boxes, and their height and location on the building. It is suggested that the boxes could be suitably provided for within the render panels proposed to replace windows.

Thereafter the development shall be completed in accordance with the approved scheme and retained for the lifetime of the development.

Reason

In the interests of enhancing bat and bird breeding habitat in accordance with Policy CP12 of the Local Plan and paragraphs 170, 175, 177, 179 of the NPPF.

9. The development hereby shall not be brought into use until a Construction Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The Construction Management Plan shall demonstrate amongst others:

- the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust, and site lighting,
- parking of vehicles of site personnel, operatives, and visitors
- loading and unloading of plant and materials
- hours of construction
- storage area of plant and materials used during the demolition/construction phases of the development.

Thereafter, the approved Construction Management Plan shall be adhered throughout the duration of the construction period.

Reason

In the interests of highway safety

10. The development hereby approved shall not be brought into use until a Service Management Plan has been submitted to, and approved in writing by, the Local Planning Authority.

The Service Management Plan shall include the following details:

- the type and size of delivery vehicles.
- the type and size of waste/recycling vehicles.
- the hours of servicing.

The Service Management Plan shall be adhered to for the lifetime of the proposed development.

Reason

In the interests of highway safety

11. Notwithstanding the approved plans, the development shall not be brought into use until the details for the EV charging point has been submitted to and approved in writing by the Local Planning Authority. The details shall include the type of charger, the means of operation and a programme for the installation and maintenance of Electric Vehicle Charging Points and points of passive provision for the integration of future charging points.

Thereafter, the Electric Vehicle Charging Points shall be installed prior to occupation and retained in that form for the lifetime of the development.

Reason:

To promote sustainable travel, aid in the reduction of air pollution levels and help mitigate climate change.

12. Notwithstanding the approved plans, the development hereby permitted shall not be brought into use until details for the over cladding of the railings along Cannock Road has been submitted to and approved in writing by the Local Planning Authority.

Thereafter, the over cladding shall be constructed in accordance with the approved details and retained for the lifetime of the development.

Reason

In the interest of visual amenity of the area and in accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

13. Notwithstanding the approved plans, the development hereby permitted shall not be brought into use until details for the 2.5m high solid acoustic barrier along the boundary with No 385 Cannock Road has been submitted to and approved in writing by the Local Planning Authority.

Thereafter, the over cladding shall be constructed in accordance with the approved details and retained for the lifetime of the development.

Reason

In the interest of visual amenity of the area and in accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

14. The development hereby permitted shall not be brought into use until a scheme for the provision of litter bins has been provided to and approved by the Local Planning Authority.

Item No. 6.10

Thereafter, the approved scheme shall be implemented and retained for the lifetime of the development.

Reason

In the interest of visual amenity of the area and in accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

15. The development hereby permitted shall not be brought into use until a scheme detailing the provision of barriers to the drive thru has been provided to and approved in writing by the Local Planning Authority.

Thereafter the approved scheme shall be provided and retained for the lifetime of the development.

Reason

In the interests of designing out crime and paragraph 130(f) of NPPF.

16. Notwithstanding the approved plans, the development hereby approved, shall not be undertaken above ground level until details for the screening for the external plant equipment area have been submitted to and approved in writing by the Local Planning Authority.

Thereafter, the approved details shall be implemented prior to first use and retained for the lifetime of the development.

Reason

In order to protect the amenity of neighbours.

17. Notwithstanding the approved plans, the development hereby approved, shall not be undertaken above ground level until details for the design and screening of the intercom have been submitted to and approved in writing by the Local Planning Authority.

Thereafter, the approved details shall be implemented prior to first use and retained for the lifetime of the development.

Reason

In order to protect the amenity of neighbours.

18. The recommended set of measures as set out within the Air Quality Assessment Report No. 102755V2 produced by Miller Goodall dated 24 February 2022 in respect of the construction impact, shall be implemented in full for the duration of the construction period.

Reason

In order to enable the development to proceed in a safe environment and to protect the health and safety of its occupiers and to ensure compliance with Local Plan Policy CP3 and the NPPF.

Notes to the Developer:

1) Coal Authority

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

2) The developer is asked to familiarise themselves with the comments of the Designing Out Crime Officer. These are available for viewing on the website.

3) Cadent

Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to Cadent assets in private land. The applicants must ensure that the proposed works do not infringe on legal rights of access and or restrictive covenants that exist.

If buildings or structures are proposed directly above the apparatus the development may only take place following diversion of the apparatus. The applicant should apply online to have apparatus diverted in advance if any works, by visiting cadentgas.com/diversions

Prior to carrying out works, including the construction of access points, please register on www.linerearchbeforeudig.co.uk to submit details of the planned works for review, ensuring requirements are adhered to.

Consultations and Publicity

Internal Consultations

Environmental Health

No objections subject to conditions

Parks and Open Spaces

No objection in principle to the development

- Detail required for inbuilt bird and bat boxes.
- Details required for all hard landscaping, including lighting and soft landscaping.
- Recommend hedge planting along Cannock Road.
- Clarification on pedestrian & maintenance access points required
- Recommend green wall planting incorporated into acoustic barrier to limit impact on neighbouring property.

Development Plans and Policy Unit

The application site is located at a busy road junction within a residential area and is not protected for a specific use on the Local Plan (Part 1) policies Map. The adjacent grass verge fronting Belt Road is sited within the Hednesford Neighbourhood Area and is protected under Policy OS1 – Protected Open Space.

Policy CP11 (page 124) in the Cannock Chase Local Plan 2014 sets out the local retail policy and The Cannock Chase Retail and Town Centre Uses Study January 2021 was commissioned to act as the evidence base to assist in the formulation of future development plan policy.

In this case as the change of use would offer similar food and drink to customers if it is considered there would be no likely adverse impacts arising from the proposed change of use, then no impact test would be required.

Policy CP5 supports the provision of infrastructure for social inclusion and healthy living, including the presumption against the loss of community buildings unless they are surplus and clearly no longer required to meet demand.

Policy CP3 advocates appropriate design and cohesion with adjacent uses in new development, including the protection of amenity.

External Consultations

Hednesford Town Council

No adverse comments.

Staffordshire Highways Authority

No objections subject to conditions.

Crime Prevention Officer

No objection subject to recommended conditions.

Cadent

No objection subject to informative.

Response to Publicity

The application has been advertised by site notice and neighbour letter. Six letters of representation have been received: four objecting to the proposal and two in support of the proposal. The letters of representation are summarised below:

- Inappropriate place to build a takeaway
- Hednesford doesn't need to be urbanised or commercialised
- There are plenty of coffee shops within the town centre or nearby including Starbucks and Costa
- The proposal would encourage anti-social behaviour
- The roads are already busy with many accidents

- Houses should be built on the land
- The pub is a great pub and shouldn't be replaced with a coffee shop
- Ugly,
- Noisy, the current noise from the road is different to noise created from stationary stop start traffic
- Will increase litter
- The proposed drive thru' area has never been used for parking, servicing or as a beer garden despite what the Noise Assessment states
- 6am is far too early to start and staff etc would likely start even earlier
- The car park to the rear does not create constant noise throughout the day whereas the proposal will
- Bedroom windows overlooking the proposal would be susceptible to noise
- I won't be able to enjoy the peace of my garden
- Property values
- This will be a brilliant addition to the area, I'll definitely be getting a drive through coffee on the way to work.
- Would be great to have somewhere close to the home to work and socialise.

Relevant Planning History

CH/01/0417:	Canopy to Front Elevation	Full-Approval with Conditions 09/12/2001
CH/09/0318:	Retention of decking and smoking shelter	Full-Approval with Conditions 23/12/2009
CH/87/495:	Alterations to Licensed Premises	Full-Approval 16/11/1987

1 Site and Surroundings

- 1.1 The application site comprises of the Bridge Inn public house, which occupies a prominent location at the junction of Belt Road and Cannock Road. The application site lies approximately 0.4km to the south of Hednesford Town Centre.
- 1.2 The existing building is two-storey in height and of a facing brickwork construction under a tiled roof. The building faces Belt Road to the north and access is gained from Belt Road to the north-west corner of the site. The access leads to the customer car park which extends down to the south-west behind residential gardens. There is a service yard to the rear of the building which is accessed via the main car park and there is an existing outdoor drinking area to the east of the building fronting Cannock Road.
- 1.3 Belt Road and Cannock Road form the northern and eastern boundaries of the site respectively with residential buildings abutting the southern and western boundaries. The surrounding area is largely suburban in character

accommodating primarily two-storey residential properties, retail units, community facilities and public open space.

- 1.4 The application site lies within a Mineral Consultation Area and is considered to be within a Low-Risk Area as designated by the Coal Authority.

2 Proposal

- 2.1 The applicant is seeking consent for demolition of existing structures, change of use of Public House (Sui Generis) to form a (Class E) drive thru coffee shop (260 sq. m gross) with single storey front and side extension, rear drive thru pod and canopy, enclosed bin store and plant area, drive thru lane, car and cycle parking and associated works.
- 2.2 The existing flat roofed, single storey extension to the rear of the building would be demolished as part of the proposed development.
- 2.3 The proposed drive thru' coffee shop would have a total gross floor area of 260 m² and would be occupied by Starbucks. A contemporary extension would be provided to the front and side (east) of the building. The proposed extension would be finished in decorative rainscreen cladding with full height curtain walling and timber cladding infill panels used to form the shopfront of the proposed commercial unit.
- 2.4 An enclosed refuse / plant area would be provided to the rear of the building, as well as a new drive thru pod and canopy formed with the same material palette as the proposed front / side extension. The proposed drive thru lane would loop round to the rear of the building flanked by new soft landscaping and a new acoustic barrier along the shared boundary with 385 Cannock Road.
- 2.5 The customer car park would be retained within the western part of the site and would provide a total of 21 No. spaces, including 2 No. disabled and 2 No. EV Charging bays.

3 Planning Policy

- 3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 3.2 The Development Plan currently comprises the Cannock Chase Local Plan Part 1 (2014), the Hednesford Neighbourhood Plan (2017-2028) and the Minerals Local Plan for Staffordshire (2015 – 2030).
- 3.3 Relevant policies within the Local Plan include: -
- CP1 - Strategy – the Strategic Approach
 - CP2 – Developer Contributions
 - CP3 - Chase Shaping – Design
 - CP6 – Housing Land

- CP7 – Housing Choice
- CP8 – Employment Land
- CP10 - Sustainable Travel
- CP12 – Biodiversity and Geodiversity
- CP13 – Cannock Chase SAC
- CP16 – Climate Change

3.4 Relevant Policies within the Minerals Plan Include:

- Policy 3: Safeguarding Minerals of Local and National Importance and Important Infrastructure

3.5 Relevant policies within the Hednesford Neighbourhood Plan include:

- Policy OS1 - Protected Open Space.

3.6 Relevant paragraphs within the NPPF include paragraphs:

- 8: Three dimensions of Sustainable Development
- 11-14: The Presumption in favour of Sustainable Development
- 47-50: Determining Applications
- 86-91: Ensuring the vitality of town centers
- 111: Highway Safety and Capacity
- 126, 130, 132, 134: Achieving Well-Designed Places
- 218, 219 Implementation

3.7 Other relevant documents include: -

- (i) Design Supplementary Planning Document, April 2016.
- (ii) Cannock Chase Local Development Framework Parking Standards, Travel Plans and Developer Contributions for Sustainable Transport.
- (iii) Manual for Streets

4 Determining Issues

4.1 The determining issues for the proposed development include:

- i) Principle of development
- ii) Design and impact on the character and form of the area
- iii) Impact on residential amenity.
- iv) Impact on highway safety
- v) Impact on air quality
- vi) Drainage and flood risk
- vii) Mineral safeguarding
- viii) Crime and anti-social behaviour

4.2 Principle of the Development

4.2.1 Both paragraph 11 of the NPPF (2021) and Cannock Chase Local Plan 2014 Policy CP1 state that there should be a presumption in favour of sustainable development.

4.2.2 The presumption in favour of sustainable development as set out in paragraph 11 of the NPPF states: -

‘For decision taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay.
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless
 - (i) policies in the Framework that protect areas or assets of particular importance (e.g., Green Belt, AONB, habitats sites) provide a clear reason for refusing the development proposed, or
 - (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.’

4.2.3 The starting point of the assessment is therefore whether the proposal is in accordance with the development Plan and whether that plan is up to date. In that respect it is noted that Policy CP1 of the Local Plan states:

“In Cannock Chase District the focus of investment and regeneration will be in existing settlements whilst conserving and enhancing the landscape of the AONB, Hednesford Hills, Green Belt and the green infrastructure of the District. The urban areas will accommodate most of the District’s new housing and employment development, distributed broadly in proportion to the existing scale of settlement.

4.2.4 In this instance, the application site is not located within either Flood Zone 2 or 3 and is not designated as a statutory or non- statutory site for nature conservation nor is it located within a Conservation Area (CA).

4.2.5 The comments of the objectors are noted in respect to the inappropriate location for the takeaway, Hednesford Town Centre has a sufficient level of coffee shops and that Hednesford doesn’t need to be commercialised. In this instance, the site is located within an urban area where it is accessible by the local community by a range of transport means, including walking and cycling. As such it is located within a sustainable location that would generally conform to the objective of the strategy contained within Policy CP1 of the Local Plan.

4.2.6 However, Local Plan Policy CP5 states that there will be a presumption against the loss of community buildings (that are not subject to national policy requirement as listed within the policy) unless they are surplus and clearly no longer required to meet demand for any of the identified purposes or:

- (i) The wider sustainability benefits or major community benefits delivered by the proposal outweigh the loss (taking into account the value of the site).
- (ii) Appropriate mitigation measures and/ or replacement space/ facilities, equivalent or better in terms of quantity, quality and accessibility can be provided to compensate for the loss of the site and its value.

4.2.7 In addition to the above paragraph 93 of the NPPF states to provide the social, recreational, and cultural facilities and services the community needs, planning policies and decisions should [amongst other things]:

- (a) “plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, public houses, and places of worship) and other local services to enhance the sustainability of communities and residential environments.”

4.2.8 The proposal would result in the loss of the existing public house, although your officers acknowledge that the proposed scheme would replace one form of community facility that allows for social interaction (i.e., a public house) with another (i.e., a coffee shop). In this instance, the proposed coffee shop use would diversify the provision of such facilities across the local community ensuring that a broader range of facilities are provided and would allow for social interaction for a wide cross section of the community.

4.2.9 As such, it is considered that the proposal would accord with Policy CP5 (ii) of the Local Plan by providing replacement community facilities that would enhance the sustainability of communities.

4.2.10 In addition, it is acknowledged that, a range of public houses would still be available within the nearby town centre and surrounding area. Given the above, it is the view of your Officers that the change of use of the existing public house to a coffee shop would not result in the unacceptable loss of facilities required by local residents for day-to-day living.

4.2.11 The application site is not located within a designated local centre. Paragraphs 86 and 87 of the NPPF advise that a sequential test is required for all main town centre uses that are not in an existing centre and not in accordance with an up to-date plan. The sequential assessment is used to consider whether any alternative site(s) are suitable for the proposed development, not whether the proposed development can be altered or reduced to fit an alternative, available site. It is noted that paragraph 88 of the NPPF states that preference should be given to accessible sites which are well connected to the town centre.

4.2.12 The applicant has submitted evidence in relation to the availability and suitability of alternative sites within established centres, including Cannock Town Centre, Hednesford District Centre, and Chadsmoor Local Centre. The sequential site assessment has been undertaken having regarded to key case law relating to the application of the sequential test and it is evident that there are no suitable or available sequentially superior sites capable of accommodating the proposed main town centre use floorspace.

4.2.13 In order to be considered suitable, any alternative available sites must meet the specific commercial requirements of the developer subject to the requisite flexibility with regard to format and scale. Given all of the above factors, your officers consider that the proposal has passed the sequential test and the proposal is acceptable in principle. However, proposals that are acceptable in principle are still subject to all other policy tests. This report will now go on to consider the proposal in the light of these policy tests.

4.3 Design and the Impact on the Character and Form of the Area

4.3.1 The proposed extension and alterations would facilitate a large contemporary addition to the front and side elevations that face Belt Road and Cannock Road. There are already a number of flat roofed, single storey extensions and structures to the rear and side of the building that would be demolished as part of the proposed development. As such, the proposed extension would be a proportionate addition to the host building.

4.3.2 The objection received that referred to the proposal as ugly is noted. However, design is subjective and, in this instance, whilst the contemporary palette of materials would not reflect the host building, it is considered that the simple flat roof design and finish would compliment the existing building. A condition has been recommended for the finished materials to be submitted for approval.

4.3.3 The application confirms that the design approach that has been adopted is reflective of the commercial requirements of the identified end operator with a contemporary approach adopted in terms of the proposed extension to reflect the new chapter for the use of the property and to provide visual definition between the proposed commercial use and the surrounding residential vernacular, whilst at the same time broadly respecting the character of the host building and surrounding built form in terms of scale, massing and materiality.

4.3.4 As such, the proposed extension would be proportionate to the host building and would on balance, subject to the recommended condition, represent a form of development that would be well assimilated into the wider streetscene whilst retaining a degree of distinction as required by the end user.

4.3.5 It is noted that there are several trees around the curtilage of the wider site. Paragraph 131 of the NPPF makes clear that trees make an important contribution to the character and quality of an area and that existing trees are retained wherever possible. Whilst there is very little tree planting within the curtilage of the application site there are three mature sycamore trees sited adjacent the entrance into the site.

4.3.6 Notwithstanding the above, the car park already exists with no new works taking place within close proximity of any of the trees. As such, the proposal would not have any significant detrimental harm to the health and wellbeing of the trees.

4.3.7 The area of open space to the front of the site is not within the red line boundary. It is noted that this land falls within Policy OS1 – Protected Open Space as designated within the Hednesford Neighbourhood Plan. However, no works are proposed to this land.

4.3.8 Therefore, having had regard to Policy CP3 of the Local Plan and the appropriate sections of the NPPF it is considered that the proposal would, on balance, be well-related to existing buildings and their surroundings and successfully integrate with existing features of amenity value such that it would be acceptable in respect to its impact on the character and form of the area.

4.4 Impact on Residential Amenity

4.4.1 Paragraph 130(f) of the NPPF states that planning policies and decisions should ensure that developments [amongst other things] create places with a high standard of amenity for existing and future users.

4.4.2 Paragraph 185 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

4.4.3 The nearest residential properties to the proposal are located along the southern and western boundaries of the site. Other residential dwellings are sited along the boundaries with the car park and the dwelling to the west adjacent the entrance into the site. In this respect the car park and entrance already exist. Nos. 412 – 424 Cannock Road are located opposite the application site and are separated by Cannock Road itself. The comments from the objectors are noted in relation to the potential for noise given that the current noise from the road is different to noise created from stationary stop start traffic and that the proposal would encourage all day use of the car park which is different to the existing situation.

4.4.4 In terms of No. 385, this dwelling benefits from a side driveway that terminates in a detached garage to the rear of the dwelling, adjacent the shared boundary with the application site. The existing boundary with the site is delineated with a combination of brick walling and open railings. The rear boundary gives way to the existing car park and is separated by a close boarded fence. The proposal would include a drive thru facility on the land adjacent the boundary with No. 385. In this respect the objection from the neighbour is noted.

4.4.5 The application site comprises of hardstanding to the side of No.385 and appears to have once been used for parking. Tables and chairs are still in situ to the front of the site on the existing hardstanding. Notwithstanding this, the proposal would incorporate a new 2.5m acoustic barrier along the shared boundary with No.385 to protect the adjacent occupiers from the proposed drive thru.

4.4.6 In respect to the potential impact on neighbouring occupiers, the applicant has submitted a Noise Assessment produced by Echo Acoustics with which to inform the application. This concluded that the site is principally affected by traffic noise from the adjacent roads and that the noise associated with the operation of the drive-through coffee shop would not give rise to a significant adverse effect for residents of the closest neighbouring property. However, in order to minimise the potential for disturbance, suitable noise mitigation measures are proposed in the form of acoustic barriers. Your officers confirm that a condition

has been recommended to secure the details of the acoustic barrier to ensure it is appropriate.

- 4.4.7 The proposed use would operate between the hours of 07:00hrs and 23:00hrs on any day. Environmental Health was consulted on the application, and they raised no objection to the findings of the noise assessment subject to the recommended conditions. Environmental Health also confirmed the proposed opening hours would be acceptable in this location. Your Officers confirm that conditions have been recommended accordingly.
- 4.4.8 Given the above, and subject to the recommended conditions, it is considered the proposal would not cause any significant impact upon amenity to the occupiers of the neighbouring units. The proposal is therefore in accordance with Local Plan Policy CP3 and Paragraph 185 of the NPPF.

4.5 Highway Implications

- 4.5.1 Paragraph 111 of NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The objections from neighbours are noted in respect to the roads already being busy.
- 4.5.2 Objective 5 of the Cannock Chase Local Plan is to 'encourage sustainable transport infrastructure'. Paragraph 4.65 of the Local Plan states:

'It is necessary to manage demand and develop transport policies that are sustainable. Transport policies help deliver sustainable development but are also important in contributing to economic and social prosperity and health objectives, such as addressing respiratory diseases linked to air pollution. Local transport objectives must therefore be met within the overall principles of environmental sustainability. Reducing dependence on the car and promoting attractive and realistic alternatives, including public transport, walking, and cycling are therefore priority objectives, together with the need to travel.'

- 4.5.3 The above objective is supported by Policy CP10 'Sustainable Transport' of the Local Plan which states that:

'Developments will be expected to promote sustainable transport and where appropriate, developer contributions will be sought to support sustainable transport solutions elaborated in a Supplementary Planning Document and a Community Infrastructure Levy (CIL) charging schedule. Transport Assessments, Transport Statements or Travel Plans, will be prepared in accordance with DfT and LTA guidance for all developments that are likely to generate significant amounts of movement, to determine the measures required on the surrounding highway network to ensure necessary access by all transport modes.'

- 4.5.4 The applicant's Planning Statement sets out that the existing car park would be retained and accessed via the existing access from Belt Road. A total of 21 spaces would be provided, including 2 accessible spaces and 2 EV charging point spaces, together with a cycle shelter which would accommodate 4 cycle

spaces. The drive thru would accommodate a total of 8 vehicles with 1 space for waiting.

4.5.5 In order to inform the application, the applicant has submitted a Transport Statement (TS) prepared by TPS Transport Consultants Limited, which confirms:

- An analysis of historic accident data suggests that there are no accident trends that might be exacerbated by the addition of development-related traffic.
- Consideration has been made to the likelihood of pass-by trips from Belt Road and diverted trips from the Cannock Road / Belt Road roundabout.
- The number of 'new' trips anticipated is minimal, at just 8 two-way vehicle trips during the AM peak period and a two-way vehicle trips during the PM peak period and 24 two-way vehicle trips during the Saturday peak period, associated with the development proposals.
- Operational assessments carried out at the Cannock Road / Belt Road roundabout junction indicate that the roundabout would operate well within capacity with no significant queuing likely to occur.
- 21 car parking spaces are to be provided; a car park accumulation exercise and reference to local standards indicates this is appropriate to the development proposals and will be sufficient to cater for demand at peak times.

4.5.6 As such the TS concludes that the proposals are considered to be acceptable in highways and transport terms and that it has been clearly demonstrated that the application proposals would fully comply with the highways related policies of the adopted Development Plan, as well as national guidance contained within the NPPF in this regard.

4.5.7 Staffordshire County Highway Authority was consulted on the application and raised no objections to the proposal, subject to the recommended conditions, on highway safety, access, or capacity grounds.

4.5.8 Given the above, it is concluded that, subject to the attached conditions the proposal would not lead to unacceptable impacts on highway safety and that the residual cumulative impacts on the road network would not be severe. As such the proposal would accord with the broad thrust of Policy CP10 of the Local Plan and Paragraph 111 of NPPF.

4.6 Impact on Air Quality

4.6.1 Both Paragraph 186 of the NPPF and Local Plan Policy CP16 encourage development proposals to reduce or mitigate forms of pollution. As such an Air Quality Screening Assessment produced by Miller Goodall was submitted by the applicant with which to inform the application.

4.6.2 The assessment considered the potential changes in air quality due to the construction and operation of the proposed development and whether these potential changes would significantly alter air quality. The assessment

concluded that the proposed redevelopment of the site would not cause a significant impact on local air quality based on the assertions that: -

- All construction activities have the potential to generate dust nuisance. However, the proposed works are very minor and through the implementation of best practice mitigation measures, the any impacts will be effectively minimised and are unlikely to be significant.
- Concentrations of NO₂ and PM₁₀ are likely to be below their respective short-term objectives at the proposed development site, which is therefore considered suitable for commercial use with regards to air quality. Concentrations of PM_{2.5} are expected to be below the annual mean target.

4.6.3 Based on the findings of the Air Quality Assessment, the proposed development is not expected to have a significant impact on local air quality and, as such, there is no reason for the application to be refused on the grounds of air quality.

4.6.4 The Councils Environmental Health Officer (EHO) was consulted on the application and raised no objections to the proposal. As such, it is considered that the conclusions of the Air Quality Report should be accepted. It is therefore concluded that the proposal would not be contrary to the aims of paragraph 186 of the NPPF.

4.7 Drainage and Flood Risk

4.7.1 The site is located in Flood Zone 1 on the Environment Agency's Flood Zone Maps.

4.7.2 Policy in respect to drainage and flood risk is provided by 159-169 of the NPPF. Of particular note is paragraph 167 which states:

‘When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.’

4.7.3 In this respect it is noted that the building and surrounding hardstanding already exist and is serviced by drainage. The proposal would not increase the area of buildings or hard standing occupying the site to such an extent that would generate significant additional run-off from the site.

4.7.4 As such it is concluded that the proposal would be acceptable from a flood risk and drainage perspective.

4.8 Mineral Safeguarding

4.8.1 The site falls within a Mineral Safeguarding Area (MSAs). Paragraph 209, of the National Planning Policy Framework (NPPF) and Policy 3 of the Minerals Local Plan for Staffordshire (2015 – 2030), both aim to protect mineral resources from sterilisation by other forms of development.

4.8.2 The advice from Staffordshire County Council as the Mineral Planning Authority does not require consultation on the application as the site falls within the development boundary of an urban area and is not classified as a major application.

4.8.3 As such, the proposal would not prejudice the aims of the Minerals Local Plan.

4.9 Ground Conditions and Contamination

4.9.1 The site is located in a general area in which Coal Authority consider to be a development low risk area. As such, the Coal Authority does not require consultation on the application, and it is advised that any risk can be managed by the attachment of an advisory note to any permission granted.

4.9.2 Policy CP16(f) recognises that development proposals should have regard to all sources of land contamination and stability issues arising from the mining legacy. As such, the applicant has submitted a Phase 1 Desk Top Study produced by Arc Environmental with which to inform the application.

4.9.3 In relation to coal mining legacy issues, the assessment establishes that the site is not thought to be at risk from potential future surface stability issues that can arise from shallow coal mining activities. On this basis, no further assessment or intrusive works are required with regards to historical coal mining activities or instability issues that may arise from this potential geohazard.

4.9.4 Paragraphs 183 – 185 of the NPPF seek to ensure new development is suitable for the proposed use taking into account ground conditions and any risks arising from land instability and contamination.

4.9.5 The Phase 1 assessment did confirm that a tunnel associated with West Cannock Colliery, which was historically recorded to pass beneath the western portion of the site, could represent a mine gas migration pathway and therefore would require further investigation and risk assessment. The report continued that the site is within a negligible geotechnical risk setting and a negligible ground contamination risk setting for both human health and controlled waters. A programme of further ground investigation works is however recommended and, subject to implementing these recommendations, it is clear that the proposed development would not give rise to unacceptable risks in relation to contaminated land and coal mining legacy issues.

4.9.6 The Councils Environmental Health Officer was consulted on the application and raised no objection to the Phase 1 Report. Notwithstanding the recommendations set out within the report, the EHO has recommended a condition for gas details to be provided. As such, the proposal is considered to accord with the requirements of the NPPF and Policy CP16 of the Cannock Chase Local Plan, subject to the recommended conditions.

4.10 Crime and Anti-social Behaviour

4.10.1 Both Local and National Policy seeks to promote safe and healthy communities. Paragraph 91(b) of the NPPF states:

“Planning policies and decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.”

4.10.2 The comments of the objectors are noted in respect to the proposal increasing crime and litter. As such, the Designing Out Crime Officer from Staffordshire

Police was consulted on the application. The Officer confirmed that the application is supported subject to conditions being recommended in order to protect nearby occupiers.

4.10.3 The conditions recommended include additional planting to the car park to prevent climbing boundary treatments, litter bins and barriers to prevent access when the premises is closed.

4.10.4 Given the above, and subject to the conditions recommended, the proposal is not considered to increase the risk of crime or anti-social behaviour especially given that its current use is that of a public house. As such, the proposal accords with the relevant paragraphs of the NPPF.

4.11 Objections received not already covered above

4.11.1 An objector has stated that houses should be built on the land. Your Officers confirm that the application should be assessed on what is currently proposed. In this instance the proposal seeks a change of use of the public house to provide a coffee shop and drive thru.

4.11.2 An objector has stated that the proposed drive thru' area has never been used for parking, servicing or as a beer garden despite what the Noise Assessment states. Your Officers requested clarification in this respect from the applicant. The applicant stated:

“The applicant has confirmed that this area was used for parking of vehicles every Sunday prior to Covid. The applicant continued that as well as the Sunday trade the public house also provided parking for a football team that routinely used this area to park within. The applicant stated that on Tuesdays and Thursdays they ran a promotion night which was popular and again these spaces was utilised for parking. The applicant continued that they provided entertainment on Friday and Saturdays nights which would also generate a large amount of trade. In more recent times this area has been used for skips or workspace for contractors to use”

Furthermore, your Officers confirm that the 2009 Google Street View does show this area as being marked out for parking with white lines to indicate the individual spaces.

4.11.3 An objector has stated that 6am is far too early to start and staff etc would likely start even earlier. Your Officers confirm that the applicant has revised the opening hours from 6am to 7am which has been accepted by Environmental Health Officers. A condition restricting the hours has been recommended.

4.11.4 An objector has stated that the proposal would impact upon property values. Your Officers confirm that this is not a material consideration for the determination of the planning application.

5 Human Rights Act 1998 and Equalities Act 2010

Human Rights Act 1998

- 5.1 The proposals set out in this report are considered to be compatible with the Human Rights Act 1998. The recommendation to approve the application accords with the adopted policies in the Development Plan which aims to secure the proper planning of the area in the public interest.

Equalities Act 2010

- 5.2 It is acknowledged that age, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation are protected characteristics under the Equality Act 2010.

By virtue of Section 149 of that Act in exercising its planning functions the Council must have due regard to the need to:

Eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited.

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

It is therefore acknowledged that the Council needs to have due regard to the effect of its decision on persons with protected characteristics mentioned.

Such consideration has been balanced along with other material planning considerations and it is considered that the proposal is acceptable in respect to the requirements of the Act. Having had regard to the particulars of this case officers consider that the proposal would not conflict with the aim of the Equality Act.

6 Conclusion

- 6.1 In respect to all matters of acknowledged interest and policy tests it is considered that the proposal, subject to the attached conditions, would not result in any significant harm to acknowledged interests and is therefore considered to be in accordance with the Development Plan.
- 6.2 It is therefore recommended that the application be approved subject to the attached conditions.



Application No: CH/22/0078

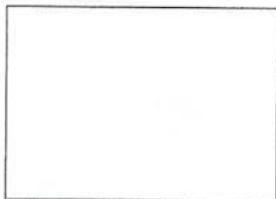
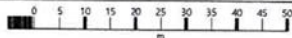
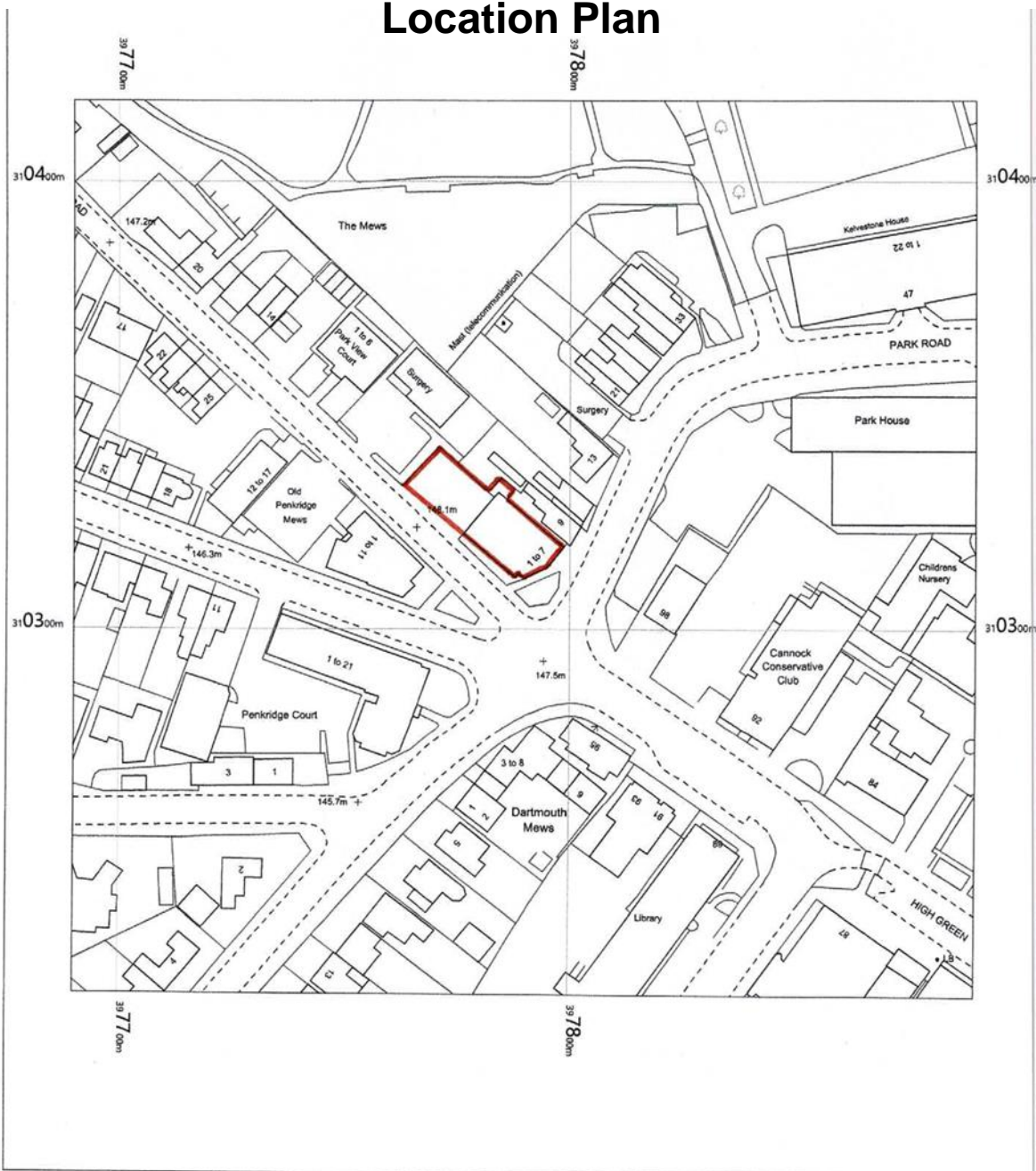
Location: 1-7, Park Road, Cannock, WS11 1JN

Proposal: Installation of external air conditioning units
(re-submission of CH/21/0407)

Item No. 6.26



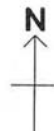
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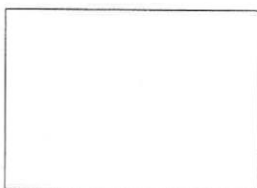
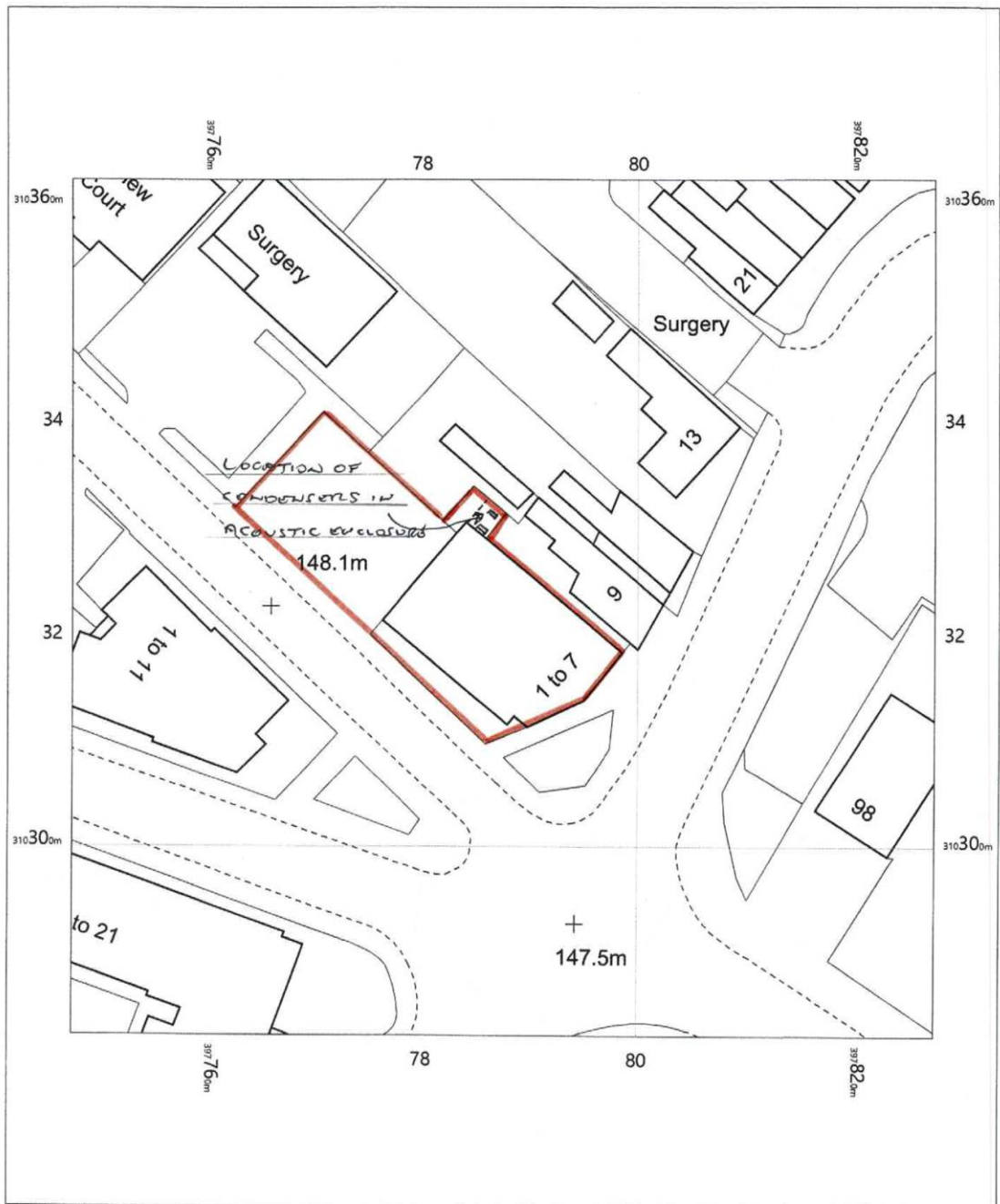
OS MasterMap 1250/2500/10000 scale
Thursday, September 23, 2021, ID: CM-00992247
www.centremapslive.co.uk

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Block Plan



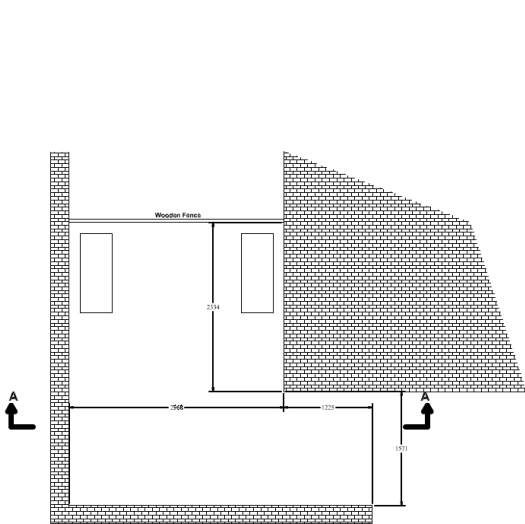
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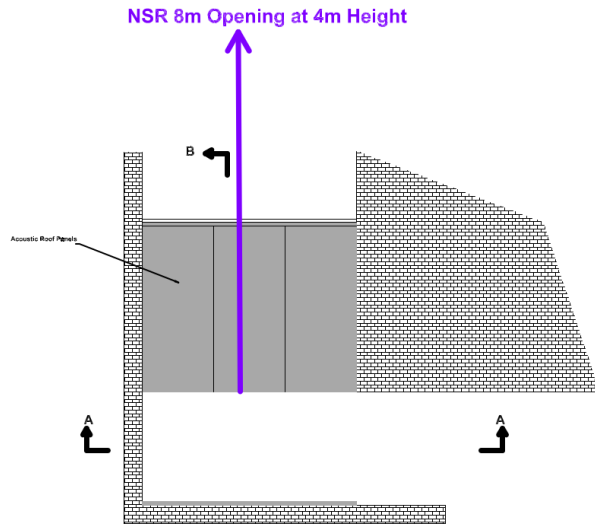
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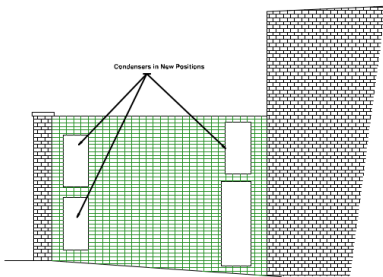
Plans and Elevations



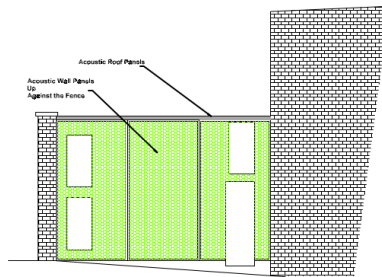
Plan View



Plan View



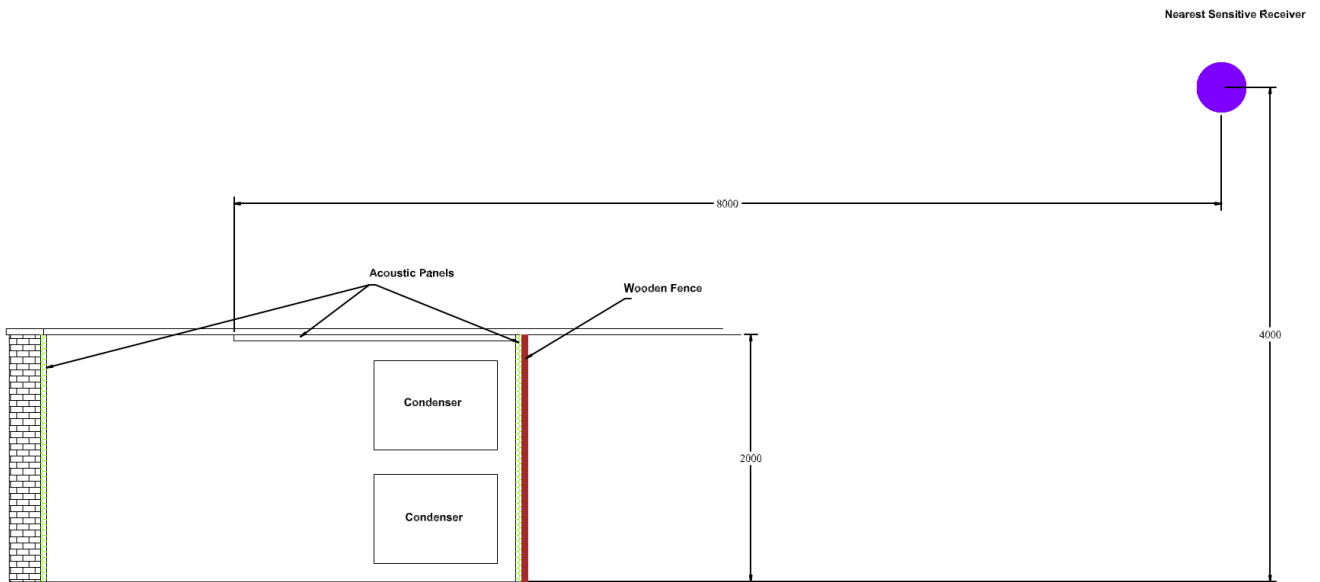
View on A-A



View on A-A

Acoustic Enclosures Limited			
Project:	Lundia Carcock		
Title:	Condenser Area Treatment		
Drawn:	GS	Checked:	MS
Dr No:	1806-02	Date:	10/02/22
Client:			

Plans and Elevations



Sectional Elevation on B - B

Acoustic Enclosures Limited.			
Project:	Londis Cannock		
Title:	Condenser treatment		
Drawn:	JS.	Checked	Scale
Dr No:	7840-03	Issue	Date: 10/6/22
Client:			

Contact Officer:	Samuel Everton
Telephone No:	01543 464 514

<p>Planning Control Committee</p> <p>4 August 2022</p>
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Application No:	CH/22/0078
Received:	28-Feb-2022
Location:	1-7 Park Road, Cannock, WS11 1JN
Parish:	None
Ward:	Cannock West
Description:	Installation of external air conditioning units (re-submission of CH/21/0407)
Application Type:	Full Planning Application

Recommendation:

Approve Subject to Conditions

Reason(s) for Recommendation:

In accordance with paragraph 38 of the National Planning Policy Framework the Local Planning Authority has worked with the applicant in a positive and proactive manner to approve the proposed development, which accords with the Local Plan and the National Planning Policy Framework.

Conditions (and Reasons for Conditions):

1. The air conditioning units hereby approved shall not operate until the proposed acoustic enclosure has been erected.

Reason

To ensure that amenity of neighbouring occupiers of their properties are protected and to ensure compliance with the Local Plan Policy CP3 - 'Chase Shaping, Design' and the NPPF.

2. Within three months of the date of this permission the acoustic enclosure shall be erected around the Air Conditioning Condenser Units. The acoustic enclosure shall thereafter be retained for the lifetime of the permission

Reason

To enable the mitigation measures set out in the submitted Noise Survey Report to be carried out and to ensure that they have achieved the desired reduction in sound levels generated from the Units. This is so as to ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to ensure compliance with the Local Plan Policy CP3 - 'Chase Shaping, Design' and the NPPF.

3. The development hereby permitted shall be retained in accordance with the following approved plans:

Location Plan

Block Plan

Drawing No. 7840-02

Drawing No. 7840-03

Reason

For the avoidance of doubt and in the interests of proper planning.

4. This permission shall expire on 4th August 2023. On, or before, that date the Air Conditioning Condenser Units shall be removed unless otherwise agreed in writing by the Local Planning Authority*.

Reason

To enable the mitigation measures set out in the submitted Noise Survey Report be carried out and to ensure that they have achieved the desired reduction in sound levels generated from the Units. This is so as to ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to ensure compliance with the Local Plan Policy CP3 - Chase Shaping, Design and the NPPF.

Notes to the Developer:

*A new application for planning permission to the Council will be required for the installation of the Air Conditioning Units hereby approved beyond this period. The applicant is therefore advised to use this period to undertake robust surveying of the noise generated by the units and the mitigating impact of the acoustic enclosure.

Update

This case was originally reported to Planning Control Committee on 6th April where it was deferred until the meeting held on 11th May 2022. At the 11th May meeting it was resolved:

'That the application be deferred until 6 July to allow the applicant to provide a technical drawing at 1:25 scale showing the units currently and as proposed with the acoustic cover in place, showing the relationship between units with cover on and the adjacent fence, together with a timescale for the fitting of units and details of the mitigation of noise projected in DBA'

However, in the intervening period the applicant contacted the Council to request additional time to provide this information. This was raised on the Planning Control Meeting of 8th June where members resolved to defer the application until 4th August to enable the applicant the additional time to prepare the required information.

The applicant has now submitted a scheme which is shown in the drawings accompanying the agenda pack (Drawing Ref No's. 7840-02 & 7840-03 and the revised 1:500 Block Plan) and will be shown at the meeting. The applicant also provided the Council with an updated noise report and sound modelling data.

The applicant has also stated in an email to officers:

'It would take it would take up to five weeks to manufacture and fit the acoustic panels, move some compressors etc.'

Consultations and Publicity

Internal Consultations

Environmental Health

No objection.

Representations Received

Neighbours were re-consulted on the amended proposals. One objection has been received which raises the following concerns:

- That the applicant has now submitted a completely different plan involving the construction of an acoustic building.
- There are no detailed measurements of the distance of the units to the neighbour's boundary and appear to be within one metre of neighbour's boundary.
- Concerns that there is no space for maintenance between the proposed enclosure.
- Concerns where rainwater would be discharged.
- Questions whether the proposed enclosure would have ventilation slats in the roof and if the projected noise levels from openings to neighbour's bedroom window.
- Concerns regarding fire risk due to proximity to boundary.
- Questions why the technical report has been amended to remove the suggested alternative rear location on the car park.
- States that they have been unable to open windows in hot weather due to noise, and that their outside table is right next to the noise.

Assessment

A copy of the updated report for the 11th May Planning Committee meeting is attached at Appendix 1 and the original report to Planning Committee on 6th April is attached at Appendix 2 of this report. An officer update read out at the 6th April meeting is also attached at Appendix 3.

The amendments and updated noise report have been reviewed by the Council's Environmental Health department who have raised no objection to the proposal.

Whilst the officer recommendation still stands, it is for Planning Control Committee to determine whether the applicant has supplied sufficient, clear and concise information to satisfy the concerns raised by the Committee at the meeting held on 11th May 2022.

It should also be noted that a temporary permission is proposed for a period of 12 months (until 4th August 2023) instead of 6 as previously recommended at the last meeting. This is to enable a sufficient period to undertake robust surveying of the noise generated by the units and the mitigating impact of the acoustic enclosure, which takes into account of seasonal variations of use of the units.

Officer's Response to Additional Comments Raised by Neighbours

In regard to the concerns raised that the plans are different and the level of detail on the plans, officers would advise that this is the amended scheme submitted by the applicant as a means of mitigating the noise impact of the proposal as set out in the acoustic report. It is for Committee to determine whether this satisfies the concerns raised at the last meeting.

In regard to the concerns raised in relation to any ventilation slats in the roof of the proposed enclosure, officers would add that the purpose of the enclosure is to mitigate the noise generated by the AC units and a temporary permission is proposed to enable further testing and monitoring to be carried out to ensure that the proposed enclosure reduces noise to acceptable levels as set out in the noise report.

In response to the concerns raised that there is no space between the proposed enclosure and the neighbour's fence for maintenance, officers would advise that this would not be a material planning issue.

In response to concerns relating to the discharge of rainwater, officers would advise that no details have been provided in this respect.

In respect to fire risk, officers would advise that it is dealt with by other legislation.

As such, notwithstanding the additional neighbour comments received, officers' recommendation remains unaltered.

Conclusion

Whilst the officer recommendation still stands and is not altered in light of the above, it is for Planning Control Committee to determine whether the applicant has supplied sufficient, clear and concise information to satisfy the concerns raised by the Committee at the meeting held on 11th May 2022.

Report to 11th May Planning Committee Meeting

Contact Officer: Samuel Everton

Telephone No: 01543 464514

Planning Control Committee

11th May 2022

Application No: CH/22/0078

Received: 28-Feb-2022

Location: 1-7, Park Road, Cannock, WS11 1JN

Parish: None.

Description: Installation of external air conditioning units (re-submission of CH/21/0407)

Application Type: Full Planning Application

RECOMMENDATION:

Approve Subject to Conditions

Reason(s) for Recommendation:

In accordance with paragraph 38 of the National Planning Policy Framework the Local Planning Authority has worked with the applicant in a positive and proactive manner to approve the proposed development, which accords with the Local Plan and the National Planning Policy Framework.

Conditions (and Reasons for Conditions):

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason

To comply with the requirements of Section 91 of the Town & Country Planning Act 1990.

2. The development hereby permitted shall be carried in accordance with the following approved plans:

Location Plan

Block Plan

Drawing No. DPM838/01 Rev B

Reason

For the avoidance of doubt and in the interests of proper planning.

3. Within 21 days of the date of this permission the acoustic enclosures shall be erected around the Air Conditioning Condenser Units. The acoustic enclosures shall thereafter be retained for the lifetime of the permission

Reason

To enable the mitigation measures set out in the submitted Noise Survey Report to be carried out and to ensure that they have achieved the desired reduction in sound levels generated from the Units. This is so as to ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to ensure compliance with the Local Plan Policy CP3 - 'Chase Shaping, Design' and the NPPF.

4. This permission shall expire on 6th October 2022. On, or before, that date the Air Conditioning Condenser Units shall be removed unless otherwise agreed in writing by the Local Planning Authority*.

Reason

To enable the mitigation measures set out in the submitted Noise Survey Report be carried out and to ensure that they have achieved the desired reduction in sound levels generated from the Units. This is so as to ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to ensure compliance with the Local Plan Policy CP3 - Chase Shaping, Design and the NPPF.

5. The 3 No. Air Conditioning Condenser Units on the northern elevation of the building as shown on the approved plans shall not operate outside of the hours between 7.00am and 10.00pm on any day.

Reason

To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to ensure compliance with the Local Plan Policy CP3 - 'Chase Shaping, Design' and the NPPF.

Notes to the Developer

* A new application for planning permission to the Council will be required for the installation of the Air Conditioning Units hereby approved beyond this period. The applicant is therefore advised to use this period to undertake robust surveying of the noise generated by the units and the mitigating impact of the acoustic enclosure

Update

This case was reported to Planning Control Committee on 6th April 2022 when it was resolved:

- (A) That the application be deferred to enable the applicant to submit a proposal for the design and fitting of the acoustic enclosures and to demonstrate that the mitigation measures would be possible and could be achieved within the suggested timescales.

- (B) That the application be brought back to the Planning Control Committee on 11 May 2022 and, if the applicant had not submitted the scheme and timeframe, the application would be determined on its merits.

The applicant has submitted a scheme which is shown in the drawing accompanying the agenda pack (Drawing Ref No. DPM838/01 Rev B) and will be shown at the meeting.

The applicant's agent has also stated in an email to officer's:

'The anticipated time scale for the acoustic units to be installed approx. 6 weeks (subject to manufacturer's confirmation) from order confirmed following receipt of planning approval'.

Representations Received

Two letters of representation and one follow up letter have been received raising the following comments:

1. Thank you for your email and I confirm I will be commenting on the amended plans before 28 April 2022.

However, I refer you to section A of your email below, which requires the applicant to submit 'a proposal for the design and fitting of the acoustic enclosures to demonstrate that the mitigation measures would be possible'.

- (A) That the application be deferred to enable the applicant to submit a proposal for the design and fitting of the acoustic enclosures and to demonstrate that the mitigation measures would be possible and could be achieved within the suggested timescales.

I am requesting that the precise specifications of the acoustic enclosures, are provided as Were required by the Planning Committee on 6 April 2022. Without the actual measurements it is not possible for me (or the planning committee) to make an informed judgement whether the acoustic enclosures will fit around the units which currently are located right up to my boundary with no spare capacity. A photo of what they 'could' look like is irrelevant without the specifications.

Therefore, I reserve the right to comment further when you have provided me with relevant information.

2. Having studied the amended plan for the above application I continue to object for the following reasons.

The application was deferred by the planning committee on 6 April 2022.

One of the reasons for deferment (section A below) specifically requested that a proposal be submitted for detailed design and fitting of the acoustic enclosures.

'That the application be deferred to enable the applicant to submit a proposal for the design and fitting of the acoustic enclosures and to demonstrate that the mitigation measures would be possible and could be achieved within the suggested timescale'.

The amended plan does not provide any specifications or measurements in relation to the proximity of the acoustic enclosures to the boundary fence manufacturers typically specify one metre. The air conditioning units are already in very close proximity (almost touching) to the boundary fence and it is impossible to ascertain whether there is sufficient space for an acoustic enclosure on the information provided. Who is the manufacturer and where are the manufacturers specifications? It is my understanding that provision must be made for air to circulate around the units. How can this be achieved when the units are already almost touching the fence.

The photo provided is not of the actual proposed unit, merely 'something like this' In reality it could be a completely different design and totally unsuitable for the location. For example in the 'photo' there are ventilation louvres on the sides, one of the units will be raised above the fence, it is inevitable that circulating air will bellow out to the patio below.

Pollution Control Officer

The Pollution Officer report is dated 11 March 2022 and refers to the units operating with the hours of 0700 to 2200. The amended plan does not refer to the time constraint on the hours of operation as stated in the previous application.

Alternative Site.

Whilst noting the comments of Planning Officers that the current application is the one being considered, at the last planning meeting the applicant stated with emphasis that the business cannot operate without air conditioning. In view of his comments, I believe that the availability of an alternative site is a valid planning point in this case. Londis are a major company with many outlets and it is most unfortunate that they were not aware planning permission was required for air-conditioning units. That is the responsibility of the management of Londis not mine or my tenant. The Acoustic report states that the units could be re-located at the rear of the shop. The applicant in a statement to the Planning Officer states.

1. 'Relocating to the back wall will result in them in them being immediately below on of the flats above the retail unit - this will breach the Councils Policy'
2. 'Re-locating the units to the back will also result in them being near the block of flats across the road with immediate complaints likely from all the residents in these flats'
3. ' A trellis can be fitted above the dividing fence between our property and 9 park Road , thereby no visibility of the units from the adjacent property'.

In response I make the following comments,

I cannot find this County policy but if it exists then the units are directly below my flat what is the difference? What is the policy the applicant is referring to because if it applies to his property then it also applies to mine. The flats across the road are approximately 40 yards away, the current location of the units is inches away from my tenants amenity space and a few yards from the flat. If the units will disturb residents over 40 yards away how can he justify the units being inches away from my property.

My flat has an amenity space which is much enjoyed by the tenants, any additional height to the fence would block the sunlight to the patio area and is not an option. Furthermore currently the ground floor of my premises is a retail unit, but in the future I may wish to convert this property into living accommodation (which would be consistent with government policy). The units will be directly adjacent to my property and will prejudice any future use.

In conclusion the applicant does not wish to risk disturbing his own tenants or the residents across the road but is quite happy to encroach upon the lifestyle and wellbeing of my current and future tenants. Most companies would have gone to planning before they agreed to lease the property, it is their responsibility to find an acceptable alternative not mine. These plans were refused earlier this year, they were re-submitted with only minimal alterations. My property is not there to facilitate Londis, they have perfectly acceptable alternative to re-locate them on the large car park at the rear as suggested by the Pollution Control Officer, Drawing Number DPM838/01 February 2022.

3. I understand a planning application is being considered for the installation of air conditioning units in an area previously used for the storage of refuse for the shop premises which has flats above.

As a lifelong resident of Old Penkridge Road I remember very well when the plans were approved for the chemist's shop which was built on the garden of the adjacent house. Conditions were placed on the application to protect the amenity of local residents.

I understand that the area currently used for the storage of refuse [sic] etc. has been appropriated to accommodate air conditioning units.

I walk by this shop on a daily basis and quite frankly I am dismayed at the removal of the landscaping the shrubs etc. which were part of the conditions for the original planning consent (which had remained there until Londis took over the premises). Instead of shrubs we now have a mess (see photo) with cages full of cardboard, a large commercial bin and other items. I presume this is the result of the rubbish area being used for other purposes. If the designated bin area is not to be exclusively used for the waste (both commercial and domestic) where is the rubbish going to be stored and why has this not been included in the application and alternative arrangements proposed? This is a residential area, and the storing of rubbish in full view of the public does not comply with Section 130 of NPPF.

I have looked up the conditions placed on the original development in 1989 CH/89/0284. One condition states that "no part of the development hereby approved shall be commenced until a scheme of planting, landscaping and surface treatment for the site has been submitted to and approved by the Local Planning Authority. The scheme shall indicate the number position height of all trees, hedges and shrubs to be planted together with those existing which are to be retained and/or removed if appropriate and the surface treatment e.g. seeding, turfing, paving of any unplanted areas. The positions heights of any materials used for any fencing or walls to be erected shall also be described".

Has Londis applied to the Planning Department to have the conditions amended, and although I know loading and unloading is not part of this application how about the condition that the development should provide loading and unloading facilities.

Because currently residents are subjected to a pantehnicon parking on the pavement unloading on double yellow lines directly on a busy five way mini roundabout. I am including this comment so it can be recorded.

I am enclosing the conditions which were placed on this development, a supermarket has very different requirements to a chemist shop, in respect of waste, loading and unloading. How was it possible to open a supermarket without the conditions being amended to reflect their requirements?

The officer report for the meeting held on 6th April 2022 section 4.7.4 below

'4.7.4 In response to the neighbour's comments regarding the displacement of waste bins, officers would advise that the yard area with the proposed AC Units would retain sufficient proportions to house several waste bins. Moreover, there is no requirement in the previous permissions relating to the application property for this area to be retained as waste bin storage'.

Are the Local Planning Authority seriously saying a supermarket which has large amounts of waste is not required to provide details of the storage and disposal of its waste and it ok to just store it on previously landscaped ground in full view of local residents?

Please take my objection into consideration.

Assessment

A copy of the original report to Planning Committee is attached at Appendix 1 of this report. The Officer Update read out to committee on the 6th April is also attached at Appendix 2 of this report.

Whilst the officer recommendation still stands, it is for Planning Control Committee to determine whether the applicant has supplied sufficient, clear and concise information to satisfy the concerns raised by the Committee at the meeting held on 6th April 2022.

Officer's Response to Additional Comments Raised by Neighbours

In response to comments regarding the specifications and measurements of the proposed acoustic enclosures and the proximity to the boundary fence, officers would advise that the drawings are to scale and therefore measurements can be taken from the drawings.

In response to comments regarding the hours of operation, these are still shown on the proposed elevation drawings on and are also recommended as a condition should permission be granted.

In response to comments regarding a breach of Council policy if the units were moved to the rear. Officers would advise that the application can only be considered on its merits for its proposed siting as shown in the application. It is not clear what policy exactly is being referred to, however, officers would add that the siting of the proposed unit has been assessed against relevant planning policy and other relevant material considerations and has been considered acceptable for the reasons set out in the report below.

In response to comments regarding the proposed units prejudicing any future use of the neighbours ground floor unit should they wish to convert it; officers would advise that the application can only be assessed on the situation as it stands at present and cannot take into account any hypothetical development / land use that may or may not occur in the future.

In response to the neighbour's comments regarding the landscape condition placed on planning permission No. CH/89/0284 and the storing of bins/refuse on the site. Officers would advise that the landscape condition referred to does allow for the removal of landscaping if appropriate. Indeed, whilst the loss of any landscaping and the storage of any bins on the open grassed area would be unfortunate, there is actually no requirement on this permission for the applicant to store bins in the yard area and therefore no means for the Council to be able to enforce this.

In regard to the comments for the Council to require a loading/unloading condition on this application, officers would advise that this application for the AC units only and not for the land use of the shop itself. Officers would add that a chemist and a shop both fall under the same use classification - Class E, and therefore the change between the two business operations does not constitute a material change of use that would require planning permission. This would be why there are no conditions in place or another Council planning permission which relate specifically to the operation of the shop.

Conclusion

Whilst the officer recommendation is not altered in the light of the above it is for Planning Control Committee to determine whether the applicant has supplied sufficient, clear and concise information to satisfy the concerns raised by the Committee at the meeting held on 6th April 2022.

Report to 6th April Planning Committee Meeting

Contact Officer: Samuel Everton

Telephone No: 4514

Planning Control Committee

6th April 2022

Application No: CH/22/0078

Received: 28-Feb-2022

Location: 1-7, Park Road, Cannock, WS11 1JN

Parish: None.

Description: Installation of external air conditioning units (re-submission of CH/21/0407)

Application Type: Full Planning Application

RECOMMENDATION:

Approve Subject to Conditions

Reason(s) for Recommendation:

In accordance with paragraph 38 of the National Planning Policy Framework the Local Planning Authority has worked with the applicant in a positive and proactive manner to approve the proposed development, which accords with the Local Plan and the National Planning Policy Framework.

Conditions (and Reasons for Conditions):

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason

To comply with the requirements of Section 91 of the Town & Country Planning Act 1990.

- 2 The development hereby permitted shall be carried in accordance with the following approved plans:

Location Plan

Block Plan

Drawing No. DPM838/01 Rev A

Reason

For the avoidance of doubt and in the interests of proper planning.

3. Within 21 days of the date of this permission the acoustic enclosures shall be erected around the Air Conditioning Condenser Units. The acoustic enclosures shall thereafter be retained for the lifetime of the permission

Reason

To enable the mitigation measures set out in the submitted Noise Survey Report to be carried out and to ensure that they have achieved the desired reduction in sound levels generated from the Units. This is so as to ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to ensure compliance with the Local Plan Policy CP3 - 'Chase Shaping, Design' and the NPPF.

4. This permission shall expire on 6th October 2022. On, or before, that date the Air Conditioning Condenser Units shall be removed unless otherwise agreed in writing by the Local Planning Authority*.

Reason

To enable the mitigation measures set out in the submitted Noise Survey Report be carried out and to ensure that they have achieved the desired reduction in sound levels generated from the Units. This is so as to ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to ensure compliance with the Local Plan Policy CP3 - Chase Shaping, Design and the NPPF.

5. The 3 No. Air Conditioning Condenser Units on the northern elevation of the building as shown on the approved plans shall not operate outside of the hours between 7.00am and 10.00pm on any day.

Reason

To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to ensure compliance with the Local Plan Policy CP3 - 'Chase Shaping, Design' and the NPPF.

Notes to the Developer

* A new application for planning permission to the Council will be required for the installation of the Air Conditioning Units hereby approved beyond this period. The applicant is therefore advised to use this period to undertake robust surveying of the noise generated by the units and the mitigating impact of the acoustic enclosure.

Consultations and Publicity

Internal Consultations

Environmental Health

Thank you for referring this matter for consideration. No adverse comments are offered in principle. The proposal describes measures to mitigate against the modelled noise

impact of existing air conditioning units on local residential receptors. The measures include:

- Relocation of the dairy unit to a ground level location in the courtyard, and provision of acoustic enclosure (11dB Rw). This was described as an alternative mitigation measure in the accompanying noise assessment (if the unit could not be relocated to the rear of the building). Never-the-less, the modelled noise impact is predicted to be NOEL - No Observed Effect Level, and therefore acceptable.
- The three remaining a/c units to be provided with an acoustic enclosure and operated within the hours 0700 to 2200.

External Consultations

None.

Response to Publicity

The application has been advertised by site notice and neighbour letter. One email has been received from a neighbour in objection to the proposal and raises the following concerns:

- Questions the validity of re-submitting almost identical plans which were refused by the Planning Committee, and why this is being allowed to proceed rather than go through the appeal process
- The relocation of one unit does not adequately address the reasons for refusal, which specifically stated that the noise cannot be mitigated through the fitting of an acoustic enclosure. The remaining units remain in situ directly adjacent to the neighbour's boundary, which is next to an amenity space for the occupants of the residential flat. The units are located in the worst possible location, i.e. the brick enclosure directs and reflects sound through a thin fence towards 9 and 9A Park Road.
- Constant noise adjacent to an amenity space during the summer months will affect the quality of life of the residents of the flat by preventing them from quiet enjoyment of their outside space.
- The proposal to turn off the units between the hours of 10pm and 7am, is an acknowledgement that the units will still cause noise and disturbance, yet no consideration has been given to the adjoining amenity space
- The Environmental Health Officers' comments are inconsistent with the previous comments made for CH/21/0407 which do not recommend a further Noise Assessment following installation to ensure that the acoustic barriers have worked
- The dimensions and design of the acoustic enclosures have not been provided, therefore it has not been adequately demonstrated how an acoustic enclosure can be installed in the limited space surrounding the units or how effective they will be.

- The one unit to be relocated is stated to be constructed on an anti-vibration mount, yet no mention is made of anti-vibration mounts for the remaining double and two single units (which was recommended in the noise assessment)
- Questions why they are not being located on the rear car park, in a well screened purpose built acoustic enclosure.
- The waste bins will be displaced from the existing designated bin area, which will add to the already unsightly paper and cardboard waste which can be seen by residents of Old Penkridge Road on daily basis

Relevant Planning History

CH/21/0407: Installation of external air conditioning units (retrospective application).
Refused 23/02/2022 for the following reasons:

1. The external air conditioning units, by virtue of their stark utilitarian design, their height on the building and their proximity to the boundary with the adjoining property at 9 and 9A Park Road, which contains a residential flat at first floor and its associated outdoor amenity area to the rear, constitute an unsightly and overpowering addition which detracts from the visual amenity of the immediate area to the detriment of the amenity of the occupiers of that flat contrary to Policy CP3 of the Cannock Chase Local Plan and paragraphs 130(a),(b)and(f) of the National Planning Policy Framework.
2. The external air conditioning units by virtue of the noise that they generate detract from the residential amenity of the occupiers of the residential flat at 9A Park Road contrary to Policy CP3 of the Cannock Chase Local Plan and paragraphs 130(f) and 185 of the National Planning Policy Framework. Furthermore, whilst it may be possible to mitigate this noise by the fitting of an acoustic enclosure around the units, this would add to the overall bulk of the units and therefore further exacerbate the existing harm to visual amenity identified above. As such it is considered that the harm by virtue of noise cannot be satisfactorily mitigated through the fitting of an acoustic enclosure.

1 Site and Surroundings

- 1.1 The application site comprises a two-storey building and associated car park and yard area, used as a 'Londis' shop located on the corner of Park Road and Old Penkridge Road.
- 1.2 The application building comprises a brick construction with a hipped roof, and features recently installed signage on its east, south and western elevations in connection with the shop. There is an existing 2.1m brick wall on the northern boundary of the site and enclosing the yard area.
- 1.5 The application site is located within the Cannock Town Centre boundary, with the area comprised of a mix of retail and other commercial uses associated with the town centre as well as residential uses including two storey dwellings and apartments. To the northeast of the site there is a two-storey building divided into a beauty and massage clinic at ground floor level with a flat at first floor level at No's. 9 and 9A, with the rear area used as a patio for the flat. There is also a

dwelling at No. 11 and a row of two storey dwellings further along Park Road and to the northwest there is a doctor's surgery.

- 1.6 The site is also located within a Mineral Conservation Area and a Coal Mining Low Risk area.

2 Proposal

- 2.1 The application seeks retrospective planning permission for the installation of 3 No. Air Conditioning (AC) Units on the northern elevation of the building and relocation of 1 No. unit to the ground within the enclosed yard area (4 No. Units in total).
- 2.2 The AC units comprise a typical design, with the highest unit measuring 2.2m above ground level at its highest point.
- 2.3 The application proposes the use of an acoustic enclosure on the units to reduce the sound level generated when the units are operational.
- 2.4 The application also proposes three of the existing units on the northern elevation to be switched off between the hours of 10.00pm to 7.00am. The unit relocated to the ground would however operate 24 hours a day.

3 Planning Policy

- 3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.

3.2 The Development Plan currently comprises the Cannock Chase Local Plan (2014) and the Minerals Local Plan for Staffordshire (2015 – 2030. Relevant policies within the Local Plan include:

CP1 - Strategy – the Strategic Approach

CP3 - Chase Shaping – Design

Relevant policies within the minerals plan include: -

Policy 3 - Safeguarding Minerals of Local and National Importance and Important Infrastructure

3.3 National Planning Policy Framework

- 3.4 The NPPF (2021) sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it states that there should be "presumption in favour of sustainable development" and sets out what this means for decision taking.
- 3.5 The NPPF (2021) confirms the plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise.

3.6 Relevant paragraphs within the NPPF include paragraphs: -

- 8: Three dimensions of Sustainable Development
- 11-14: The Presumption in favour of Sustainable Development
- 47-50: Determining Applications
- 126, 130, 132, 134: Achieving Well-Designed Places
- 218, 219: Implementation

3.7 Other relevant documents include: -

Design Supplementary Planning Document, April 2016.

Cannock Chase Local Development Framework Parking Standards, Travel Plans and Developer Contributions for Sustainable Transport.

Manual for Streets.

4 Determining Issues

4.1 The determining issues for the proposed development include:-

- i) Principle of development.
- ii) Design and impact on the character and form of the area.
- iii) Impact on residential amenity.
- iv) Impact on highway safety.
- v) Minerals safeguarding.

4.2 Principle of the Development

4.2.1 The AC units are located on the side of an existing retail premises in connection with the retail land use. As such the development is considered acceptable in principle subject to the considerations outlined below.

4.3 Design and the Impact on the Character and Form of the Area

4.3.1 In respect to issues in relation to design Policy CP3 of the Local Plan requires that, amongst other things, developments should be: -

- (i) well-related to existing buildings and their surroundings in terms of layout, density, access, scale appearance, landscaping and materials; and
- (ii) successfully integrate with existing trees; hedges and landscape features of amenity value and employ measures to enhance biodiversity and green the built environment with new planting designed to reinforce local distinctiveness.

4.3.2 Relevant policies within the NPPF in respect to design and achieving well-designed places include paragraphs 126, 130, 132 and 134. Paragraph 126 makes it clear that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.

4.3.3 Paragraph 130 of the NPPF, in so much as it relates to impacts on the character of an area goes on to state: -

Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

4.3.4 Finally Paragraph 134 states planning permission should be refused for development that is not well designed, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision taker as a valid reason to object to development. Conversely, significant weight should be given to:

- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or
- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

4.3.5 The AC units are of a typical utilitarian design, comprising a grey metallic box structure with associated black wiring visible against the brickwork. Indeed, the reasons for refusal of the previous application are noted, wherein the Council viewed that the height of the units on the building and proximity to No. 9A Park Road and its amenity area would constitute an unsightly and overpowering addition. However, the unit which is most visible over the neighbours fence is proposed to be relocated to ground level. Therefore, leaving only the very tops of the units visible from the neighbours rear amenity area, even with the additional bulk created by the acoustic enclosures. Thus, greatly reducing the overpowering impact they have at present.

- 4.3.6 Moreover, whilst it is accepted that the units would not present an aesthetically pleasing addition to the host building given their stark and utilitarian design, the units are in an enclosed area and not readily visible from the wider street scene. As such, any impact on visual amenity would be minimal and therefore the proposal would not, on balance, significantly harm the character as viewed from of the wider area.
- 4.3.7 Therefore, having had regard to Policy CP3 of the Local Plan and the above-mentioned paragraphs of the NPPF it is considered that the proposal would be acceptable in respect to its impact on the character and form of the area.

4.4 Impact on Residential Amenity

- 4.4.1 Policy CP3 of the Local Plan states that the following key requirements of high quality design will need to be addressed in development proposals and goes on to include [amongst other things] the protection of the "amenity enjoyed by existing properties". This is supported by the guidance as outlined in Appendix B of the Design SPD which sets out guidance in respect to space about dwellings and garden sizes.
- 4.4.2 Paragraph 130(f) of the NPPF states that planning policies and decisions should ensure that developments [amongst other things] create places with a high standard of amenity for existing and future users.
- 4.4.3 The material considerations in this case are the potential for noise and disturbance to neighbours.
- 4.4.4 The AC units are located in close proximity to the flat at No. 9A Park Road, which given its residential use would be susceptible to any significant degree of noise generated by the proposed air conditioning units. The rear windows of the flat would be within 10m of the AC units and the rear amenity space would be directly adjacent to the units. As such, the application is supported by a Noise Survey Report, which found that the units would generate 11dB above the night-time background sound level, therefore indicating a potential for a significant adverse impact on neighbours at No's. 9-11 Park Road. Therefore, the Report makes two recommendations to mitigate this impact, either move the unit to the rear elevation of the shop or house the condenser units within an acoustic enclosure. The application presented proposes to keep the units within the yard area and house the units within acoustic enclosures.
- 4.4.5 As such, the Report details that the condenser units would need to be housed within acoustic enclosures that achieve a minimum weighted sound reduction of 11dB, so as to reduce the noise levels generated to below the night-time background sound level. According to the findings of the Report, this would then achieve a no observed effect to the nearest noise receptors such as the first floor flat at No. 9A Park Road. The Council's Environmental Health Officer was consulted on the proposal and has not raised any objections to the proposal given the findings of the report. Therefore, based on the information provided it is clear that the noise generated by the units could be reduced to an acceptable level following the installation of the proposed acoustic enclosures.
- 4.4.6 Notwithstanding this, given that the application is partly retrospective and the comments received from neighbours, it is recommended that a temporary

permission be granted for 6 months so as to enable the applicant to install the acoustic enclosures and carry out further acoustic testing to confirm that the enclosures have achieved the desired reduction in noise generation. After this period, the permission would expire, and the applicant would need to reapply and support the application with a new noise report outlining the findings of the testing. If it is found that the mitigation measures have not achieved the desired results after this period, the Council would be able to require their removal or to investigate whether there are other options available to resolve the issue.

4.4.7 Finally, to further ensure the protection of neighbour's amenity, it is also recommended that a condition be attached on the decision notice should the Council be minded to grant permission to restrict the hours of operation of the 3 No. units on the northern elevation to between 7.00am and 10.00pm as proposed by the applicant.

4.4.8 Therefore, having had regard to paragraph 185 of the NPPF, Policy CP3 of the Cannock Chase Local Plan it is considered appropriate in this instance to grant a temporary permission to allow the applicant the opportunity to mitigate potential noise issues and to assess the efficacy of those measures.

4.5 Impact on Highway Safety

4.5.1 Paragraph 111 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

4.5.2 The AC units do not alter any access arrangements or visibility splays and therefore would not have any significant adverse impact on highways safety and would be in accordance with Paragraph 111 of the NPPF.

4.6 Mineral Safeguarding

4.6.1 Part of the site falls within a Mineral Safeguarding Area (MSAs) for Superficial Sand and Gravel and Coal Fireclay. Paragraph 212, of the National Planning Policy Framework (NPPF) and Policy 3 of the Minerals Local Plan for Staffordshire (2015 – 2030), aim to protect mineral resources from sterilisation by other forms of development.

4.6.2 Policy 3.2 of the Minerals Local Plan states that:

'Within a Mineral Safeguarding Area, non-mineral development except for those types of development set out in Appendix 6, should not be permitted until the prospective developer has produced evidence prior to determination of the planning application to demonstrate:

- a) the existence, the quantity, the quality and the value of the underlying or adjacent mineral resource; and
- b) that proposals for non-mineral development in the vicinity of permitted mineral sites or mineral site allocations would not unduly restrict the mineral operations.

4.6.3 The development would fall under Item 2 within the exemption list as an application development to an existing building and is therefore permitted. As such the proposal is compliant with Policy 3 of the Minerals Local Plan.

4.7 Other Issues

4.7.1 In response to neighbours concerns as to why the application has not gone through the appeal process. Officers would advise that whilst the proposal is an amended scheme over the previous scheme that was refused under application Ref No. CH/21/0407. Therefore, the applicant has the right to submit an amended application to the Council to address the reasons for refusal. The applicant also has the right to appeal the decision to the Planning inspectorate should they wish to do so.

4.7.2 In response to the neighbours comments that the dimensions and design of the acoustic enclosure have not been shown, officers would advise that the submitted drawings do show the outline of the enclosure. The efficacy of the enclosures could be confirmed by requiring further testing to be carried out following the installation of the enclosures as recommended above.

4.7.3 In response to the neighbours concerns regard why the units are not proposed to be located within the car park within a purpose built enclosure. Officers would advise that the Council can only consider the proposal presented before it.

4.7.4 In response to the neighbours comments regarding the displacement of waste bins, officers would advise that the yard area with the proposed AC Units would retain sufficient proportions to house several waste bins. Moreover, there is no requirement in the previous permissions relating to the application property for this area to be retained as waste bin storage.

5. Human Rights Act 1998 and Equality Act 2010

5.1 Human Rights Act 1998

5.1.2 The proposals set out in this report are considered to be compatible with the Human Rights Act 1998. The recommendation to approve the application accords with the adopted policies in the Development Plan which aims to secure the proper planning of the area in the public interest.

5.2 Equality Act 2010

5.2.1 It is acknowledged that age, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation are protected characteristics under the Equality Act 2010.

5.2.2 By virtue of Section 149 of that Act in exercising its planning functions the Council must have due regard to the need to:

Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited;

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

5.2.3 It is therefore acknowledged that the Council needs to have due regard to the effect of its decision on persons with protected characteristics mentioned.

5.2.4 Such consideration has been balanced along with other material planning considerations and it is considered that the proposal is acceptable in respect to the requirements of the Act. Having had regard to the particulars of this case officers consider that the proposal would not conflict with the aim of the Equality Act.

6 Conclusion

6.1 In respect to all matters of acknowledged interest and policy tests it is considered that the proposal, subject to the proposed mitigation measures, would not result in any significant harm to acknowledged interests and is therefore considered to be in accordance with the Development Plan.

6.2 It is therefore recommended that the application be granted temporary approval for a six-month period, subject to the attached conditions.

Officer Update to Planning Committee on 6th April 2022

Following completion of the report, officers received the following comments from the applicant in relation to the siting of the air conditioning units: -

- “Relocating the units to the back wall will result in them being immediately below one of the flats above the retail unit- this will breach Cannock Council's policy.
- Relocating the units to the back wall will also result in them being near the block of flats across the road with immediate complaints likely from all the residents from these flats.
- A trellis can be fitted above the dividing fence between our property and 9 Park Road, thereby no visibility of the units from the adjacent property.

Note, the first two of the above points were already considered prior to fitting the units at the present location”.

In response, officers would advise that the Council can only consider the location of the units as they are shown in this application. Relocating the units to the rear elevation would require a new application which would need to be assessed separately on its own merits.

Officers would also add that details and specification of such a trellis has not been provided, however, a condition requiring details of the trellising to be provided and erected as such could also be included on the decision notice should the committee be minded to grant permission.

The following wording is therefore recommended for the condition: -

Within 21 days of the date of this permission, details of a trellis to be fitted above the fence on the shared south-eastern boundary with No. 9 and 9A Park Road shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the trellis shall be retained as such for the life of the development.

Reason

In the interests of visual amenity and to ensure compliance with Local Plan Policy CP3 and the NPPF.

The applicant has also provided the several photographs showing the site which have been included in the presentation.