



Appeal Decision

Site visit made on 8 August 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2022

Appeal Ref: APP/A0665/W/22/3295847

Chester Retail Park, Old Seals Way, Chester CH1 4RY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M Ridgway, CPG Chester Limited, against the decision of Cheshire West and Chester Council.
 - The application Ref 21/02255, dated 21 May 2021, was refused by notice dated 10 December 2021.
 - The development proposed is the construction of a restaurant and hot food takeaway with drive-through facility, plus associated alterations to car park.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a restaurant and hot food takeaway with drive-through facility, plus associated alterations to car park at Chester Retail Park, Old Seals Way, Chester CH1 4RY in accordance with the terms of the application, Ref 21/02255, dated 21 May 2021, subject to the conditions set out in the attached schedule.

Main Issue

2. The effect of the proposed development on public health.

Reasons

3. The appeal site concerns a parcel of land within the car park at Chester Retail Park. It is sited adjacent to two existing drive through restaurants. Beyond the appeal site and Chester Retail Park are two further retail parks consisting of the Greyhound Retail Park and Deva Retail Park. There are also further commercial units within close proximity. All in all, the area has a strong commercial character, with the nearest residential properties are located a considerable distance away.
4. There are a vast number of food options within the immediate area, ranging from individual restaurants/drive throughs to outlets within retail stores. The type of food on offer in most tends to be classed as less healthy.
5. Outlining the health and economic challenges of the area, the Council advise that, compared to the borough and national average, the appeal site is located within an area which experiences excess weight in children, higher levels of adult obesity, income deprivation, child poverty and a greater percent of the population reporting poor health overall.
6. The issues of significant deprivation in the area are likely to result in poor health, with people turning to cheaper food which tends to be less nutritious. I

note the Council initiatives in the local area and wider borough which aim to support local residents to eat well and lead healthy lifestyles. The appeal proposal would provide an additional food option which is likely to offer mainly unhealthy choices. However, as noted by the Council, the causes of obesity are complex and multifaceted and include numerous social, economic, biological and environmental factors.

7. The appeal site is within a large, commercial area rather than the heart of a residential community. It is a considerable distance from the nearest residential properties and local residents, without a vehicle, would have to travel long distances, often along busy arterial routes, to access the appeal site. The distance involved, even in a vehicle, and unpleasant route are likely to dissuade people from using the proposal on a regular basis, particularly when closer food options may exist. Therefore, this proposal would not significantly increase access to healthier food options for local residents.
8. Due to the nature of the retail park, the area would be a destination for people from a very wide locality and it is likely that the proposal would commonly be visited as part of linked trips. Whilst the proposal would increase the total number of food options in the locality, many of the existing options are relatively well dispersed across the various retail parks. Even considering the adjacent two units, there is not an over concentration of food options within the immediate locality. I am not therefore convinced that the proposed addition of one further unit would compound the existing health challenges of residents in the wider area.
9. Accordingly, the proposal would not have a significant adverse effect on public health and thus it would accord with Policies STRAT 1 and SOC 5 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies and Policy DM 29 of the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies. Collectively these policies, along with the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (the PPG), aim to ensure that developments have regard for the health and well-being of communities and not give rise to adverse effects.

Other Matters

10. Various concerns have been raised relating to the effect of the proposal on parking, traffic and deliveries. Current issues with the circulation of vehicles into, around and out of the wider Chester Retail Park have been highlighted and I note that the Council's highway consultee shares these concerns. During my site visit, whilst just a snap-shot in time, I also observed how internal queuing within the retail park for the existing drive throughs created issues with vehicle movements.
11. The Council nevertheless consider that a suitable, well thought out and deployed car park management plan, which would apply to the whole site, could have a positive impact in terms of mitigation of the new proposal. Additionally, in terms of parking, whilst this proposal would reduce the number of spaces within the retail park, the Council considers that the large area to the rear of the site could be better utilised for staff parking thus freeing up public spaces within the site.
12. Based on the evidence, I consider that conditions to these effects would appropriately address any concerns relating to the provision of parking and

movement and any cumulative effects of the proposal. Under section 100ZA (5) of the Act the appellant has given their written agreement to a pre-commencement condition to this effect. Additionally, a condition controlling delivery times would manage any issues with vehicle movements and congestion.

Conditions

13. Further to the above, I have had regard to the conditions suggested by the Council and its consultees, which the appellant has confirmed are reasonable to them. Having regard to the tests in the Framework and the advice in the PPG, where appropriate I have carried out some minor editing to the suggested conditions which has not affected their controlling elements.
14. Conditions specifying the time limit and the approved plans are necessary in the interests of certainty. As the external materials are included on the approved plans, a condition to this effect is not necessary. A condition relating to contamination is necessary in the interests of safeguarding future users.
15. To manage traffic during peak periods and ensure adequate parking provision, a condition requiring a car park management plan to be submitted is necessary in the interests of highway safety. It is suggested that this relates to the appeal site and the wider retail park. It is necessary to be a pre-commencement condition as details will need to be agreed and put in place before works begin to prevent the development resulting in harm with regard to the respective matters the condition is seeking to control. Linked to this matter, a condition requiring details of deliveries is also necessary in the interests of highway safety.
16. Conditions requiring the provision of cycle parking and electric vehicle charging are necessary to encourage sustainable means of travel. In the interests of other wider environmental standards, I have imposed conditions relating to drainage and flood risk.
17. Due to the removal of existing trees and the replacement with parking bays, details of new hard and soft landscaping is required in the interests of the appearance of the area and biodiversity.

Conclusion

18. For the reasons set out above, the proposal would accord with the development plan and there are no other considerations which outweigh this finding. Accordingly, the appeal is allowed.

H Ellison
INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location 17292-500, Existing Site Layout 17292-100, Proposed Site Layout (1:200) 17292-101, Proposed Site Layout (1:500) 17292-102, Proposed GA 17292-103, Proposed Elevations 17292-104, Proposed Sections 17292-105, and Proposed Roof Plan 17292-106.
3. No development shall take place until a car park management plan for the appeal site and the land controlled by the applicant edged blue on approved drawing number 17292-500 has been submitted to and approved in writing by the local planning authority. The car park management plan shall detail a) how peak periods would be managed, including what measures and staffing would be used to manage those periods, and b) staff car parking arrangements. The development hereby permitted shall thereafter be operated and managed in accordance with the approved plan for the lifetime of the development.
4. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles has been submitted to and approved in writing by the local planning authority. The development shall be constructed and completed in accordance with the approved details.
5. Prior to first use of the development hereby approved, a delivery management plan, setting out how deliveries for the use would be timed and regulated so as to avoid peak trading times, shall be submitted to and approved in writing by the local planning authority. The use shall then be carried out in strict accordance with the agreed delivery management plan thereafter.
6. Prior to first use of the development hereby approved, full details of cycle parking shall be submitted to and agreed in writing by the local planning authority. The agreed cycle parking shall be provided prior to first use of the development hereby approved and retained thereafter.
7. Prior to first use of the development hereby approved, a hard and soft landscaping plan and implementation timetable shall be submitted to and agreed in writing by the LPA. The landscaping plan shall include specification details of replacement tree planting and hardstanding. The hardstanding shall be carried out prior to first use of the building and retained thereafter. The soft landscaping shall be carried out in accordance with the agreed timetable.

If within a period of 5 years from the date of planting any tree planted in accordance with the approved scheme (or any tree planted in replacement for it) is removed, uprooted, destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same size and species as originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree.

8. Prior to first use of the development hereby approved, a minimum of two electric vehicle charging points shall be installed and provided for use where they are accessible from dedicated parking bays. The electric vehicle charging

points shall thereafter be retained and maintained for the lifetime of the development.

9. Any contamination that is found during the course of construction of the approved development shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. The approved details shall be carried out before the development is resumed or continued.
10. The development shall be carried out in accordance with the submitted Flood Risk Assessment & Drainage Strategy, Doc Ref: 2705, Date 3rd August 2021, Brennan Consult and the flood risk management measures it details. The measures shall be retained and maintained thereafter throughout the lifetime of the development.