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17 November 2016



Dear Ben

TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2011
TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (AMENDMENT) REGULATIONS 2015
LAND ADJACENT TO (SOUTH EAST OF) SAINSBURY'S, CHURNET WAY, LEEK ST13 8YG
PROPOSED MIXED USE DEVELOPMENT (RETAIL, HOTEL, RESIDENTIAL)
REQUEST FOR FORMAL ENVIRONMENTAL IMPACT ASSESSMENT (EIA) SCREENING OPINION ON BEHALF OF MOORLANDS LEEK LLP

You will recall that I wrote to you on 4th November 2016 with a request for pre-application advice in relation to the above proposed development. You have since kindly responded and that process is now under way. Through our discussions, and informally, you indicated and I agreed that EIA is unlikely to be necessary in relation to this scheme, but I indicated that we might in any event seek formally to exclude that prospect through a screening request. As such, I am now writing to request that the Council adopt a Screening Opinion as to whether the proposed development at land adjacent to (south east of) Sainsbury's, Churnet Way, Leek, is EIA development.

The request for this Screening Opinion is made in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, Part 2, Regulation 5 (generally here referred to as the EIA Regulations 2011), to confirm whether an Environmental Impact Assessment will be required to accompany the planning applications for the development proposed. A Site Location Plan showing the expected general extent of the site (drawing reference SK15/41/16B, overall site edged red) is enclosed.

In support of this request for a Screening Opinion, the following commentary sets out some background by describing the site, the planning context, as well as a brief description of the nature of the proposed development and of its possible effects on the environment.

In testing the proposals against the general screening criteria provided at Schedule 3 of the EIA Regulations 2011, it is the applicant's view that given the nature of the proposed development and providing the relevant studies, detailed below, are submitted as part of the planning application and any identified mitigation measures are implemented, the proposed development should not have any significant environmental effects and should not require a formal Environmental Impact Assessment in accordance with the EIA Regulations 2011. I would invite the Council to adopt the same opinion.

The Site

The site as a whole extends to approximately 1.4ha. It is located adjacent to (south east of) the recently developed Sainsbury's store and employment premises on Churnet Way, north of Macclesfield Road, on the northern side of Leek. Its northern and western boundary is formed by the access road and car parking for the Sainsbury's store; to the south and east it sits inside the angle formed here by the River Churnet. Extensive

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works were carried out to the river corridor as part of the Sainsbury's development, and the site nests within this.

It comprises the last remaining land left over from the part implementation of previous permissions which facilitated the regeneration of the former Churnet Works. Those permissions also allowed for the unit retail, and residential, development of the current site. The unit retail part of the previously permitted development here remains live and capable of implementation. The current proposals seek to complete the comprehensive treatment of this part of Leek.

The primary access to the former Churnet Works redevelopment is achieved via a roundabout junction with Macclesfield Road. The access extends northwards with a new petrol filling station to the west, and public house to the east. It bridges the river with further roundabout junctions north and south of the crossing. These provide access in turn to the employment and superstore uses; the current site is accessed from the eastern arm of the northern roundabout. A secondary vehicular access across the river to the south eastern corner of the site is achieved from Abbey Green Road, and a further, pedestrian, bridge provides another link to this part of the site.

The site has been cleared, levelled and prepared ready to accept development. It is flat, but occupies two tiers. The lower tier is adjacent to and at the same level as the Sainsbury's access road. The site is crossed by a slight ridge with the upper tier located around the rear of the site towards the river.

Immediately to the north of the site is a landscaped wildlife area with ponds that receive water drained from the Churnet Works redevelopment. Land to the east includes some employment activity, and then a residential area. Land to the south, beyond Macclesfield Road, is also primarily residential in character. The wider area to the east beyond the Churnet Works site is open countryside.

The Proposed Development

The scheme can be understood in three parts. First, the south western part of the site adjacent to the Sainsbury's access will include a terrace of retail units providing 2,787 sq m (30,000 sq ft) of accommodation, including an allowance for 929 sq m (10,000 sq ft) at mezzanine level. Second, the south eastern part of the site, accessed from Abbey Green Road, will accommodate a three storey, 60 bed, hotel, and car parking. Third, the northern part of the site, again accessed from Abbey Green Road, will be brought forward for residential development, comprising around 8 dwellings. The draft proposals are illustrated on Proposed Site Layout Plan SK15/41/17B enclosed here.

The objective of the planning strategy is to facilitate the comprehensive treatment of the site. An approach is required which will support the rapid and unencumbered delivery of the retail and hotel uses, whilst also enabling the residential development. As such, a single, full, planning application might be submitted to cover the site as a whole, or a single hybrid application, with full details provided for the retail and hotel, but details of access only provided for the residential. It is also possible, though, that two applications will be submitted, one with the retail and hotel in full, and one with the residential separately either in full or outline. Whichever route is taken, it will be ensured that the site as a whole remains capable of being developed, and the different elements complement each other.

The approach will address the overall site as a whole, and be promoted by the same applicant. However, this of course raises questions in terms of how potential multiple applications should be approached from an EIA perspective. The Planning Practice Guidance (PPG) notes (Reference ID: 4-025-20140306) that, "An application should not be considered in isolation if, in reality, it is an integral part of a more substantial development"; in such circumstances the need for EIA should be considered in the context of the whole development. It is not acceptable to split a project down into small parts to circumvent EIA regulations.

The PPG goes on to acknowledge, though, that, "In other cases, it is appropriate to establish whether each of the proposed developments could proceed independently." That would certainly be the case here. Moreover, there would be no functional link between the elements, with the new retail and hotel uses operating entirely independently from, and in no way reliant on, the new residential. Taking this into account I consider that these parts are capable of being considered as separate projects for EIA purposes. This would invite two screening opinions.

However, I am also mindful that this position is not entirely clear cut. The elements are immediately adjacent, so there is at least some physical connection, and at least to some limited degree their environmental effects will overlap. As set out below I consider that these effects are likely to be far less than significant, and as such EIA is not required. You will need to make your own judgement in terms of how to proceed, but for robustness and to take a cautionary approach my comments below are from the perspective that in fact the proposals are taken as a single project for EIA purposes, comprising retail and hotel, as well as residential, development. A corollary of this is that if EIA is not required for this as a single project, it would not be required either for smaller projects relating to the constituent parts.

The development described above may change as the design progresses, and should be regarded as indicative only, rather than fixed, at this stage. However, it is expected that it will not change to such an extent that the approach set out in this letter would be materially affected.

Planning Context

As discussed above, previous planning permissions across the wider former works site allowed for unit retail development on part of the current application site. This is still capable of implementation. Residential development was also previously permitted here; whilst this element has lapsed and is no longer capable of implementation it does demonstrate that in the relatively recent past the Council have been content to allow such a use in this location.

Representations were made to the Council's Preferred Options Sites and Development Boundaries consultation. These made observations relating to the settlement boundary, but also suggesting that this land be allocated for mixed use development.

EIA Development

With reference to Schedule 3 of the EIA Regulations and guidance provided in Planning Practice Guidance (PPG) "Environmental Impact Assessment" which refer to the characteristics of the location, the development, and the potential impacts, it is considered that the proposed development (considered as a whole, i.e. including the retail, hotel and residential elements) is not an "EIA development" for the purposes of the EIA Regulations.

The development proposals do not fall under Schedule 1 of the EIA Regulations. However, in accordance with The Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015 the proposals might constitute a Schedule 2 development; they could be characterised as an "Infrastructure Project (b) – Urban Development Projects including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas", where, "The development includes more than 1 hectare of urban development which is not dwellinghouse development". In fact, the non-residential element of the scheme extends to just less than the 1 ha threshold, but in circumstances where the layout is not yet fixed, and to take a robust approach, it might be appropriate to regard the scheme as falling within, but at the very lower end of, Schedule 2 development.

EIA is not mandatory for all Schedule 2 developments. The Planning Practice Guidance (PPG) confirms that Screening Requests must take account of the selection criteria in Schedule 3 of the Regulations, taking into consideration:

a) The characteristics of the development, e.g. size of the development, production of waste, pollution and nuisances;

b) Location of the development, having regard to the environmental sensitivity of geographical areas likely to be affected by development; and

c) Characteristics of the potential impact, e.g. its extent, nature, magnitude, probability and duration

It is not considered that redevelopment of this site is of a sufficient scale to be categorised as a major development which would have significant environmental effects or consequences to the site or wider area. It principally addresses previously developed and remediated land within an area already developed and currently in mixed use, and will introduce additional development at a relatively modest scale.

Equally it should be noted that the site is not within or near a defined environmentally sensitive area under Regulation 2(1).

The nature of the proposals is not considered to be unusually complex; neither are they expected to provide potentially hazardous environmental effects. This is reflective of an understanding of the site and its environmental issues.

Further guidance is provided in the Annex to the PPG which sets out indicative screening thresholds and criteria. The indicative thresholds and criteria for the Infrastructure Project (b) development include that, "Environmental Impact Assessment is unlikely to be required for the redevelopment of land unless the new development is on a significantly greater scale than the previous use, or the types of impact are of a markedly different nature or there is a high level of contamination." In this case the redevelopment is not of a significantly greater scale, and the types of impact will be very similar to those already associated with the wider site. The impacts arising from the scheme are not unusual for an urban regeneration project of this type, and can be managed and mitigated adequately.

Planning and Environmental Issues

A suite of supporting assessments and reports will be submitted with the future planning application(s). This will record and summarise assessments which have and will where appropriate continue to take place, fully considering the environmental implications of the proposed development. As discussed above, the approach will be to provide information which demonstrates the elements of the overall scheme are acceptable both individually and collectively.

The submission will include a full set of drawings, form and certificate, Design and Access Statement, Planning and Retail Statement, Ecology Statement (noting the clean bill of health in this regard we previously reported to you from our consultant's initial assessment), Site Investigation, Transport Assessment and Flood Risk Assessment. You previously indicated that a heritage statement would not be necessary, but suggested that the relationship between the scheme and the nearest listed buildings should be dealt with (briefly) in the Design and Access Statement, from a setting perspective.

Summary

This submission requests the Council's Environmental Impact Assessment Screening Opinion for proposed retail, hotel and residential development at land adjacent to (south east of) Sainsbury's, Churnet Way, Leek. The request is made in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, Part 2, Regulation 5.

The development proposals do not fall under Schedule 1 of the EIA Regulations. However, in accordance with the thresholds, as amended, the proposals might, just, constitute a Schedule 2 development characterised as an "Infrastructure Project".

EIA is not mandatory for all Schedule 2 developments. The development is not in a defined Sensitive Area, nor does it breach thresholds where significant environmental effects would be more likely. The nature of the proposals are not considered to be unusually complex; neither are they expected to provide potentially hazardous environmental effects.

In testing the proposals against the relevant criteria, it is the applicant's view that given the nature of the proposed development and providing the relevant studies, detailed above, are submitted as part of the planning application and any identified mitigation measures are implemented, the proposed development should not have any significant environmental effects and should not require a formal Environmental Impact Assessment in accordance with the EIA Regulations 2011.

I would invite the Council to adopt the same Opinion. In accordance with the Regulations I look forward to receiving your Council's Screening Opinion within 21 days. In the meantime, if you have any queries please do not hesitate to contact me.

Yours sincerely

R Barnes

Robert Barnes – MRTPI, Director
For and on behalf of Planning Prospects Ltd

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