

Report of the Chief Planning Officer

PLANS PANEL SOUTH AND WEST

Date: 29th May 2014

Subject: PLANNING APPLICATION 13/05643/RM – VARIATION OF CONDITION 6 OF PLANNING APPROVAL 11/00897/RM RELATING TO HOURS OF DELIVERY AND CONDITION DISCHARGE APPLICATION 13/05514/COND RELATING TO OPENING – STONEBRIDGE MILLS, STONEBRIDGE LANE, FARNLEY.

APPLICANT

Tesco Stores

DATE VALID

13 December 2013

TARGET DATE

14 March 2014

Electoral Wards Affected:

Farnley & Wortley

☐ Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity ☐

Community Cohesion ☐

Narrowing the Gap ☐

RECOMMENDATION

APPROVAL subject to the following

13/05643/FU – variation of condition 6 relating to hours of delivery

Temporary approval for one year from opening of store for the following hours:
For a period of one year from the store opening the proposed delivery hours shall be 0600 to 2200 Monday to Saturday and 0900 to 1800 Sunday and Bank Holidays and these deliveries shall also be in line with the submitted Delivery Management Plan.

13/05541/COND – discharge of condition for opening hours

Temporary approval for one year from the opening of the store for 24 hours opening Monday to Saturday and 1000 to 1700 hours on a Sunday and bank holiday

1.0 INTRODUCTION:

- 1.1 The Chief Planning Officer considers that these applications should be referred to the Plans Panel for a decision as Panel originally approved the application and imposed the conditions.
- 1.2 Councillor Ann and David Blackburn have also requested that the application is forwarded to Plans Panel for a decision.

2.0 PROPOSAL:

- 2.1 Planning permission was granted by Plans Panel on 18 August 2011 for a new supermarket.
- 2.2 A discharge of condition application has been submitted in relation to opening hours and a new planning application has been submitted to vary condition 6 of that approval which relates to delivery hours. Members are therefore requested to determine two applications under this report.

Condition Discharge application 13/05514/COND - Opening hours

Condition 5 of the reserved matter consent stated:

‘ Before the development is brought into use the proposed opening hours shall be submitted to and approved in writing by the Local Planning Authority. The store shall operate within these approved opening hours unless agreed in writing by the Local Planning Authority.’

The application to discharge the condition has requested 24 hour opening Monday to Saturday with 1000 to 1700 on a Sunday and Bank Holiday.

- 2.3 Tesco have submitted a justification for the proposed 24 hours opening which is as follows:

‘Tesco seeks to open food stores at times that suit the local community they serve. Shopping habits across the UK are changing and an increasing number of people are taking advantage of 24 hours retailing, either to undertake a full or top up shop: we have found that this is of particular benefit to those employed outside standard working hours. Where it is acceptable in terms of an objective noise assessment, 24 hour opening is sought by Tesco through the planning process for new stores. The decision on what hours a store will actually trade is taken in the lead up to a store opening.

In the Leeds area other food stores are open 24 hours such as Asda Killingbeck and Asda Morley. A spread of retail locations and a variety of retailers providing 24 hours operation throughout the City provides local communities with the modern retail provision and choice they now expect.’

- 2.4 Additional information has been submitted showing the noise levels on the car park in relation to the nearest property on Silver Royd Way. The noise levels from the areas of car parking closest to this property will be at the lowest as these are close to the proposed retaining wall. The cars closest to the store don't have the noise protection of the retaining wall but do have further distances from this property reducing the impact of noise levels.

Application number 13/05643/RM - Delivery Hours

2.5 Condition 6 of the above planning permission stated:

'The delivery hours shall be 0800 to 2000 Monday to Saturday and not at all on a Sunday and Bank Holiday.'

The application originally request stated that the delivery hours where changed to

'The delivery hours shall be 0600 to 0000 Monday to Sunday'

Negotiation has been occurring between applicants and officers and the application has been changed to

'The delivery hours shall be 0600 to 2200 Monday to Saturday and 0900 to 1800 on a Sunday and Bank Holiday'

2.6 Tesco have submitted a justification for the change in delivery hours

' Tesco understands that the decision on this application must balance the need to take a positive approach towards encouraging local services against the protection of neighbouring properties from unacceptable noise intrusion. In terms of encouraging local services, access to a modern well operated food store is a valued local service in most urban communities. Furthermore, the nature of food retailing is changing with people increasingly shopping for the next day or two, rather than undertaking a weekly shop. This means that they expect to have a full offer available within a food store, particularly fresh produce, no matter when they shop.

The weekend period generally sees peak hour trading. Sunday deliveries are therefore required to ensure the food store is well stocked and provides customers with the product availability they expect. Sunday deliveries are of particular importance in ensuring that fresh produce such as bread, milk, fruit and vegetables is available to customers. Without Sunday deliveries it is likely that some fresh produce will be out of stock, which in turn limits choice and leads to customer dissatisfaction, and a poorer level of service for the local community.

Tesco Distribution anticipates that a maximum of three Tesco deliveries would be required on a Sunday to ensure that the store is adequately stocked, in practice it would be more likely to be two deliveries on a Sunday (one at the start of the day and another at the end of the day). The delivery at the start of the day ensures shelves are adequately stocked on a Sunday and eases pressure on staff working the Saturday nightshift. The delivery at the end of the day on Sunday allows the nightshift to stock the shelves for Monday morning. This in turn eases the pressure on a Monday morning staff as it allows them to focus on serving customers rather than stocking the shelves.'

2.7 Tesco have also stated that they do not intend to use forklift trucks in their services yards and delivery vehicles will be unloaded using a dock leveller system and not via the use of a tailgate lift. This dock leveller system will be located inside the building reducing significantly the noise created from deliveries. The dock loading bay roller shutter to the cages area will be closed when not in use to minimise any noise breakout.

2.8 The noise survey that has been submitted for the delivery application was taken at 79b Silver Royd Hill which is the closest residential property to the proposed service yard.

3.0 SITE AND SURROUNDINGS:

- 3.1 The site is an undeveloped piece of land which has planning permission for a supermarket. Immediately to the north west of the site which a range of listed building which are currently unoccupied. Permission has been granted to demolish some of the curtilage buildings which are not listed to facilitate the proposed access for the supermarket. To the north east of the site are residential properties with long rear gardens which are set at a much higher level than the application. To the south east of the site is open land. To the south west is Wortley Beck beyond this are allotment gardens and then the Ring Road with houses the opposite side of the Ring Road. The site is located in a valley and the residential properties on either side of the site are much higher and look down onto the site.

4.0 RELEVANT PLANNING HISTORY:

07/07851/OT – Renewal of outline permission for supermarket approved 8 December 2008.

11/00897/RM – Laying out of supermarket with car park Approved 25 August 2011.

11/03820/FU – Laying out of larger supermarket refused 14 December 2012

13/03771/FU – Opening and delivery hours for Asda Oldfield Lane Wortley appeal decision dismissed

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Planning and environmental officers have been negotiating with the applicant and this has resulted in the changes in the proposed opening and delivery hours in front of you today.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 Councillor David Blackburn has objected to both the proposed opening and changes in relation to delivery hours concerned with the following:
- Houses are close by and the change in hours will impact on residential amenity in terms of noise and disturbance
 - Also adverse impact in relation to light pollution especially to bats.

Councillor Ann Blackburn has objected to both applications concerned regarding the following:

- Residents deserve some peace at night and on a Sunday and shouldn't have to listen to noise created from the store.
- Screening proposed is a departure from what has been agreed and wont shield noise from reversing delivery vans and lorries
- General noise associated with delivering goods to the supermarket.

Councillor Ann Blackburn – has also raised an appeal decision in relation to the opening and delivery hours at Asda Oldfield Lane Wortley and the fact that the Inspector did not allow delivery on a Sunday and Bank Holiday. The Inspector stated that the applicant had not submitted a need argument and the residents surrounding the site deserve some time when there are no deliveries.

Twenty letters of objections concerned with the following:

- Noise impacts and impact on local residents.
- Plans Panel restricted the hours initially so residents not affected with noise and other nuisance
- Other stores in the area have deliveries restrictions
- Impact of noise from service yard such as movement of cages and voices of staff
- Noise assessment from Silver Royd Hill and not from nearest property which is Silver Royd Way
- Lighting noise and customers will have an impact on wildlife, local environment and local houses.

7.0 CONSULTATIONS RESPONSES:

Highways – No objection

Environmental Health -

8.0 PLANNING POLICIES:

- 8.1 Under Section 38 of the Planning and Compulsory Purchase Act 2004, decisions on planning applications must be made in accordance with the Development Plan unless material considerations indicate otherwise.

Development Plan

- 8.2 The development plan for Leeds is made up of the adopted Leeds Unitary Development Plan (Review 2006) (UDP) and the Natural Resources and Waste Development Plan Document (DPD), adopted January 2013.

- 8.3 The following policies are therefore relevant to the consideration of the application:

GP5 – General planning considerations, including amenity.

Draft Core Strategy

- 8.4 The Core Strategy sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. On 26th April 2013 the Council submitted the Publication Draft Core Strategy to the Secretary of State for examination and an Inspector has been appointed and examination has largely taken place.

- 8.5 As the Council has submitted the Publication Draft Core Strategy for independent examination and the Inspector has indicated suggested modifications which have now been advertised weight can now be attached to the document and its policies.

- 8.6 The following policies within the Draft Core Strategy are relevant.

National Planning Policy

- 8.8 The National Planning Policy Framework (NPPF) was published on 27th March 2012 and replaces previous Planning Policy Guidance/Statements in setting out the Government's planning policies for England and how these are expected to be applied. One of the key principles at the heart of the Framework is a presumption in favour of Sustainable Development.

- 8.9 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the

development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.

The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

The development plans have to achieve economic, environmental and social aspects of sustainable development.

The economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure.

The social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being.

The environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimize waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy. from good planning, and should contribute positively to making places better for people.

9.0 MAIN ISSUES

Opening hours

- 9.1 The applicant is seeking 24 hour opening in relation to the proposed store. The opening hours overnight need to be assessed in terms of the impact on surrounding residential properties

Delivery Hours

- 9.2 The changes in delivery hours between 0600 to 0700 and 2000 to 2200 Monday to Saturday and 0900 to 1800 hours on a Sunday and bank holiday needs to be assessed in terms of impact on surrounding residential properties.

10 APPRAISAL

Opening hours.

- 10.1 The applicant is seeking 24 hours opening on the site Monday to Saturday and 1000 to 1700 hours on a Sunday and Bank Holiday. This could impact on the residential amenity of the surrounding residential properties during the quieter hours which are considered to be between 2300 and 0700 hours Monday to Saturday. The opening hours proposed outside of these hours Monday to Saturday and 1000 to 1700 hours

on a Sunday and bank holiday are unlikely to have a detrimental impact on residential amenity in terms of noise and disturbance due to existing noise levels and distances to residential properties.

- 10.2 The main entrance to the store is proposed on the elevation that faces the Ring Road. The nearest residential properties on this side of the building will be 95 metres away and are separated by The Beck, allotments and the Ring Road. Noise from customers coming and going through these doors will not be heard from these residential properties even during the quieter times of the night for these reasons. In terms of the residential properties to the rear these are on the other side of the building and the nearest property is 70 metres away. Again this should not cause an issue in terms of noise and disturbance.
- 10.3 The main impact of being open between 2300 and 0700 will be the comings and goings of cars on the car park. The numbers of cars overnight will be low and it is likely customers will park as close to the entrance as possible. The numbers of cars that will be around should not be continuous so the noise will be an isolated noise. The loudest noise caused by vehicles will be the opening and shutting of car doors. The number of times that this will occur overnight will be small and the level of noise will not be off a level that would wake a person with the distances involved. The noise could be heard by residents who are not asleep but it won't be a continual noise so is unlikely to keep people awake.
- 10.4 Councillor David Blackburn has also raised the issue of 24 hour opening and its impact on bats that forage along the Beck Corridor. Our ecologist has confirmed that the lighting required for 24 hour opening could impact on the bats. However, there is a condition on the original approval for lighting which has not been discharged to date. Our ecologist does consider that lighting of the access road and car parking can be achieved overnight by measures such as angles of lighting, strength of so that the lighting will not have a detrimental impact in terms of bats.

Delivery hours

- 10.5 The original approval for the scheme has a restriction on delivery hours which was imposed by Plans Panel and is 0800 to 2000 hours on a Monday to Saturday and not at all on a Sunday and Bank Holiday.
- 10.6 This application was originally for 0600 to 0000 hours Monday to Sunday. However, officers expressed concerns with these proposal and the delivery hours have now been reduced to 0600 to 2200 Monday to Saturday and 0900 to 1800 on a Sunday and bank holiday.
- 10.7 The differences between the approved delivery hours and this application and the times that needs to be considered are 0600 to 0800 and 2000 to 2200 hours Monday to Saturday and 0900 to 1800 on a Sunday and Bank Holiday.
- 10.8 Environmental health officers have stated that normally there would be a concern for deliveries to be occurring between the hours of 2300 hours and 0700 hours. However, Tesco have submitted a justification for deliveries commencing at 0600 and have stated that there would cease deliveries an hour earlier at 2200. The reason for the 0600 start is for milk and bread to arrive to be on the shelves before the main volume of customers start to arrive. Tesco have also stated that they are happy for the deliveries to be unloading only in this first hour and to have no loading of vehicles which is more noise intensive. They would also have no lorries waiting on the access road and for all lorries to have their engines off and their refrigeration

units turned off over this period. The number of lorries during this first hour would be small as the service yard can only accommodate one lorry in the yard at any one time plus this supermarket will not operate a home delivery service.

- 10.9 The service yard is located to the rear and there are residential properties which overlook this area. If the above measures are carried out it is unlikely that allowing deliveries during the period of 0600 to 0700 would have a detrimental impact on residential amenity. However, there is still a concern that the deliveries between 6 and 7am could impact on the residential amenity of residents if the above measures are not adhere to. Therefore, it is suggested that a temporary consent is issued for the change in delivery hours so its impact can be fully accessed and to ensure that the applicant will adhere to the restrictions listed above.
- 10.10 The application is also requested that the deliveries operate from the approved 2000 and 2200. This is an increase of two hours but is still outside of the quiet time of 2300 to 0700. There will still be traffic on the Ring Road and Stonebridge Lane over this time period and the bingo hall next door shuts as 2215. These will create existing noise within the area so deliveries over this period should not have a detrimental effect on residential amenity in terms of noise.
- 10.11 The final difference to this application and the approved delivery hours is Sunday and Bank Holiday opening. Tesco require these deliveries for an hour before opening and an hour after closing so 0900 to 1800. The applicant has justified this request as there is a need to keep the shelves fully stocked on a Sunday so customers have as much choice on a Sunday as any other day. The applicant states that only 3 deliveries would be required on a Sunday and Bank Holiday. Councillors Ann and David Blackburn have referred to an decision recently for delivery hours at a supermarket close by when the Inspector stated that there was no need for deliveries on a Sunday. This appeal related to the Asda supermarket which is located on Oldfield Lane. The residential properties in relation to this supermarket are adjacent to the car park and delivery yard where there is a distance of 20 metres between the nearest residential property and the edge of the service yard with greater distances to the other residential properties. The location is also different in that this site is located off the Ring Road which during the day will have a large volume of noise from the traffic on the Ring Road. The appeal site is in a much quieter position so noise from deliveries will have a greater impact. Tesco have also provided a need for these deliveries on a Sunday where there was no justification submitted with the Oldfield Lane appeal.
- 10.12 For all these reasons it is considered that these small number of deliveries on a Sunday and bank holidays will not have a detrimental impact on residential amenity.

To conclude the changes in delivery hours being 0600 to 0800, 2000 to 2200 Monday to Saturday and 0900 to 1800 on a Sunday and bank holiday will not have a detrimental impact in terms of residential amenity.

11.0 Representations.

The objections that have been raised have been addressed in the above appraisal.

12.0 CONCLUSION

- 12.1 Members are reminded that this report covers two applications and a decision needs to be on both applications.

Opening hours

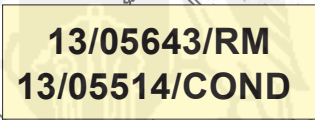
- 12.2 The application is requesting 24 hour opening on this site Monday to Saturday and 1000 to 1700 hours on a Sunday and bank holiday. The main issue with 24 hour opening would be overnight generally between 2300 to 0700 when the background noise would be at its minimum. Due to the location off the store access and distances to the surrounding residential properties the noise from customers using this access will not create noise to a level that will impact on residential amenity. The main noise disturbance would be from car doors slamming but again due to distances involved and the fact the noise will not be continuous and the fact that the noise level will not be high enough to wake anyone the application for 24 hour opening is considered acceptable.

Delivery hours

- 12.3 The application is to request additional opening between 0600 to 0800 and 2000 to 2200 hours Monday to Saturday and 0900 to 1800 on a Sunday and bank holiday. The largest impact in terms of these additional hours will be between 0600 to 0700 but the applicant is happy to take some restrictions to deliveries in this first hour. Due to noise levels within the area the additional hours off 0700 to 0800, 2000 to 2200 and 0900 to 1800 on a Sunday and bank holiday should not have a detrimental impact. However, it is accepted that the service yard is located to the rear and the residential properties could be affected if the applicant didn't adhere to the restrictions to be imposed. For these reasons officers consider that a one year temporary consent is granted.

Background Papers:

Application file:



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SCALE : 1/2500

