



Report of the Chief Planning Officer

Plans Panel North and East

Date: 30th July 2015

Subject: APPLICATION 15/01059/FU – Removal of condition 21 (delivery hours) of planning approval 32/48/05/FU to remove delivery time restrictions at Lidl, Selby Road, Leeds, LS15 0DL

APPLICANT	DATE VALID	TARGET DATE
Lidl UK GmbH	24/02/15	03/08/15

<p>Electoral Wards Affected:</p> <p>Temple Newsam</p> <p><input type="checkbox"/> Yes Ward Members consulted (referred to in report)</p>

<p>Specific Implications For:</p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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RECOMMENDATION: GRANT permission subject to the following conditions:

1. Temporary 1 year permission (then reverting back to the original delivery hours)
2. Implementation of approved Service Yard Management Plan.
3. Limiting noise to at least 5dB below existing background at any times deliveries occur

Previous (unrelated) conditions also repeated and wording altered where necessary to reflect any details agreed under separate condition discharge application(s).

1.0 INTRODUCTION:

- 1.1 The application is presented to Plans Panel at the request of Councillor Mick Lyons, due to concerns regarding access and egress and vehicles parking up before approved delivery hours at the Lidl Store.
- 1.2 The application for the store was originally considered and approved at the 9th February 2006 meeting of Plans Panel, subject to a condition restricting delivery hours from 07:00 to 18:00 Monday to Saturday and 10:00 to 17:00 on Sundays.

2.0 PROPOSAL:

- 2.1 The applicant seeks permission to remove condition 21 of the approved planning application 32/48/05/FU which currently restricts hours of delivery to the Lidl supermarket from 07:00 to 18:00 Monday to Saturday and 10:00 to 17:00 on Sundays.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site is roughly triangular and is bounded by Selby Road, Temple Newsam Road and Irwin Approach. It forms a gateway into Halton Town Centre when travelling from the north west and contains a modern, purpose built supermarket occupied by Lidl.
- 3.2 The supermarket building is set back from the Selby Road frontage and the intervening space is used for parking. Low level planting is positioned at the common boundary and this general approach is repeated around the building.
- 3.3 The car park is accessed from Selby Road opposite the traffic light controlled junction with Primrose Lane. Pedestrian access into the site is provided in three places, next to the main car park entrance, at the corner with Selby Road and Irwin Approach and from Temple Newsam Road.
- 3.4 A loading bay is to the rear of the store and is located behind an approximately 3m high wall positioned along the southern edge of the delivery area. The loading bay area has a separate access which is gained from Temple Newsam Road.
- 3.5 The design of the building itself comprises of a mostly blank elevation. Regular spaced feature red brick piers do however exist with the intervening space filled by rendered walls painted white.
- 3.6 The surrounding area contains a variety of uses including commercial properties on the opposite side of Selby Road to the north, a parade of shops with flats above to the east, residential properties in Temple Court to the south east and the semi-detached houses lining Temple Newsam Road to the south and south west.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 12/05400/ADV - Two hoarding signs to supermarket. Refused 14.03.2013 (Appeal allowed).
- 4.2 12/03029/FU - Installation of freestanding cash machine with bollards to front of supermarket. Application withdrawn.
- 4.3 07/07123/ADV - Retrospective application for one 5m high illuminated flagpole sign to supermarket. Refused. 03.01.2008.
- 4.4 06/03502/FU - Amendment to previous approval 32/48/05/FU involving alterations to roof. Approved 26.07.2006.
- 4.5 06/9/00651/MOD - Amendment to previous approval 32/48/05/FU involving alterations to roof. Approved 18.01.2007.

- 4.6 06/06776/ADV - 3 non illuminated 48 sheet hoardings to site of retail store and 1 temporary non-illuminated 48 sheet hoarding during construction work. Application withdrawn.
- 4.7 06/05817/ADV - Two wall mounted signs (1 internally illuminated and 1 non-illuminated) and two internally illuminated pole mounted signs to retail store. Split decision 27.10.2006.
- 4.8 32/48/05/FU - Supermarket with 88 car parking spaces. Approved 10.02.2006. Condition 21 restricts hours of delivery from 07:00 to 18:00 Monday to Saturday and 10:00 to 17:00 on Sundays.

5.0 PUBLIC/LOCAL RESPONSE:

- 5.1 The application was advertised by 3 site notices posted on 13/03/15. The publicity period expired on 03/04/2015.
- 5.2 One representation has been received from ward Councillor Mick Lyons expressing the following concerns:
- The traffic in and out of the Lidl store is haphazard and there are concerns with vehicles parking before the set delivery times.
- 5.3 All material planning considerations arising from these comments are addressed within the appraisal section of this report.

6.0 HISTORY OF NEGOTIATIONS:

- 6.1 The applicant was made aware of the concerns raised by the Environmental Protection Team (EPT) relating to the noise impact assessment. As a result there has been a dialogue between the EPT and the applicant's Noise consultant (Environmental Noise Solutions Limited). The assessment was carried out mid-week when both road traffic and ambient noise levels are likely to be higher than at weekends, increasing any masking effects. EPT advise that assessment needs to be carried out to cover noise sensitive days such as weekends when the noise from deliveries may be more noticeable and there is increased risk of noise disturbance. See 7.2 below.

7.0 CONSULTATION RESPONSES:

Non-statutory

- 7.1 Highways – No objections as currently the hours of delivery to the store include the peak traffic periods within the local highway network. The removal of the restrictions on the delivery hours would not have any material adverse impact on the operation of the highway network.
- 7.2 Environmental Protection team – No objections to the revised noise assessment carried out in accordance with BS 4142: 2014 and subject to the full implementation of Service Yard Management Plan and review should local circumstances dictate.
- 7.3 In response to the above comments the applicant provided additional information.
- 7.4 Further comments received from Environmental Health (dated 19th June) stated an assessment has been made using BS4142:2014 which indicates 'low impact'.

7.5 To further ensure any noise is controlled and mitigated during deliveries, the application should be subject to the implementation and maintenance of the Service Yard Management Plan.

8.0 POLICY

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Core Strategy, saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013).

Local Planning Policy

8.2 The Core Strategy is the development plan for the whole of the Leeds district. There are no specific Core Strategy policies that are considered to be relevant to this application.

8.3 The application site lies within Halton Town Centre but is not specifically designated within the saved UDP Review (2006). Nevertheless, the following saved policy is considered to be relevant:

GP5: Seeks to ensure that development proposals resolve detailed planning considerations, including amenity.

8.4 No Natural Resources and Waste policies are also considered to be relevant:

8.5 Leeds Environmental Health SPG – Noise Design Advice

National Planning Policy

8.6 The National Planning Policy Framework (2012) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.

8.7 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. It is considered that the local planning policies mentioned above are consistent with the wider aims of the NPPF.

8.8 Paragraph 123 of the NPPF states planning policies and decisions should aim to 'avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development'.

8.9 Planning Practice Guidance (March 2014) an accompaniment to the NPPF states that noise needs to be considered when new developments may create additional noise. Whilst noise can override other planning concerns, neither the Noise Policy Statement for England nor the NPPF expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development.

9.0 MAIN ISSUES

1. Principle of development
2. Impact on residential amenity
3. Highways
4. Other issues

10.0 APPRAISAL

Principle of development

- 10.1 The principle of Lidl supermarket in this location has already been established by the granting and implementation of the previous planning approval (32/48/05/FU). Notwithstanding this, the acceptability of the removal of condition 21 restricting delivery hours still needs to be assessed.

Impact on residential amenity

- 10.2 The main consideration for the removal of the condition is the impact associated from deliveries that could potentially occur at any time, day or night, seven days a week on the nearby residents. Whist noted that the site lies within a mixed use area, there are numerous residential properties situated along Temple Newsam Road (south west) and Irwin Approach (south east) located near the delivery yard, several of which overlook the delivery yard.
- 10.3 The submitted noise assessment indicates that the predominant noise source in the area is road traffic and along with other ambient noise sources in the area, this will afford a degree of masking of any noise associated with deliveries. However, road noise can vary, being generally louder during the day and quieter at night time and therefore any noise associated from the site during the night time hours would be more noticeable and accordingly there would be greater potential for noise disturbance during the night time. It is also noted that there is screening to the delivery bay area which offers some noise attenuation to the activities carried out in this area.
- 10.4 The submitted noise report states delivery noise levels along with ambient and background noise have been measured and used to assess the impact of extended daytime and night time deliveries against relevant standards. These include the National Planning Policy Framework (NPPF) and Planning Practice Guidance on Noise (March 2014), Noise Policy Statement for England, World Health Organisation 'Guidelines For Community Noise', and draft guidance from the Institute of Acoustics relating to 'Good Practice on control of Noise from pubs and clubs'.
- 10.5 The report states that assessment against the NPPF night time delivery noise would have *No Observed Adverse Effects*. However, colleagues in EPT recommend that significance of any impact should be assessed using BS4142: 2014 *Methods for rating and Assessing Industrial and Commercial Sound*. The reasoning for this is because it is considered the more appropriate standard which describes methods for rating and assessing sound of an industrial and/or commercial nature including sound from unloading of goods and materials at commercial premises.

- 10.6 EPT recommend that any noise from loading/uploading and delivery/ collection operations is limited to at least 5dB below the existing background noise levels (L90) when measured at the nearest noise sensitive premises in accordance with BS4142: 2014. By limiting noise to at least 5dB below existing background at any times deliveries occur (including night time), any further noise from deliveries should not significantly add to the existing noise climate in the area.
- 10.7 In response to the above, a revised assessment was carried out using BS4142: 2014 standard which indicates noise levels resulting from deliveries would be 4dB below background noise levels during the quietest periods of the day (i.e. early hours of the morning) and under BS4142: 2014 indicated 'low impact'.
- 10.8 EPT normally recommends that noise levels begin 5dB below the background noise levels. However, under the recently revised the BS4142: 2014 the assessment indicates there will be a 'low impact' and there is always a degree of uncertainty with any predicted measurements of +/- 1dB or so. As such, predicted noise levels could potentially meet this criteria. The assessment was also based on the lowest measured background and therefore a worse case scenario has been used rather than being representative. As the noise levels have been calculated to be 4dB below the background, the change in noise levels may only be in the region of 1.5dB and therefore barely perceptible. For this reason EPT raise no objection subject to the implementation of the Service Yard Management Plan which state various measures including:
- Vehicle radios will be switched off
 - The use of external alarms or speakers will be prohibited within the service yard
 - The internal alarm will be muffled to reduce potential for disturbance
 - Noise generation from vehicle manoeuvring into loadings to be kept to a minimum
 - Vehicle reversing 'audible warning' to be switched off during night time periods, without compromising safety (i.e. use a banks man if required)
 - Drivers should ensure that engine and refrigeration units are switched off once vehicle is stationary and in the unloading position
- 10.9 In light of the above, the proposal is considered to be acceptable in terms of its potential impact on local residents living conditions but in the circumstances where there is a slight degree of uncertainty regarding actual noise levels, a temporary permission for one year is recommended to allow the situation to be monitored and reviewed again.

Highway

- 10.10 No objections were raised by Highways as the proposal raises no specific road safety concerns.

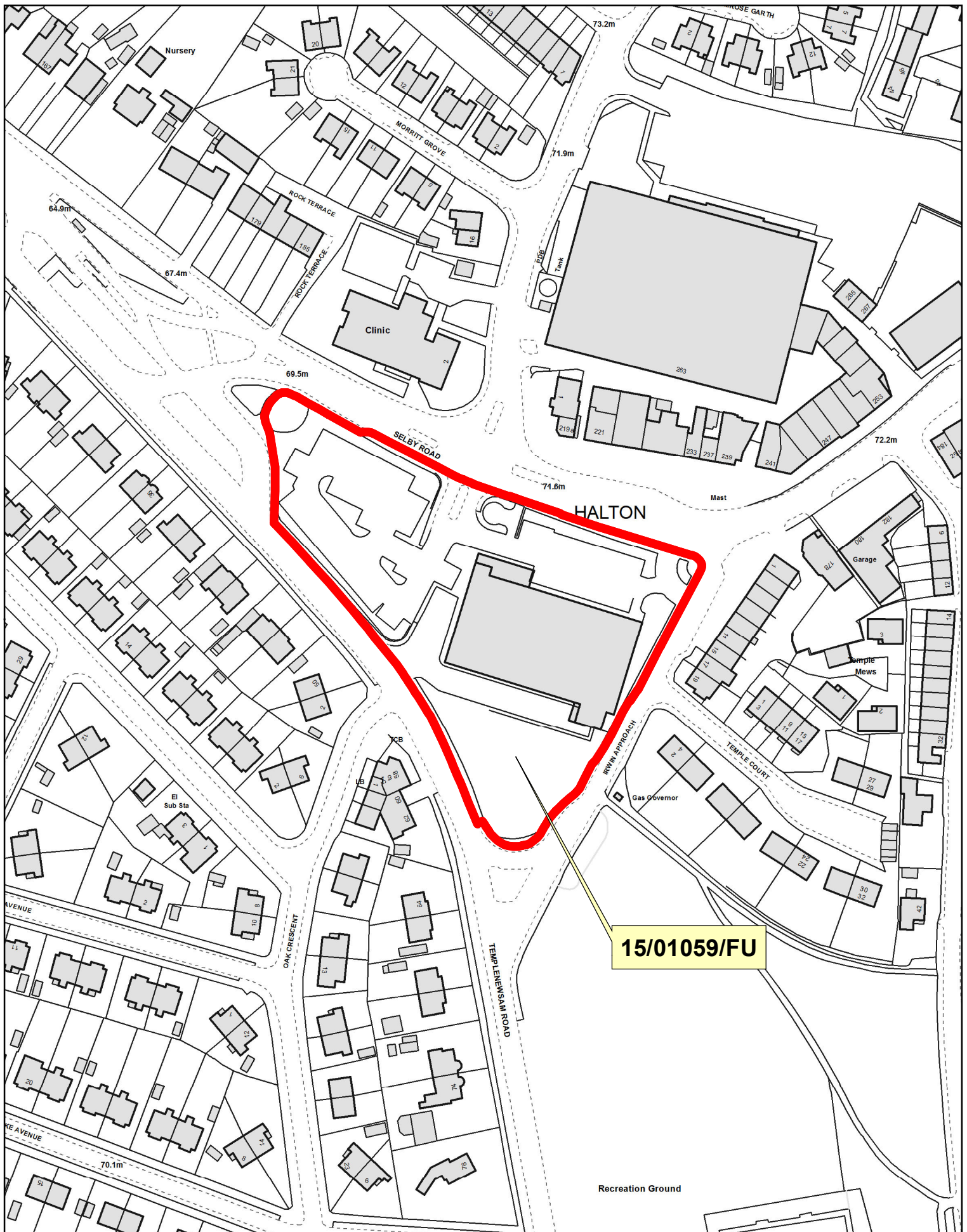
11.0 CONCLUSION

- 11.1 For the above reasons and with due consideration given to all other planning considerations, including residential amenity and highways, the proposed removal of the existing delivery hours condition is recommended for a temporary period of one year so the situated can be monitored and revisited after a reasonable time period.

Background Papers:

Application file: 15/01059 and 32/48/05/FU

Certificate of Ownership: as applicant.



15/01059/FU

NORTH AND EAST PLANS PANEL

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