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Our reference: PREM/01004/007
4 October 2013

Dear Madam

Licensing Act 2003

Name of Premises: Asda Supermarket

Address: 34 Green Road, Meanwood, Leeds, LS6 4JP

Thank you for submitting your application for the above premises.

We are of the opinion that your application contains insufficient information about how you intend to meet the licensing objective of the prevention of public nuisance. We therefore confirm that we are submitting a formal objection to your application.

We base our objection on the following matters:

1. Noise disturbance from the coming and going of customers and their vehicles as they access and use the square and car parking to the front of the store and the car park to the rear.
2. Noise disturbance from activities associated with running the store including that from staff closing and leaving the store.
3. Light disturbance from a large green light in the shape of the 'ASDA' logo that is positioned on the side of the store adjacent the delivery and rear customer car parking access.
4. The potential for the alleged sources of nuisance described in items 1 to 3 above to continue into hours where such disturbance may adversely affect sleep and further loss of the enjoyment of home life.

We base our objection on experience including that specifically associated with the store as based on allegations received from members of the public.



Having read the matters we describe below if you feel we should consider anything else please do not hesitate to contact us. We also remind you we have outstanding questions regarding certain matters relating to your application.

Description of the surrounding area.

Please refer to appendices 1 and 2 (site plans from our database system) and photographs numbers 1 to 9 that show views of the front, side and of rear of applicant premises and its surroundings.

ASDA Meanwood faces a paved square that it shares with a DIY shop, clothes shop, a charity shop and post office. The retail outlets enclose the square on three sides. Immediately outside of the square to the left (as facing it) are a vet, hairdressers, a takeaway, a restaurant and furthest at about 45m from the front of ASDA are small offices. Across Green Road is a Waitrose store with its own car park provision. On the area outside of the square on Green Road to the right is a Doctors surgery and the furthest unit is a café at about 65m from the frontage of ASDA.

None of the opening hours operated by the other outlets outlined above go beyond 22:30 hours on any day. Most close considerably earlier.

ASDA Meanwood also shares the courtyard with about 9 residential flats. The flats are situated above the smaller retail units with windows overlooking the square and some with windows overlooking the rear car park.

The square has limited lighting and seating provided. The main road at the front has parking bays for about fifteen vehicles at the road side. About half of the bays are positioned facing the square where they may be overseen by the flats. There is an access road at the left hand side of ASDA Meanwood from Church Avenue that offers further car parking for about thirty vehicles and access for delivery and waste collection vehicles. This access road adjoins a garden boundary fence of a nearby house and is 5M from the side elevation of the house.

The L-shaped car park to the rear has housing overlooking three of its sides. It is about 14M from the windows of the flats that overlook it and between 20M and 25M from housing on Church Avenue and The Wickets. The car park has two refuse bins and fixed refrigeration plant situated within it. Staff have been observed to use the car park as a place to smoke.

The car park has poorly maintained wooden slat fencing at its boundary to The Wickets, which is elevated a little above ground level so the fence tops are about 3m high. Two simple signs have been provided in the car park, presumably by ASDA to remind customers to respect neighbours and not sound their horns. One of the signs is in disrepair and folded over.

Description of the store.

The applicant premises has existed for many years. ASDA now occupies the premises formerly occupied by Netto. The premises licence enabled Netto to sell alcohol Mondays to Saturdays 08:00 to 23:00 and Sundays 10:00 to 22:30. Although I am not certain whether Netto traded to the full extent of those hours, they are the hours also currently permitted for ASDA to sell Alcohol. It appears however that ASDA operates opening hours of 08:00 to 22:00 Monday to Saturday and 10:00 to 16:00 on Sundays as described in their website and signage.

ASDA not only offer alcohol at Meanwood, but also food to go and hot chicken.

The applicant is applying for an extension of hours to allow the supply of alcohol between 06:00 and midnight every day of the week. In addition it asks to provide late night refreshment both on and off the premises until midnight.

ASDA Meanwood is not one of the larger stores but is of sufficient size to offer a comprehensive range of products that one might expect to find in most supermarkets. It also provides a click and collect service. It is expected that the full range of goods will be available for sale if the application to vary the licence were granted. This may attract others to the store, not just those intending to purchase alcohol or late night refreshment.

Complaint history for the area about 100m around the store:

There are no relevant complaints arising from any other premises within the radius stated. Relevant complaints are considered to be ones that could come about as a result of early morning or later night time activities.

Complaint history specific to the applicant premises.

The premises have attracted complaints including alleged noise from deliveries, bin collections, plant noise from cooling fans, and alleged nuisance from lighting. Complaints have arisen from residents on Green Road, Green Crescent, Church Avenue and The Wickets. The complaint history shows that the application site has sensitive premises in many areas close by.

The most recent complaints received allege the following:

23/07/2012: Noise from industrial machinery emptying the bins behind the store of the car park every Wednesday morning between 05.00- 05.45. The complainant is from The Wickets.

22/08/2012: There is a lot of noise that comes from the refrigerators in the store. The complainant is from The Wickets.

16/08/2013: Customer reports that Asda have started turning their large illuminated green sign at dusk and before dawn. It is sometimes not turned off until 1am in the morning and is switched back on as early as 5.30. The neon green light is disturbing customers sleep. The complainant is from Church Avenue:

The last of the above three complaints is still open and an investigation is currently ongoing.

Complaints associated with supermarkets and similar businesses.

Our database and experience show that a third of supermarkets and similar premises, large and small cause complaints alleging various sources of nuisance.

The following information considers alleged nuisance from issues that could be made worse by extended opening / operating hours. For example we have not considered allegations of noise from refrigeration as we can reasonably expect that such plant would run all day.

The most likely cause for complaint affected by opening / operating hours of any supermarket or similar premises is due to noise from deliveries late at night or early morning. Complaints

involving deliveries account for 70% of all such complaints within the parameters set out above.

The applicant has said that deliveries take place once per day on Monday to Saturday after 07:30 a.m. This reassurance does not mention any potential for deliveries late at night. As the scope of the licensing application relates to the supply of alcohol and late night refreshment (hot food) any condition applied would also be so limited and potentially ineffective.

Noise from collection of waste from bins accounts for 10% of all complaints within the parameters set out above. Although the applicant has stated that waste collection takes place between 20:00 and 21:00 hours on either, Tuesday, Wednesday or Thursday, we consider that extended opening hours offers scope for additional flexibility to the collector. We consider based on our experience that such times are subject to change and that there is a potential for later collection. The scope of the licensing legislation means that a condition would have limited potential for enforcement if not met. We believe there is no planning condition for the premises regarding the times that waste should be collected.

The second most likely cause for complaint (within the parameters set) is that arising from people and their vehicles using the outside areas. Complaints alleging noise from such sources account for just over 11% of all complaints.

The applicant has said that they provide CCTV to deter anti-social behavior. The applicant describes no other detail, for example what they would do where they to find anti-social behavior or where the CCTV is set up. Noise from people and their vehicles need not come about as a result of anti-social behavior.

Two public objections outline the concerns of disturbance from noise from people outside. In so doing the objectors allege that such noise is a problem already. Most noise from such sources cannot be resolved by the primary legislation available to abate nuisance (The Environmental Protection Act 1990) as it comes from the street. Careful control of the hours the business is open / operating is more likely to resolve such disturbance. It appears that ASDA Meanwood has no planning conditions to that end. Licensing legislation offers an effective means of preventing noise from such sources, through objection or review. As already mentioned ASDA Meanwood does not operate up to its current licensable hours at present. Before the public objection we were not aware of any complaints relating to such noise.

Complaints involving light or dust account for just over 4% of all complaints (within the set parameters). We already have an allegation involving light disturbance that could be made worse by extending the opening hours. The store manager has told to the investigating officer that the application could affect the outcome of their response to the complaint as the lights would be required for longer.

Conclusions reached.

Given the current complaints and objections made concerning disturbance from noise and light there is significant evidence to show that extending the licensable hours to midnight will not meet the licensing objective to prevent public nuisance.

The square at the front of the store offers a semi enclosed environment overlooked by residential flats. We expect the background levels of noise to reduce within the square during the night and more so relative to the surrounding areas due to its sheltered nature. We

anticipate that a later opening ASDA, offering alcohol and hot food will attract people to the square and in making their application we believe ASDA are of the same opinion.

Licensing conditions to control the time of deliveries and refuse collections in the absence of planning conditions may reduce disturbance from those sources. We do not doubt ASDA's intention to limit such activity to within reasonable hours at this time. The extended hours of opening would also benefit non-licensable activities. This may mean that any licence condition if not met has limited, if any scope of effective enforcement for deliveries and collections as it could be argued that they are not licensable activities. As time goes on less reasonable times may be exploited. The majority of complaints involve noise from such sources.

The 'ASDA' shaped lighting provided over the delivery area, is likely to be required for longer to service access into the customer car park.

The evidence leads us to expect the main sources of disturbance to be from people using the square and the car park beside it, from the lighting at the side of the store and from staff as they close the store.

On balance we consider that the only effective conditions to prevent public nuisance from those sources would be to restrict the time that ASDA Meanwood provide alcohol and late night refreshment. The store may have already exceeded the maximum time that such activity could be considered reasonable in this specific instance. To extend the hours further would exacerbate the disturbance alleged already and so we believe a full objection is proportionate in this case.

Yours faithfully

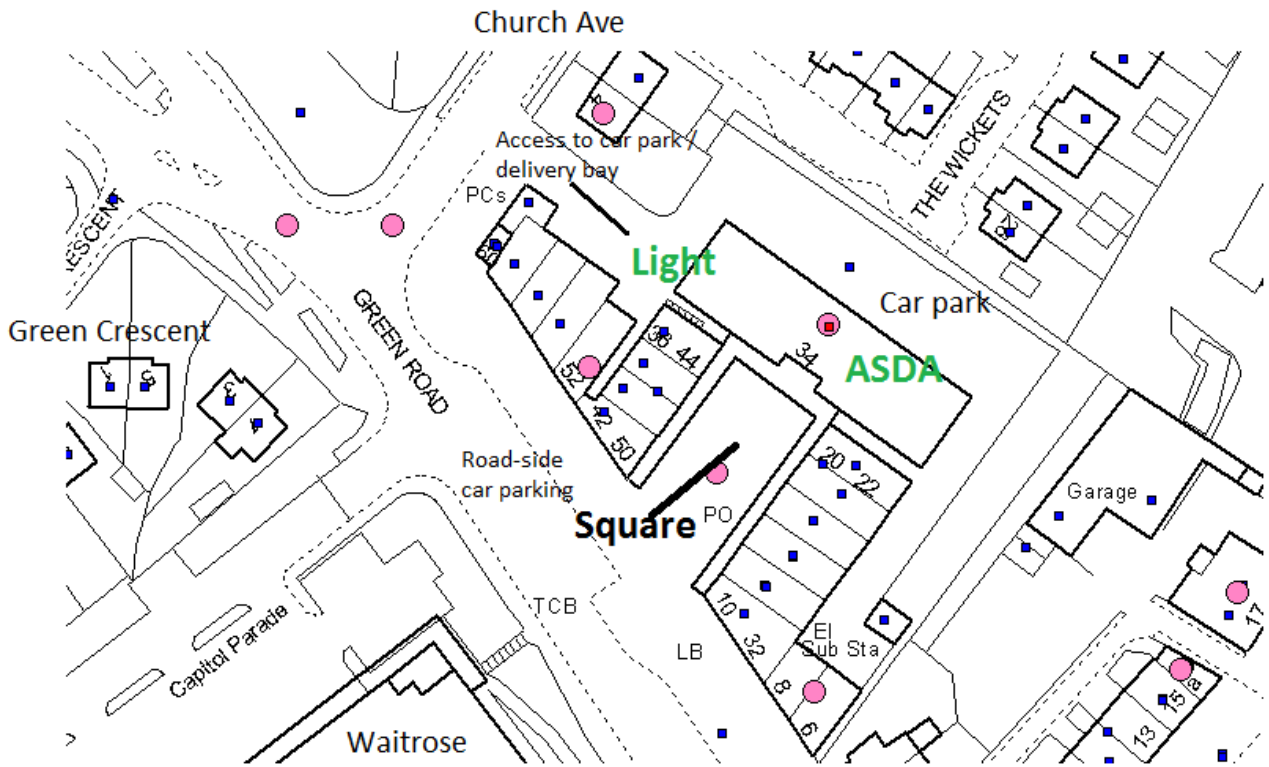


Michael ward
Senior environmental health officer

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Appendices 1 and 2 plans
Photographs 1 to 9.

Appendix 1
Site plan



Appendix 2
Site plan photographic



Photographs

1. View of the Square taken from Green Road.



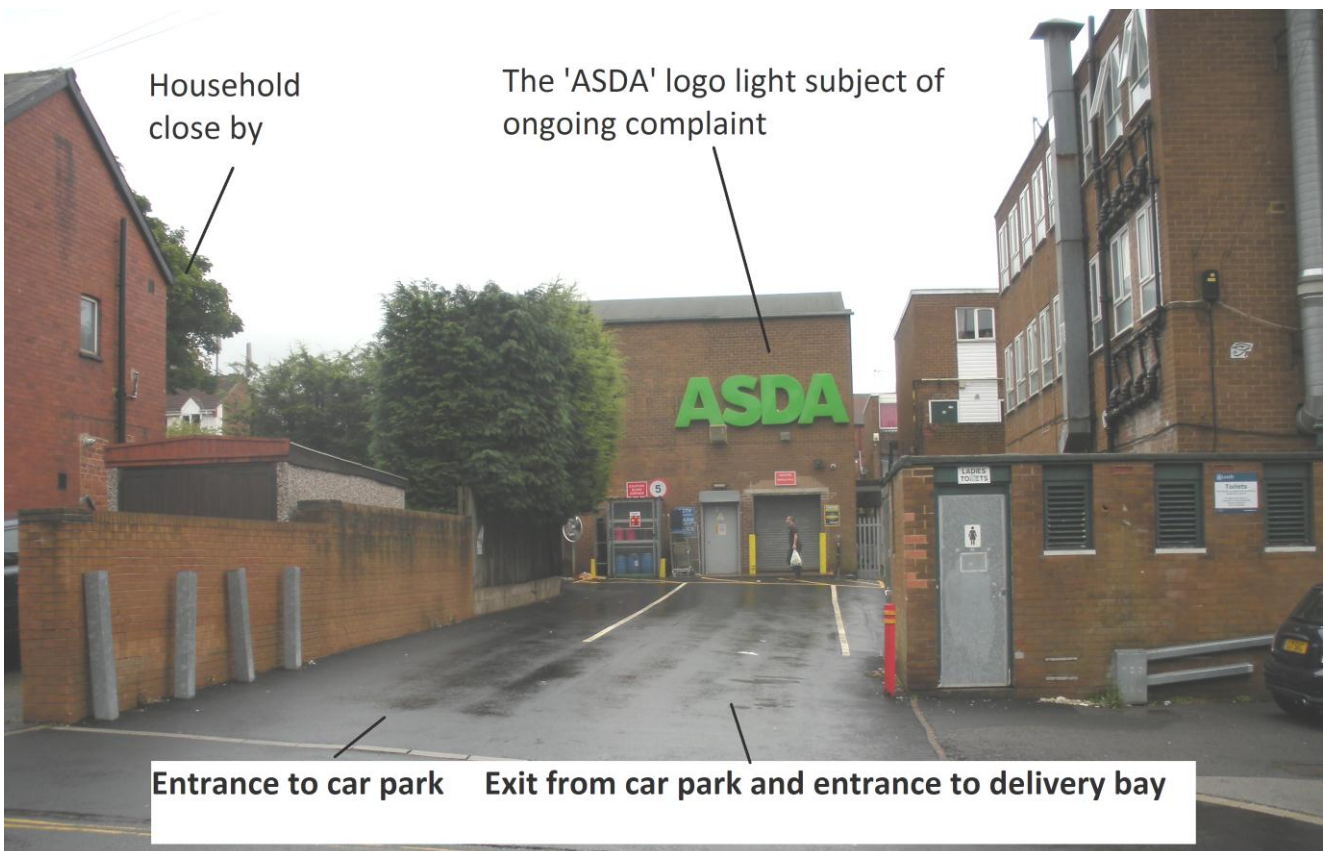
2. View from frontage of ASDA into the Square.



3. The example of the flats above the shops.



4. Entrance to rear car park and delivery area.



5. View of rear car park taken from boundary to nearest house on Church Avenue.



6. View of rear car park opposite end of car park taken close to the bins.



7. The bins



8. The best kept of two advisory signs



9. A view up Green Road towards Meanwood Road showing the semi-enclosed nature of the square.

