

Application Number	16/1035/S73	Agenda Item	
Date Received	3rd June 2016	Officer	Sophia Dudding
Target Date	2nd September 2016		
Ward	Abbey		
Site Proposal	Tesco Cheddars Lane Cambridge CB5 8LD Section 73 application to vary condition 20 (deliveries) of permission C/96/1014, approved under appeal decision T/APP/Q0505/A/98/301055, to extend delivery hours to 0600 and 2300 on Mondays to Saturdays (including Bank and Public Holidays) and 0900 and 1900 on Sundays.		
Applicant	Tesco Stores Ltd Tesco House Shire Park Kestrel Way Welwyn Garden City AL7 1GA		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <ul style="list-style-type: none"> <input type="checkbox"/> It will not lead to significant adverse effects on health, the environment and amenity from pollution <input type="checkbox"/> It will not significantly harm the amenity of the surrounding occupiers
RECOMMENDATION	APPROVAL

1.0 SITE DESCRIPTION/AREA CONTEXT

1.1 The site is occupied by the Tesco Newmarket Road superstore which is located on the north side of Newmarket Road and is accessed through Cheddars Lane from Newmarket Road. It is comprised of a large car park at the front and is surrounded by residential houses with Riverside Place apartments to the northwest, residential properties and industrial units of Cheddars Lane to the northeast and properties with mixed use

(C3 and A3) of Newmarket Road to the southeast and residential properties to the west.

- 1.2 The site lies just outside the Central Conservation Area, which is located to the north side of the site.

2.0 THE PROPOSAL

- 2.1 This S73 application seeks for planning permission for the variation of condition 20 of appeal decision T/APP/Q0505/A/98/301055 (planning application ref C/96/1014/CAC) to extend the hours of delivery from 0700 to 2230 hours Monday to Saturday (including Bank and Public Holidays) to 0600 to 2300 hours Monday to Saturday (including Bank and Public Holidays). It will not affect Sunday delivery hours.
- 2.2 This would be on a permanent basis. Variation of condition was allowed on a temporary permission under application reference 07/0991/S73 for the use between 1 April 2008 and 31 March 2009.
- 2.3 The reason for the extension of delivery hours is because existing delivery hours are inadequate to allow delivery and unloading of fresh produce. In this application, an acoustic report has also been included to demonstrate the noise level from the extended delivery hours is acceptable.

3.0 RELEVANT SITE HISTORY

Reference	Description	Outcome
C/96/1015/CAC	Demolition of gas holders and all other buildings and structures.	Refused – Appeal Allowed
C/96/1014/OUT	Development on 4.61 hectares for a Class A1 retail store (up to 7900sq.m gross external [85,000sq.ft]), and associated parking and servicing; Class C3 residential (approximately 0.9 hectare	Refused – Appeal Allowed
07/0991/S73	Application for variation of condition 20 of appeal decision T/APP/Q0505/A/98/301055	PERM

(planning application ref C/96/1014/CAC) to extend the hours of delivery from 0700 to 2230 hours Monday to Saturday (including Bank and Public Holidays) to 0600 to 2300 hours Monday to Saturday (including Bank and Public Holidays).

4.0 PUBLICITY

4.1 Advertisement: Yes
 Adjoining Owners: Yes
 Site Notice Displayed: Yes

5.0 POLICY

5.1 See Appendix 1 for full details of Central Government Guidance, Cambridge Local Plan 2006 policies, Supplementary Planning Documents and Material Considerations.

5.2 Relevant Development Plan policies

PLAN		POLICY NUMBER
Cambridge Plan 2006	Local	3/4 4/13

5.3 Relevant Central Government Guidance, Supplementary Planning Documents and Material Considerations

Central Government Guidance	National Planning Policy Framework March 2012 National Planning Policy Framework – Planning Practice Guidance March 2014 Circular 11/95
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5.4 Status of Proposed Submission – Cambridge Local Plan

Planning applications should be determined in accordance with policies in the adopted Development Plan and advice set out in the NPPF. However, after consideration of adopted plans and the NPPF, policies in emerging plans can also be given some weight when determining applications. For Cambridge, therefore, the emerging revised Local Plan as published for consultation on 19 July 2013 can be taken into account, especially those policies where there are no or limited objections to it. However it is likely, in the vast majority of instances, that the adopted development plan and the NPPF will have considerably more weight than emerging policies in the revised Local Plan.

For the application considered in this report, there are no policies in the emerging Local Plan that should be taken into account.

6.0 CONSULTATIONS

Cambridgeshire County Council (Highways Development Management)

6.1 No objections

Environmental Health

6.2 An extension to hours was granted approval in 2008 under Planning Consent 07/0991/S73. The approval was granted on a temporary basis of 1 year with a condition to restrict the numbers of deliveries to two to the site between the hours of 06.00 and 07.00.

The main concern with the extension to hours in 2008 was deliveries to the site between 06.00 and 07.00. Environment Health has not received any complaints regarding delivery noise from the Tesco store between those hours and as such the temporary trial period has been successful.

Support the variation of Condition 20 of C/96/1014 and recommend Condition 3 of Planning Consent 07/0991/S73.

Urban Design and Conservation Team

6.3 No objections

The above responses are a summary of the comments that have been received. Full details of the consultation responses can be inspected on the application file.

7.0 REPRESENTATIONS

7.1 The owner/occupier of the following address has made a representation:

- 5 Cheddars Lane

7.2 The representation can be summarised as follows:

- By extending the delivery time, the noises and vibrations from heavy delivery lorries will have adverse impacts on the critical time for sleeping which is vital for good health;
- Normally the delivery Lorries enter Cheddar's Lane 20 to 30 minutes before Tesco gate open and park in Cheddar's Lane causing noises and vibrations. Extending the delivery hours will result in seeing lorries appearing around 5:30am until after 11pm;
- Critical times of 6am and 11pm are relatively quiet in Cheddar's Lane. With the proximity of a few metres to properties large Lorries passing there will be too noisy and the delivery time is too early in the morning and too late at night.

7.3 The above representation is a summary of the comment that has been received. Full details of the representation can be inspected on the application file.

8.0 ASSESSMENT

8.1 From the consultation responses and representations received and from my inspection of the site and the surroundings, I consider that the main issues are:

1. Residential amenity
2. Third party representations

Residential Amenity

- 8.2 The variation of the condition to extend the delivery times will be assessed against policy 4/13: Development will only be permitted which:
- a. does not lead to significant adverse effects on health, the environment and amenity from pollution;
or
 - b. Which can minimise any significant adverse effects through the use of appropriate reduction or mitigation measures;

The pollution from this development will be mainly from the traffic noise of delivery vehicles and unloading noises. In the submitted acoustic report by Sharps Remore, it suggests the predicted noise level from delivery activities between 6.00-7.00am and 22.30-23.00 will not violate the acceptable noise level of residential properties within the extended delivery time. Environment Health has confirmed the acoustic report is acceptable.

- 8.3 In addition to that, under the previous application (07/0991/S73) Environment Health recommended that the previous permission should be granted for a temporary basis only, which would allow the Local Planning Authority to assess the impact of the extended delivery hours on the nearby residential properties. It is acknowledged by Environment Health that for the temporary period of approval between 1 April 2008 and 31 March 2009 they have not received any complaints and confirm it had been a successful trial.
- 8.4 Policy 4/13 states that the development will only be permitted if it can minimise any significant adverse effects through the use of appropriate reduction or mitigation measures. With the previous application, Environment Health had no objections to the extension to 23.00 hours at night but did have reservations for the extension between 06.00 and 07.00 hours and only allowed permission on the basis of two deliveries between these times. Like last time the applicant has confirmed that there will only be two lorry movements between 06.00 and 07.00 hours. Environment Health recommends the same condition. In order to minimise any significant adverse impacts from the delivery noise in the extended delivery hours, I

consider it is necessary to attach this condition to the planning consent in this application. In my opinion, the proposal is acceptable against policies 3/4 and 4/13.

9.0 Third Party Representations

9.1 No.5 Cheddars Lane has objected to this application with regard to impacts of the noise disturbance on the residential amenity of nearby residential properties from extended delivery hours. In particular the objection is that extending the delivery hours will result in noise disturbance from vehicles waiting on Cheddars Lane at 5.30 in the morning. In my opinion, the condition which restricts the number of delivery vehicles to two between 06.00 and 07.00 hours should safeguard an exacerbation of use. The Local Planning Authority has no control of the highway and it is hard to see how else this matter could be addressed other than the limitation on number of delivery vehicles as proposed. In the interests of neighbourliness, I have placed an informative on the permission for Tesco to advise its lorry drivers not to park on Cheddars Lane in the event of early arrivals.

10.0 CONCLUSION

As the temporary trial between 1 April 2008 and 31 March 2009 has been acknowledged as successful and no complaints have been received. I recommend an approval for the proposal for the variation of condition20. In order to minimise any significant adverse impacts from the noise disturbance from extended delivery hours, a condition restricting the numbers of delivery vehicles between 06.00 and 07.00 to two will be attached to the planning permission.

11.0 RECOMMENDATION

APPROVE subject to completion of the following conditions:

1. There shall be no goods delivered to the retail unit outside the hours of 06.00 to 23.00 on Mondays to Saturdays (including Bank and Public Holidays) and 09.00 to 19.00 on Sundays.

Reason: To protect the amenity of the nearby residential properties (Cambridge Local Plan 2006 policy 4/13)

2. Between 0600 and 0700 hours on Mondays to Saturdays (including Bank and Public Holidays) lorry movements into the site shall be restricted to two only.

Reason: To protect the amenity of the nearby residential properties (Cambridge Local Plan 2006 policy 4/13)

3. The retail store shall be a convenience goods superstore and shall not sell predominantly comparison goods.

Reason: To protect the amenity of the nearby residential properties (Cambridge Local Plan 2006 policy 4/13)

4. The gross floorspace of the retail unit shall be no more than 6,967 sq. m. No additional retail space shall be provided by the creation of external sales areas or the construction of mezzanine floors within the retail unit.

Reason: To protect the amenity of the nearby residential properties (Cambridge Local Plan 2006 policy 4/13)

5. The means of motorised vehicular access to the retail unit shall be from the Newmarket Road/Cheddar's Lane junction only.

Reason: In the interests of highway safety (Cambridge Local Plan policy 8/2)

6. The pedestrian and cycle route shall be retained in accordance with the approved details under condition 14 at appeal ref: T/APP/Q0505/A/98/301055 and for use by pedestrian and cyclists at all times.

Reason: In the interests of highway safety (Cambridge Local Plan policy 8/2)

7. The service road shall be retained at the rear of 261 - 337 Newmarket Road in accordance with approved details under condition 16 at appeal ref: T/APP/Q0505/A/98/301055.

Reason: In the interests of highway safety (Cambridge Local Plan policy 8/2)

8. The areas for the parking of cars, cycles, buses, storage of trolleys, refuse storage and recycling areas, and parking for the loading and unloading of vehicles shall be laid out at all times in accordance with details previously submitted to and approved in writing by the Local Planning Authority. Those areas shall not be used for any other purpose without the prior written consent of the Local Planning Authority.

Reasons: In the interests of highway safety (Cambridge Local Plan policy 8/2)

9. There shall be no external storage of materials or products, save for trolleys, recycling bins, and refuse to be stored to be agreed as required by condition 17 at appeal ref: T/APP/Q0505/A/98/301055.

Reasons: In the interests of highway safety (Cambridge Local Plan policy 8/2)

10. The retail unit shall not open for trading outside the hours of 07.30 and 22.00 on Mondays to Saturdays (including Bank and Public Holidays) and outside the hours of 10.00 and 18.00 on Sundays.

Reason: To protect the amenity of the nearby residential properties (Cambridge Local Plan 2006 policy 4/13)

11. The constructed lighting such as floodlights or external lighting for each of the retail and housing components shall be operated and retained in accordance with details approved by the Local Planning Authority under condition 21 at appeal ref: T/APP/Q0505/A/98/301055.

Reason: To protect the amenity of the nearby residential properties (Cambridge Local Plan 2006 policy 4/13)

INFORMATIVE: In the interests of neighbourliness, Tesco must ensure that its lorry drivers are advised not to park on Cheddars Lane in the event of early arrival.