

Application No: 12/3489M

Location: Waitrose Ltd, 89, PARK LANE, POYNTON, SK12 1RD

Proposal: Variations of conditions 4 (hours of opening) & 5 (hours of deliveries) of 08/0315P

Applicant: Mr Ken Williams, Waitrose Ltd

Expiry Date: 10-Dec-2012

SUMMARY RECOMMENDATION

Approve subject to conditions and completion of a s106 legal agreement

MAIN ISSUES

Whether the variation of the conditions would lead to an unacceptable impact on the amenities of nearby residents

REASON FOR REFERRAL

This application has been referred to Northern Planning Committee as it relates to the variation of conditions attached to a major planning application that was determined by the Committee.

DESCRIPTION OF SITE AND CONTEXT

The application relates to an existing supermarket (Waitrose Ltd) located on the northern side of Park Lane within the primary shopping area for Poynton. The store was originally granted planning permission in 2008 (application reference no. 08/0315P).

DETAILS OF PROPOSAL

This application seeks permission to vary conditions 4 and 5 on application 08/0315P approved 6th May 2008. The conditions read:

4. *The hours of operation of the business/activity/use hereby approved shall be limited to within 0800 to 2200 hours on Monday to Saturday and 1000 to 1700 on Sundays or Public Holidays.*
4. *No deliveries shall be taken at or despatched from the site outside the hours of 0730 and 2100 Monday to Saturday and 1000 to 1600 on Sundays, Bank or Public Holidays.*

The applicant is seeking to vary condition 4 to extend the hours of business to 0700 to 2300 Monday to Saturday, 1000 to 1800 on Sundays & 0800 to 2200 on Public Holidays.

They are also seeking to vary condition 5 to allow deliveries between the hours of 0700 and 2100 Monday to Saturday, and 0800 and 1600 on Sundays and Public Holidays.

RELEVANT HISTORY

08/0315P Development of a supermarket with associated parking and servicing arrangements. Construction of an A1/A3 unit (shop and restaurant) and an A2 unit (building society). Change of use of a dwelling to osteopath (No. 97 Park Lane).

Approved 6th May 2008

RELEVANT POLICIES

Regional Spatial Strategy to 2021

DP1 (Spatial Principles)

DP2 (Sustainable communities)

DP3 (Sustainable economic development)

DP4 (Make the Best Use of Existing Resources and Infrastructure)

MBC Local Plan Policy 2004

S1 (Shopping developments)

PDC1 (Consolidation and enhancement of prime shopping area)

DC3 (Amenity)

DC6 (Circulation and access)

DC13 (Noise)

DC14 (Mitigation of noise)

Other Material Considerations

National Planning Policy Framework

CONSULTATIONS (External to Planning)

Environmental Health

Concerns were initially raised regarding the potential impact on residential amenity in respect of noise. They are satisfied with the proposed hours with the exception of the opening hours under condition 4 on Public Holidays (0800) and on Sundays and Public Holidays under condition 5 (0800). They have stated 0900 would strike the correct balance between the commercial desire to extend the hours and the residential sensitivity of the area.

VIEWS OF THE TOWN COUNCIL

The Town Council have raised no objections to the proposal.

OTHER REPRESENTATIONS

Objections have been received from the occupiers of 5 properties in Poynton. The main points raised are:

- The original conditions were imposed in the interests of amenity. Nothing has changed in the locality to suggest the interests of amenity would not be affected;
- The neighbours should not be expected to put up with noise and traffic movements more than on 6 separate days in any 12 month period where there are exceptional circumstances e.g. Christmas.
- The existing hours represent a fair balance between the needs of the business and the amenities of residents.
- There are other shops in Poynton that benefit being open when Waitrose is closed.

APPLICANT'S SUPPORTING INFORMATION

A supporting statement has been submitted on behalf of the applicant which outlines the need for extending the hours imposed by conditions 4 and 5. In terms of trading hours, the statement points to changes in consumer demand with customers wishing to have the option of shopping earlier in the morning or later in the evenings. The pattern of retailing is changing to reflect this and Waitrose is seeking to meet this demand.

The need for earlier deliveries is explained in terms of changing demands of customers and desire to purchase fresh products with maximum product life. The current delivery hours do not allow the first delivery of the day to be made and transferred to shelves before the store gets busy.

OFFICER APPRAISAL

The reason for imposing both conditions 4 and 5 was '*in the interests of amenity*' in order to protect nearby residential properties from undue noise and disturbance. The consideration of this application must therefore centre on whether the proposed changes would lead to an unacceptable impact on the amenities of nearby residents.

As noted above a number of objections have been received. It should be noted that only one of the objections has been received from occupiers of a property bordering the site, 46 Parklands Way. This property adjoins the car park at the rear of the site. The other objections were received from occupiers of properties that are in Poynton however, they are some distance from the site and would not be directly impacted upon. Nonetheless the points raised are valid and must be considered.

The Environmental Health Department raised concerns regarding the opening hours on Public Holidays and start of delivery hours on Sundays and Public Holidays. The applicant has since confirmed they would be agreeable to altering the hours to those suggested by Environmental Health. Thus the proposed trading hours are:

- 0700 to 2300 on Mondays to Saturdays;
- 0900 to 2200 on Public Holidays;
- 1000 to 1800 on Sundays.

The Monday to Saturday hours would represent a one hour increase at the start of the day and one hour increase at the end of the day. The hours on Public Holidays would represent a starting time one hour earlier and closing time five hours later. The Sunday trading hours would represent a one hour later closing time. However it should be pointed out that the Sunday trading hours are restricted by the Sunday Trading Act 1984 to a maximum of six hours and whilst this proposal would extend the hours on the planning permission to an 8 hour period, this is to allow the store flexibility in terms of when this six hour period is.

The store is located in an identified shopping area and accordingly a degree of noise and disturbance should be expected above and beyond what would be expected in a wholly residential area. The proposed hours are not abnormal and reflect modern consumer patterns of demand, with early and late night shopping becoming common. It is considered that the hours, as amended in accordance with the Environmental Health comments, strike an acceptable balance between the needs of the business whilst still protecting amenity for nearby residents.

Representations also stated that other shops in the locality benefit from being open when Waitrose is currently closed. It is not the role of the planning system to protect the private interests of an individual or business against the private interests of another. The role of the planning system is therefore not to control competition but to determine the impacts of the development against those considerations that are of public interest.

The proposed delivery hours, in accordance with the Environmental Health comments, are:

- 0700 to 2100 on Monday to Saturday;
- 0900 to 1600 on Sundays and Public Holidays.

This represents a 30 minute extension to the first delivery time on Monday to Saturday and a one hour extension to the first delivery time on Sundays and Public Holidays. The service yard is located adjacent to 97 Park Lane, a commercial property. It also adjoins the hall and Methodist Church to the north. The entrance to the service yard is opposite residential properties on the southern side of Park Lane. On balance, however it is not considered the proposed hours would lead to significant injury to amenity at those properties by way of noise and disturbance. The hours would be reasonable and as outlined above, would be appropriate given the site is in an identified shopping area where some disturbance of this nature must be expected. It is a fair balance between operation requirements of the store, allowing them to get fresh produce onto the shelves before peak customer hours, and continuing to offer nearby resident's sufficient protection from noise and disturbance at unsocial hours taking the context of the locality into account.

The original planning permission was subject to a legal agreement and therefore should members be minded to approve the application, a Deed of Variation to that legal agreement would be required to link it to this application.

CONCLUSIONS

The applicant has confirmed they are agreeable to amend the proposed hours to accord with those suggested by Environmental Health as being reasonable. The proposed hours strike a

fair balance between the operational requirements of the business and ensuring the amenities of nearby residents are protected. The hours are not considered unsociable given the context of the site, in a defined shopping area, and are reflective of modern behaviour patterns and demands of consumers. Accordingly, a recommendation of approval is made.

LEGAL AGREEMENT - HEADS OF TERMS

Deed of variation to the legal agreement attached to the original planning permission 08/0315P to refer to this application (reference number 12/3489M).

RECOMMENDATION: Approve subject to following conditions

1. Development in accord with revised plans (numbered)
2. Business hours
3. Hours of deliveries
4. Landscaping (implementation and maintenance)
5. No gates - access
6. Retention of service facility
7. Retention of car parking
8. Retention of cycle parking
9. Retention of motorcycle parking
10. Drainage and surfacing of hardstanding areas
11. Lighting as approved
12. Park Lane elevation retained as approved
13. Retention of recycling facilities as approved
14. Surface water drainage
15. Shower/changing facilities
16. Information of alternative transport
17. No storage in parking/turning areas
18. Retention of noise control measures

