

PLANNING COMMITTEE: 29th October 2014
DIRECTORATE: Regeneration, Enterprise and Planning
DIRECTOR: Steven Boyes

N/2014/0987: Variation of Condition 4 of Planning Permission N/2013/0131 to extend the opening times from 0730-2000 to 0700-2200 at 237-245 Main Road, Duston

WARD: New Duston

APPLICANT: Central England Co-operative
AGENT: Mr D. Prichard, Marrons Planning

REFERRED BY: Cllr. T. Hadland
REASON: The proposal is contrary to a Planning Inspector's decision

DEPARTURE: No

APPLICATION FOR DETERMINATION:

1. RECOMMENDATION

1.1 **APPROVAL** subject to conditions and for the following reason:

The proposed variation in operating times would have a neutral impact upon the occupiers of neighbouring properties in accordance with the requirements of the National Planning Policy Framework.

2. THE PROPOSAL

2.1 The applicant seeks permission to vary the requirements of Condition 2 of Planning Permission N/2013/0131 to allow the store to be open to customers between the hours of 7am and 10pm on any day rather than the 7.30am and 8pm that is currently permitted.

3. SITE DESCRIPTION

3.1 The application site is located within an allocated local centre as defined by the Northampton Local Plan. The surrounding land uses include a variety of commercial functions, including two convenience

stores, takeaways and hairdressers. The wider area predominately features residential accommodation of a variety of ages, scales and styles. The site is located on Main Road, which serves as the main route through the Duston area.

- 3.2 Planning permission was granted in 2013 (on appeal) for the erection of a convenience store. Construction work on the store is at an advanced stage; however, the building is not currently operational.

4. PLANNING HISTORY

- 4.1 N/2013/0131 – Redevelopment of site to provide a convenience store (Use Class A1) including ancillary parking and service area – Approved following an appeal.

5. PLANNING POLICY

5.1 Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the Northampton Local Plan 1997 saved policies and the Northampton Central Area Action Plan

5.2 National Planning Policy Framework (NPPF)

Of particular note is that Paragraph 17, which requires that developments be of a high standard of design and encourage mixed use and sustainable developments. Paragraph 123 requires that new developments do not have an adverse impact upon amenity arising from excessive noise. Where appropriate, mitigation should be secured, such as through the use of conditions.

5.4 Northampton Local Plan

Policy E20 requires that new buildings should be built of an appropriate design.

6. CONSULTATIONS / REPRESENTATIONS

Comments received are summarised as follows:

- 6.1 **Environmental Health (NBC)** – No objections.
- 6.2 **Cllr. T. Hadland** – The trading hours were considered by a Planning Inspector. There is insufficient evidence to grant an extension of time as the store is not yet operational. Therefore the application is premature. Whilst the previous garage/filling station did not have any restrictions on opening times, it closed at 7pm.
- 6.3 **Duston Parish Council** – Object due to the extended opening times having a detrimental impact upon local residents and businesses.

- 6.4 Three letters of objection have been received. Comments can be summarised as:
- The proposed extension of time would encourage littering and anti-social behaviour.
 - The greater opening hours would create an adverse impact upon neighbour amenity as a result of people leaving the site. It is noted that lights from vehicles would cause disturbance.
 - Permission would not have been granted if the hours currently proposed were included within the original application.

7. APPRAISAL

7.1 The condition contained in the planning approval N/2013/0131 limits the store to being open between the hours of 7.30am and 8pm. The reason for this condition is to ensure that the operation of the store does not cause any undue detrimental impact upon the amenities of the occupiers of the nearby residential properties.

7.2 As part of the appeal process, the appellant requested the same hours that permission is now sought for this application. In declining this request, the Inspector found that:

“...allowing the store to open between 0700 hours and 2200 hours... would inevitably lead to noise and disturbance even later than these times – as staff arrive and leave and the store is opened and closed.”

7.3 The Inspector concluded his assessment of the store’s opening times with the following:

“I find that the scale and nature of the proposal before me... is such that its use is capable of generating levels of noise and disturbance over and above that which currently exist. There is no substantive information before me to demonstrate that this would not be the case”.

7.3 From this, the inference is that the Inspector did not rule out the principle of the store extending its operating times; but that any such extension should only be permitted in instances where sufficient, compelling evidence is provided that would demonstrate that the store would not adversely impact upon neighbour amenity.

7.4 In support of the current proposal, the applicant has undertaken an appraisal of the current background noise levels. This assessment has been carried out over a significant period and covering all times of the day. Whilst it is accepted that construction work was being carried out during the assessment period, the times in which building works were taking place were limited to 7.30am and 6.30pm on Mondays to Fridays; 7.30am and 4pm on Saturdays and an no point on Sundays. As a result of this, no construction work was taking place during the

time periods that are the subject of this application. As a consequence of this, the current building works would not have skewed the levels of background noise.

- 7.5 There are two likely causes of noise arising from the extended opening times. The first is that associated with the operation of plant and equipment and the second is that generated from people entering and leaving the store.
- 7.6 The only plant and equipment comprises two air conditioning units and a refrigeration condenser. Whilst this equipment would need to be in operation during the periods in which the store is open, it has been demonstrated that the noise levels generated by this equipment would either be the same or lower than existing background noise levels. As a consequence of this, it is considered that the proposed revision in opening times would not cause any greater detrimental impact upon the neighbouring properties.
- 7.7 In terms of noise arising from the use of the car park, noise is likely to come from vehicle movements in addition to the movement of patrons. In terms of the increase in opening times in the morning (from 7.30am to 7am), it is noted that noise levels within the vicinity are already increasing at this point due to the busy nature of Main Road, combined with the likelihood of commercial vehicles also visiting some of the nearby commercial units. As a consequence of this, it is likely that the proposed increase in times in the mornings would not generate any significant adverse impact upon the amenities of surrounding properties.
- 7.8 Based upon stores of a comparable size, the application has evidenced that the level of additional customers between 8pm and 10pm is unlikely to be significant. Typically, there would be no more than 20 car journeys being made to such a store between 8pm and 9pm and no more than 8 journeys between 9pm and 10pm. As a result of this comparatively limited increase, combined with the separation distances between the store and the nearest residential properties it is considered that the proposal would have a neutral impact upon residential amenity.
- 7.9 The technical study used to support the application (including the methodologies for carrying out of survey work) has been reviewed by the Council's Environmental Health section, which has raised no objections to the conclusions of the submitted assessment.
- 7.10 Therefore for the foregoing reasons, it is considered that robust evidence has been submitted to justify an extension in the opening times of the store, which satisfactorily addresses the concerns expressed by the Inspector at the appeal.
- 7.11 As this permission would represent a new 'chapter' in the site's planning history, it is necessary to restate all relevant planning

conditions from the original planning permission (such as delivery times), in order to provide certainty regarding the potential impacts of the development.

7.12 It is noted that representations have commented upon a potential increase in littering and anti-social behaviour. However, as it is likely that the use of store in the additional hours would not be significant, it therefore follows that there would not be a major impact upon these factors.

7.13 Observations have also been submitted that have commented upon the likely impacts of the proposal upon the viability of surrounding businesses. Whilst these views are noted, it is considered that the level of competition between individual businesses is not a planning matter. Moreover, the two convenience stores within the locality do not feature any planning restrictions over opening times.

8. CONCLUSION

8.1 In conclusion, it is considered that suitable evidence to justify the proposed extension in operating times has been submitted and as a consequence, the development would have a neutral impact upon the amenities of the occupiers of neighbouring properties. The proposed revision is therefore in accordance with the requirements of the National Planning Policy Framework and local planning policies.

9. CONDITIONS

1. The sales area within the store hereby permitted shall not exceed 279.7 square metres.

Reason: In the interests of maintaining the viability and vitality of the hierarchy of centres in accordance with the requirements of the National Planning Policy Framework.

2. The store hereby permitted shall only be open to customers between the hours of 7:00am and 10:00pm on any single day.

Reason: In the interests of securing a satisfactory standard of development in terms of impacts upon residential amenity in accordance with the National Planning Policy Framework.

3. All deliveries to the store shall take place between the hours of 7:00am and 8:00pm only.

Reason: In the interests of securing a satisfactory standard of development in terms of impacts upon residential amenity in accordance with the National Planning Policy Framework.

4. The parking and manoeuvring space as shown on drawing 01 Rev. S shall be fully implemented prior to the first occupation of the

development hereby permitted and retained thereafter. The manoeuvring space shall also be kept clear throughout the life of the development.

Reason: In the interests of highway safety in accordance with the requirements of the National Planning Policy Framework.

5. Development shall take place in accordance with the landscaping scheme as detailed on drawings 04, Rev. F and R/1546/1.

Reason: In the interests of amenity and to secure a satisfactory standard of development in accordance with Policy E20 of the Northampton Local Plan.

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner, and which shall be maintained for a period of five years; such maintenance to include the replacement in the current or nearest planting season whichever is the sooner or shrubs that may die are removed or become seriously damaged or diseased with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and to secure a satisfactory standard of development in accordance with Policy E20 of the Northampton Local Plan.

7. The development shall operate in accordance with the noise levels detailed within the Environmental Noise Survey and Noise Impact Assessment, dated 14th August 2014 (reference RF 84988/NIA rev. A).

Reason: To protect the amenities of nearby occupants from noise and vibration amenity in accordance with the advice contained in the National Planning Policy Framework

8. Notwithstanding the details submitted, full details of CCTV, protective bollards to the ATM, external lighting and security shutters shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby permitted. The development shall only be carried out in accordance with the approved details and retained thereafter.

Reason: In the interests of securing a satisfactory standard of development in accordance with the requirements of Local Plan Policy E40.

9. Full details of the method of the treatment of the external boundaries of the site shall be submitted to and approved in writing by the Local Planning Authority, implemented prior to the occupation of the building hereby permitted and retained thereafter.

Reason: To ensure that the boundaries of the site are properly treated so as to secure a satisfactory standard of development in accordance with Policy E20 of the Northampton Local Plan.

10. Notwithstanding the details submitted, an external lighting scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details, implemented prior to the first occupation of the development hereby permitted and retained thereafter.

Reason: In the interest of securing a satisfactory standard of development in terms of neighbour amenity and crime prevention in accordance with the requirements of the National Planning Policy Framework and Local Plan Policy E40.

11. All trees shown to be retained in the approved plans shall be protected for the duration of the development by stout fences to be erected and maintained on alignments as shown in drawing R/1546/2. Within the fenced area no development works shall take place on, over or under the ground, no vehicles shall be driven, nor plant sited, no materials nor waste shall be deposited, no bonfires shall be lit nor the ground level altered during the periods of development.

Reason: In order to ensure adequate protection of existing trees on the site in the interests of achieving a satisfactory standard of development and maintaining the amenity of the locality in accordance with Policy E11 of the Northampton Local Plan.

10. BACKGROUND PAPERS

- 10.1 N/2013/0131

11. LEGAL IMPLICATIONS

- 11.1 None.

12. SUMMARY AND LINKS TO CORPORATE PLAN

- 12.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.



Name: Location Plan
 Date: 8th October 2014
 Scale: 1:1250
 Dept: Planning
 Project: Planning Committee

Title

Former Ashtree Service Station, 237 Main Road, Duston

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