

PLANNING COMMITTEE: 5th September 2017
DIRECTORATE: Regeneration, Enterprise and Planning
HEAD OF PLANNING: Peter Baguley

APPLICATION REF: N/2017/0795

LOCATION: 2 Webb Drive

DESCRIPTION: Variation of Condition 5 of Planning Permission N/2011/0221 (Change of use from residential (use class C3) to retail (Use Class A1) to allow permanent trading hours of 07.30 to 22.00 daily

WARD: Upton Ward

APPLICANT: Mr Kiruschen Kirubairajah
AGENT: Mr Kiruschen Kirubairajah

REFERRED BY: Councillor B Sargeant
REASON: Noise and crime concerns

DEPARTURE: No

APPLICATION FOR DETERMINATION:

1. RECOMMENDATION

1.1 **APPROVAL** subject to the conditions as set out below and for the following reason:

Although the site is located within an established residential area, the proposed extended opening hours are not considered excessive in terms of the impact of noise, disturbance and general nuisance, effect on highway safety and security and would comply Policies BN9 and S10 of the West Northamptonshire Joint Core Strategy and aims and objectives of the National Planning Policy Framework.

2. THE PROPOSAL

2.1 The application is submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary a planning condition in relation to the approved opening hours of the shop to allow extended opening from 7pm until 10pm daily.

3. SITE DESCRIPTION

3.1 The application site consists of a ground floor retail unit at the junction of High Street and Webb Drive, Upton. The site is within an established residential area with flats above and residential accommodation on both sides. Parking is provided along bays adjacent to Webb Drive and on High Street. The site is not in a conservation area.

4. PLANNING HISTORY

- 4.1 Planning permission was granted in 2011 to change the building (from residential) to a retail use (Use Class A1). The permission was subject to a condition to restrict hours of operation to be open between 7:30am and 7:30pm only. In 2016, planning permission was granted for a 9 month temporary period to extend the trading time to 10:00pm in the evening, to allow the Council to monitor the change in hours until 31st July 2017. This has now expired and the applicant is currently trading under the previously approved hours (closing at 7:30pm) pending the outcome of the current application. There was also a condition restricting delivery times, however the current application relate solely to hours of opening of the shop.

5. PLANNING POLICY

5.1 Statutory Duty

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 adopted West Northamptonshire Joint Core Strategy (2014), Northampton Local Plan (1997) saved policies.

5.2 National Policies

The National Planning Policy Framework (NPPF) sets out the current aims and objectives for the planning system and how these should be applied. In delivering sustainable development, decisions should have regard to the mutually dependent social, economic and environmental roles of the planning system. The NPPF should be read as one complete document. However, the following sections are of particular relevance to this application:

- Paragraph 17 requires good design and impact on amenity of neighbouring uses
- Paragraph 32 relates to safe access for all
- Paragraph 58 and 69 relates to security and crime prevention
- Paragraph 123 relates to noise and its impact on quality of life

5.3 West Northamptonshire Joint Core Strategy (2014)

The West Northamptonshire Joint Core Strategy (JCS) provides an up to date evidence base and considers the current Government requirements for plan making as it has been prepared in full conformity with the NPPF. Policies of particular relevance are:

S10 Sustainable Development Principles- requires high quality design, minimising pollution from noise.

BN9 Planning and Pollution Control- relates to development that is likely to cause pollution including impact on noise.

5.4 Northampton Local Plan 1997 (Saved Policies)

Due to the age of the plan, the amount of weight that can be attributed to the aims and objectives of this document are diminished. There is no relevant policy.

5.5 Supplementary Planning Documents

Northamptonshire Parking Standards (September 2016)
Planning out Crime in Northamptonshire SPG (March 2003)

5.6 Other Material Considerations

None.

6. CONSULTATIONS/ REPRESENTATIONS

Comments received are summarised as follows:

- 6.1 **Environmental Health (NBC)** - do not have an objection to the altered hours, but would not support any further variations to opening hours given the surrounding residential properties. We have received some representation regarding noise in the past, as there are residential units above the store, these noise issues appear to have been resolved.
- 6.2 **Police Crime Advisor (NCC)** - an analysis of crime and disorder in Webb Drive Upton reveals that the majority of issues in the location are as a result of inappropriate use of cycle sheds in the adjacent rear parking courts and cannot be deemed to be as a result of the shop or its opening hours. The rear parking courts are designed to be secured by use of electronically operated gates but if they are not operational, as would appear to be the case, then the rear parking areas are used as places to congregate causing nuisance and disturbance.
- 6.3 **Upton Parish Council** - are aware of serious concerns from local residents and request that any observations are considered carefully.
- 6.4 **Councillor B Sargeant** - object and calls in the application due to impact on noise, crime and health and effect on neighbours wellbeing.
- 6.5 17 objections received and 11 name petition on the following grounds:
- Impact of anti-social behaviour and crime/ negative impact on community
 - Concern over fear and intimidation to nearby residents
 - Parking concerns
 - Increase in litter
 - Increase in noise and neighbour impact
 - Impact on quality of life and wellbeing of residents
 - Increase in traffic and inconsiderate car parking
 - Proposed hours not suitable due to proximity to residential uses
 - Is a local garage and retail unit nearby that is convenient, no need for additional shop in the area
- 6.6 26 comments of support received on following grounds:
- No other similar shops on the estate
 - Is very convenient to Upton residents
 - Parking is not a problem, only on match days
 - The shop is a good and valued community facility
 - Opening hours should be extended if applicant wishes
 - The shop is a great asset to the local area

7. APPRAISAL

Main issues

- 7.1 The main issues to consider are the impact on living conditions on neighbouring properties in terms of noise, nuisance and disturbance, security and highway safety.

Impact on living conditions of neighbouring properties

- 7.2 There is two principal causes of noise arising from the shop. That is associated from people entering and leaving the store that includes comings and goings, traffic and increased activity and noise from elements of the shop such as closing of security shutters, noise from security alarm etc.
- 7.3 Policies S10 and BN9 of the Joint Core Strategy both refer to noise and the impact of development on pollution. This is also reflected in the NPPF paragraph 123 which states that “Planning 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”.
- 7.4 Paragraph 17 refers to the effect on amenity of other occupiers and seeks to ensure acceptable levels of amenity for neighbouring uses.
- 7.5 Since the grant of temporary planning permission, the applicant has undertaken a number of measures to reduce the potential neighbour impact. These include reversing the latch on the front door to eliminate banging, changing security shutters to lightweight material to control noise when being opened and closed. In addition, rectifying complaints over the intruder alarm. The applicant advises that this was resolved within 48 hours of the complaint being received. The applicant has also been in discussions with the Council’s Environmental Health Officers in an attempt to try and resolve neighbour complaints.
- 7.6 While it is acknowledged that the longer opening hours would have an impact on neighbouring amenity in terms of increased comings and goings later into the evening, the proposed hours until 10pm are not uncommon for a residential area. The Council’s Environmental Health Officers also raise no objections subject to there not being any further variations agreed.
- 7.7 It is noted that some representations have commented upon a potential increase in litter. There is no evidence to suggest that there is a direct correlation between the extended opening hours and additional litter in the area. The Parish Council request that the views of local residents are considered carefully.

Parking and Highway safety

- 7.8 Given that much of the trade generated by the shop is likely to come from local residents who may walk to the site, it is considered that the extended hours would not result in significant additional parking concerns above the current situation. Although, there will evidently be some customers who choose to drive to the site, the resultant impact is not considered overly significant as the existing parking provision is adequate. The NPPF also states that applications should only be refused on transport grounds where the impact is “severe”. This is not considered to be the case in this instance.

Security and Crime Prevention

- 7.9 The Northamptonshire Police Crime Design Advisor has been consulted and comments as above (Paragraph 6.2). It appears that much of the anti-social behaviour in the area does not come directly from the existing shop, it is considered that it would be unreasonable to resist the application on these grounds.

8. Conclusion

- 8.1 It is apparent that the proposed extended opening hours would generate additional comings and goings and activities, and would have some impact on the amenity of nearby properties by way of

noise, mainly from extra comings and goings. However, on balance, the proposed hours are not considered excessive and the impact on neighbours' amenity would be acceptable and a refusal of planning permission is not justified.

9. CONDITIONS

- 1) The premises shall be open to customers between the hours of 7:30 am to 10:00 pm only.

Reason: In the interests of residential amenity to accord with Policy BN9 of the West Northamptonshire Joint Core Strategy and aims of the NPPF.

- 2) The development shall remain in accordance with the approved noise scheme and associated insulation to the ceiling/walls between the development and residential accommodation above and adjacent approved under planning application N/2011/0221 by the Local Planning Authority on 23 January 2012 and retained thereafter.

Reason: In the interests of residential amenity in accordance with Policy BN9 of the Joint Core Strategy.

- 3) The refuse provision shall be retained in accordance with the details agreed under planning application N/2011/0221 by the Local Planning Authority on 23 January 2012 and retained in that form throughout the duration of development.

Reason: In the interests of residential amenity to comply with Policy E20 of the Northampton Local Plan.

- 4) There shall be no deliveries to or from the premises between the hours of 6:00 pm and 8:00 am.

Reason: In the interests of residential amenity to accord with Policy BN9 of the West Northamptonshire Joint Core Strategy.

10. BACKGROUND PAPERS

- 10.1 N/2017/0795.

11. LEGAL IMPLICATIONS

- 11.1 The development is not CIL liable as it would not create any additional floor space.

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.



Title: **2 Webb Drive, Upton**

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Date: 23-08-2017

Scale: 1:1,250

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