
APPLICATION NO.	P10/E1597
APPLICATION TYPE	Full
REGISTERED	22 October 2010
PARISH	Chinnor
WARD MEMBER(S)	Geoff Andrews and Christopher Hood
APPLICANT	Midcounties Co-operative Ltd
SITE	36 Oakley Road
PROPOSAL	Variation of Condition 5 (permitted delivery hours) of planning permission P93/N0291 (Single storey shop and store extension) to allow an extension of time of permitted delivery hours to Mon-Fri 7am-6pm, Saturday 7am-3pm, Bank Holidays 7am-3pm and no deliveries on Sundays. (Amended Hours)
AMENDMENTS	Variation of hours amended, design and access altered, delivery barrier proposed.
OFFICER	Paul Lucas

1.0 INTRODUCTION

- 1.1 This application is reported to the Planning Committee as a result of a conflict between officer's recommendation and the views of Chinnor Parish Council.
- 1.2 The application site is shown on the OS extract included as **Appendix 1**. Oakley Road is one of the main through-fares of Chinnor, consisting of a mix of residential and commercial properties. The site has an area of 2,250 square metres and consists of a BP petrol filling station to the front, with a large part single part two storey detached building behind accommodating a Cooperative Food store serving the petrol station and acting as a stand alone supermarket. There is a shop entrance for petrol customers on the front elevation and the main entrance to the supermarket is on the north-east side elevation. There is a dual access onto Oakley Road at the front of the site. The south-west access serves the petrol station, whilst the north-east access serves both the petrol station and the car park. Access to the delivery area at the rear of the store is from the north-east entrance/exit through the car parking area along the north-eastern side boundary and along the north-east boundary at the rear of the store. The delivery area is located at the far end of the car park at the rear of the site. The site is bordered by several residential properties. No.34 Oakley Road is a detached chalet bungalow, which along with its garden, spans the entire north-eastern site boundary. The side walls and gardens of 13 and 15 Fox Cover, both two-storey semi-detached houses belonging to a residential close to the north of the site, form the rear boundary with the car park. No.15 lies immediately adjacent to the delivery area. No.17 Fox Cover also backs onto the rear elevation of the building. The south-west site boundary adjoins No.38 Oakley Road – Sanderum Business Centre, a commercial premises and its forecourt.

2.0 PROPOSAL

- 2.1 The application seeks consent to vary the hours of deliveries to the store. The approved hours are set out under Condition 5 of planning permission P93/N0291: "That no deliveries shall be made to the site except between the hours of 6.00am and 6.00pm Mondays to Fridays and 6.00am to 1.00pm on Saturdays. No deliveries shall take place on Sundays or Bank Holidays."

- 2.2 As originally submitted, the application proposed to extend the delivery hours to 6am – 6pm on Saturdays (an additional 5 hours in the afternoon/early evening) and to introduce new delivery hours of 7am – 1pm on Sundays (an additional 6 hours) and 6am – 5pm on Bank Holidays (an additional 11 hours). This would have totalled an additional 11 hours of potential deliveries on a typical week and 22 hours or more when Bank Holidays occur.
- 2.3 The application has been amended to reflect the hours at the top of this report. This would involve a reduction of the delivery hours to 7am – 6pm Mondays to Fridays (reduction of 1 hour), a change of delivery hours from 7am – 3pm on Saturdays (net gain of 1 hour), a continuation of no deliveries on Sunday and to introduce new delivery hours of 7am – 3pm on Bank Holidays (an additional 8 hours when they occur).
- 2.4 The justification for the extended delivery hours is to bring fresh and essential produce to the store over weekends in order to continue to provide a complete service to the local community, particularly on days when larger retailers are closed and local people rely more heavily on this local convenience store. The amended application also incorporates provision for the construction of a barrier across the access drive along the side access route, which would prevent delivery drivers from accessing the rear of the site until it would be opened at the proposed times and new signage would be installed to reflect these times.
- 2.5 The application is accompanied by an amended Design and Access Statement. This can be viewed on the Council's website www.southoxon.gov.uk. The plan of the barrier location can be found as **Appendix 2**.

3.0 CONSULTATIONS & REPRESENTATIONS

- 3.1 **Chinnor Parish Council** – Comments on hours originally proposed: The application should be refused due to being unneighbourly and inappropriate.

- Comments on hours currently proposed: The application should be refused due to un-neighbourly, inappropriate and anti social hours. Monday to Friday is acceptable but not acceptable on Sundays and Bank Holidays at all (there are no longer any deliveries proposed for Sundays).

- 3.2 **Health and Housing (Environmental Protection)** – Comments on hours originally proposed: Due to the sensitive nature of the area surrounding the planning application site, the following environmental protection issues have been identified:-Increasing noise impacts of the deliveries on residents surrounding the delivery yard. Due to the delivery area's close proximity to approved residential development next to the site, I have concerns about the detrimental impacts the changes to the current delivery times is going to have on the residents living in these properties. These concerns are justified because complaints have been received about noise being generated by deliveries disturbing the existing residents living around the delivery yard. The applicant appears to have made minimal efforts to mitigate any of these impacts. Until some more detailed proposals to mitigate the any increases to noise exposure for the surrounding residents, I would have strong reservations about allowing any alterations to the existing delivery times. Due to the issues I have mentioned above, the only option I have is to object to the current application on the grounds of loss of amenity for residents living adjacent to the site due to the additional noise impact of deliveries.

- Comments on hours currently proposed: On the basis of the amended details, the application can be supported on the basis of four planning conditions to control the level of disturbance from delivery noise, covering the following aspects:

- 1) No deliveries outside the hours specified.
- 2) Restriction on the hours when storage cages can be moved.
- 3) Installation of a vehicular barrier to be closed and locked against tampering except during the permitted delivery hours.
- 4) Barrier signage displaying:
 - a) The hours of permitted delivery
 - b) If vehicles have arrived before 7am they must switch off engines, radios and any refrigeration plant to avoid undue disturbance to neighbouring property and;
 - c) Wait for the barrier to be unlocked and access granted by the store.

3.3 Neighbours – Six representations of objection received to the hours originally proposed:

- Unacceptable noise nuisance and vibrations associated with deliveries at unsociable hours is an established problem since at least 2004 resulting in disturbance and loss of privacy and unable to have windows open in summer. Extending the delivery hours would make this worse.
 - Reports that deliveries have been made outside authorised delivery hours. A sign erroneously states that deliveries are allowed until 10pm. Breaches are only ceased following involvement from the Council's Environmental Protection and Planning Enforcement Teams.
 - Lorries blocking access to drive of No.34.
 - Light pollution from car park lighting (not relevant to this application).
 - Difficulty selling houses (not a planning matter).
- Three further representations of objection received to the hours currently proposed, reiterating the objections above and also adding the following concern:
- The barrier would lead to lorries queuing outside No.34 with engines running.

4.0 RELEVANT PLANNING HISTORY

4.1 There are numerous planning applications concerned with the development of this site involving both petrol station and retail elements. The most relevant application is: P93/N0291 – Planning permission for a single storey shop and store extension was granted in July 1994. This planning permission contains the restriction on delivery hours, as set out above.

4.2 There are no planning conditions restricting the hours of operation of either the petrol station or the supermarket. The existing opening hours are as follows: Mondays-Saturdays (including Bank Holidays) 6am -10pm & Sundays 6am – 9pm.

5.0 POLICY & GUIDANCE

5.1 Adopted South Oxfordshire Local Plan 2011 Policies:

G2 – Protection of the Environment

EP2 – Noise and Vibrations

CF2 – Provision of Community Facilities and Services

CF3 – Safeguarding the Vitality and Viability of Neighbourhood and Local Centres

T1 – Transport Requirements for New Developments

- 5.2 Government Guidance:
PPS1 – Delivering Sustainable Development
PPS4 – Planning for Sustainable Economic Growth
PPG13 – Transport
PPG24 – Planning and Noise

6.0 **PLANNING CONSIDERATIONS**

- 6.1 The planning issues that are relevant to this application are whether the development would:
- Safeguard the vitality and viability of a retail unit serving the local community
 - Result in unacceptable additional nuisance from noise and vibrations at unsociable hours to the living conditions of nearby residential occupiers; and
 - Generate any conditions prejudicial to highway safety.

Vitality and Viability of a Local Supermarket

- 6.2 Policy CF2 of the SOLP 2011 identifies the importance of community facilities and services, including local shops. Policy CF3 recognises the value and importance of local shopping facilities in the towns and large villages of South Oxfordshire, where groups of shops or individual shops in the village centres serve a wider area than the immediate parish. These policies are consistent with more recent government guidance in PPS4 concerning sustainable economic growth. This extension to the delivery hours is required to allow the store to restock perishable goods over weekends and bank holiday periods in order to continue to provide a complete service to the local community, particularly on days when larger retailers are closed and local people rely more heavily on this local convenience store. As such, the proposal would promote the vitality and viability of the store in accordance with the above policies and government guidance.

Living Conditions of Nearby Residents

- 6.3 Policy EP2 of the SOLP 2011 explains that proposals which would by reason of noise or vibrations have an adverse effect on existing or proposed occupiers will not be permitted, unless effective mitigation measures will be implemented. The Council's records indicate that the Council's Planning Enforcement Team have received a number of complaints from adjoining residents concerning deliveries occurring outside the permitted delivery hours and the Council's Environmental Protection Team has received numerous complaints about excessive noise levels from various activities associated with deliveries occurring both outside and within the hours specified in the planning condition. The existing situation has arisen in part through the incremental manner that the site has expanded during the 1980s and early 1990s. This has led to an absence of any planning restrictions imposed on the hours of operation of either the shop or the petrol station.
- 6.4 Planning permission P93/N0291 for an extension to the shop incorporated a condition, which has restricted the hours of deliveries since July 1994 to those set out in paragraph 2.1 of this report. In October 1994, government guidance in the form of PPG24 "Planning and Noise" was published. Paragraph 12 of PPG24 acknowledges that noise-sensitive development (such as residential dwellings) should not normally be subject to high levels of noise, "especially during the hours when people are normally sleeping (23.00 to 07.00)". It is clear that the commencement of deliveries at 6am on this site, which lies close to adjoining dwellings, is at odds with this established guidance.

- 6.5 Paragraph 10 of PPG24 also recognises that: “Much of the development which is necessary for the creation of jobs and the construction and improvement of essential infrastructure will generate noise. The planning system should not place unjustifiable obstacles in the way of such development but local planning authorities should ensure that development does not cause an unacceptable degree of disturbance.” Officers accept that the commencement of deliveries on Bank Holidays would introduce potential for additional noise and disturbance on a minimum of six days each year where that does not presently exist. These are days where the quiet enjoyment of residential amenity is generally valued by local residents. The potential for deliveries to occur two hours later on Saturday afternoons would also result in additional disturbance at a time when many residents would not normally expect it. However, the amended proposal also involves a later commencement of deliveries on all other days from 6am back to 7am, which would apply to over 300 days of the year. The removal of deliveries at this unsociable hour, when PPG24 acknowledges that most people will be at home sleeping, is a benefit of this application that carries significant weight.
- 6.6 The application also presents an opportunity to reasonably control other aspects of store operations. One of the main sources of noise nuisance is the movement of delivery cages from the loading bay to the storage area. In particular, this area is located close to No.15 and its rear facing windows and garden. There are presently no controls over this activity. The applicant is prepared to accept a condition that would prohibit the movement of these cages around the site between the hours of 7am and 8pm. In addition, later commencement of deliveries will be reinforced by the erection of a barrier to the rear car park which will physically prevent deliveries before 7am. The occupiers of No.34 are concerned that the installation of a barrier as shown on the approved plans would lead to delivery vehicles parking alongside their property. However, if the barrier was instead erected across the front of the forecourt, then this would obstruct access to the petrol station, which legitimately operates from 6am 7 days a week and would also force any delivery vehicles that arrived early to park on-street, leading to conditions prejudicial to highway safety.
- 6.7 It is acknowledged that the proposal would result in additional potential noise nuisance on Bank Holidays and also greater potential for noise nuisance on Saturday afternoons, to the detriment of local residents. However, the later commencement of deliveries would reduce the potential for noise nuisance at other sensitive times. The introduction of enforceable planning controls to restrict the movements of delivery cages and of delivery vehicles outside specific times would also improve conditions for local residents. Officers consider that taking all of these aspects into account, on balance, the proposal would have a neutral impact on the living conditions of future occupiers and would be acceptable in the light of Policy E2 and guidance in PPG24.

Highway Safety Implications

- 6.8 The proposal would not increase the amount of floorspace and the capacity of the store would remain the same. There would not be any significant increase in delivery arrivals at any one time or customer footfall at the store as a result of the changes to the delivery times. As such, the proposal would not generate any conditions prejudicial to highway safety and would be in accordance with the SOLP 2011 Policy T1.
- 7.0 **CONCLUSION**
- 7.1 The application proposal would comply with the relevant Development Plan Policies and Government Guidance and it is considered that, subject to the attached conditions, the proposed development would help to maintain the vitality and viability of an established local shop, and would have a neutral impact upon the living conditions of nearby residents, and would not result in conditions prejudicial to highway safety.

8.0 RECOMMENDATION

8.1 Grant Planning Permission

Subject to the following conditions:

- 1. Standard 3 year time limit**
- 2. Implementation in accordance with approved plans**
- 3. No deliveries shall be made to the site except between the following hours:
Monday to Friday 7am to 6pm; Saturdays 7am to 3pm; Public and Bank
Holidays 7am to 3pm; No deliveries on Sundays**
- 4. No movement of delivery cages outside the hours of 7am to 8pm.**
- 5. Vehicular barrier to be installed as plan within 1 month of date of
permission and to be closed and locked against tampering except during
the permitted delivery hours.**
- 6. Barrier signage to be installed within 1 month of date of permission**

Author: Paul Lucas
Contact No: 01491 823434
Email: Planning.east@southoxon.gov.uk