

<b>APPLICATION NO.</b>	<a href="#">P14/S3261/FUL</a>
<b>APPLICATION TYPE</b>	FULL APPLICATION
<b>REGISTERED</b>	14.10.2014
<b>PARISH</b>	HENLEY-ON-THAMES
<b>WARD MEMBERS</b>	Jennifer Wood Will Hall
<b>APPLICANT</b>	Tesco Stores Ltd
<b>SITE</b>	Tesco Store 359 Reading Road HENLEY-ON-THAMES Oxon, RG9 4HA
<b>PROPOSAL</b>	Removal of Condition 24 of application reference P92/S0516/O (allowed on Appeal under ref: T/APP/Q3115/A/92/21434/P7 dated 16 March 1993), to allow for unrestricted deliveries to the store throughout the week.
<b>AMENDMENTS</b>	As clarified by additional noise information received from Agent 10/11/14 and 06/01/15
<b>GRID REFERENCE</b>	476884/181500
<b>OFFICER</b>	Emma Bowerman

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**1.0 INTRODUCTION**

- 1.1 The application is before the Planning Committee as the officer recommendation conflicts with the views of Henley-on-Thames Town Council.
- 1.2 The application relates to the Tesco store on the edge of Henley-on-Thames and is shown on the map **attached** as Appendix A. The site does not fall within any areas of special designation.

**2.0 PROPOSAL**

- 2.1 The application is made by Tesco under Section 73 of the Town and Country Planning Act 1990 to remove condition 24 of planning permission P92/S0516/O. This application related to the original planning permission for the superstore and car park, which was allowed at appeal in 1993. Condition 24 states:

*No deliveries shall be made to the store hereby permitted between 2300 hours and 0600 hours.*

The proposed removal of this condition would allow deliveries on an unrestricted basis.

- 2.2 The application was accompanied by an Environmental Noise Assessment. Further information on noise was received from the Agent on 10/11/14 and 06/01/15 following discussions with the council's Environmental Health Officer. These reports and the full consultation responses received in relation to the application can be viewed on the council's website at [www.southoxon.gov.uk](http://www.southoxon.gov.uk).

**3.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

- 3.1 Henley-on-Thames Town Council – Considers the application should be refused for the following reason: OCC Highways Department, SODC health and housing Group and the Henley Society have all recommended refusal. Town and County Councillor David Nimmo-Smith has been working tirelessly on this matter and the Committee would like to thank him for his help. The restriction was put in place when the original application was granted. Henley is a small town of narrow streets and we are currently trying to

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reduce HGV's in the town due to air pollution they cause. Many homes are built alongside the streets and the noise at night of these Tesco lorries would pose noise nuisance to the residents.

- 3.2 The Henley Society - The condition to allow deliveries between the hours of 6am and 11pm was, no doubt, imposed in order to curtail night time disturbance to residents nearby and on all the approach roads to the store: the condition should be retained.
- 3.3 County Council Highways Liaison Officer - No reason why this condition should be varied on highways grounds and recommends that the condition remains in place.
- 3.4 Environmental Heath Officer – No objection subject to conditions. This is dicussed in more detail in the main body of the report.
- 3.5 Representations from residents – Five letters of objection received (including one from a County Councillor). The issues of concern raised are:
- There is no reason to remove the restriction
  - Noise and disturbance to the properties in Mill Lane during sleep / rest time
  - Noise and disturbance to residential properties on route to Tesco
  - Precedent for other businesses to operate over night and potential for Henley to become an 24 hour economic hub
  - Tesco can operate adequately without additional delivery hours
  - Aspiration to have fully stocked shelves in the morning has not changed since store opened
  - If permitted, lorries should be given immediate access to unloading area and not be kept waiting at the security gates
  - The Inspector who applied the condition considered that noise was a significant matter that merited detailed consideration
  - No material changes in the factors which the Inspector considered that would justify overturning his carefully considered judgement

4.0 **RELEVANT PLANNING HISTORY**

- 4.1 [P92/S0516/O](#) – Allowed at appeal 16 March 1993  
Superstore, car parking and associated works with hockey, football and boxing clubs, all weather sports pitch and relocation of sports pitch and access to 347,349 and 351 Reading Road.

5.0 **POLICY & GUIDANCE**

5.1 **National Planning Policy Framework (NPPF)**

5.2 **NPPF Planning Practice Guidance (PPG)**

5.3 **South Oxfordshire Core Strategy (SOCS)**

CST1 – Town centres and shopping  
CSHEN1 – Strategy for Henley  
CSEM4 – Supporting economic development

5.4 **South Oxfordshire Local Plan (SOLP) 2011 saved policies**

EP2 - Adverse affect by noise or vibration  
G2 - Protect district from adverse development

6.0 **PLANNING CONSIDERATIONS**

- 6.1 When assessing section 73 applications the Council can only consider the original condition and the reasons for applying the condition; new conditions can be attached but only in so far as they apply to the original condition. If the Council decides that

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planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they should refuse the application.

- 6.2 The main issue in this case is to consider the reason for condition 24 and whether it is now reasonable to remove or vary as appropriate. The condition was imposed to protect the amenities enjoyed by the occupiers of adjacent residential properties from noise and disturbance.
- 6.3 The most up to date policy regarding noise is now paragraph 123 of the NPPF. The stated objective for planning decisions is to “avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development”. The paragraph also states that decisions should “recognise that development will often create some noise and existing business wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established”.
- 6.4 The documents submitted with the application state that the current delivery restriction is severely limiting the availability of fresh produce to home shopping customers. The supporting information also advises that the removal of the restriction on delivery hours is also required to ensure that stock levels are replenished effectively and to allow shelves to be stacked before early morning customers arrive.
- 6.5 There are also important wider sustainability benefits arising from longer periods in the day in which deliveries can take place. These benefits include:
- More efficient distribution of goods and perishable products;
  - Traffic congestion during peak periods eased;
  - Fuel consumption reduced, leading to CO2 and particulate emission reduction; and
  - Road safety improved due to delivery vehicles able to travel outside times when school traffic, for example, is on the road.
- 6.6 The nearest neighbouring properties are located at 1-4 Mill Lane, located some 40m from the store. The delivery vehicle unloading position is some 70m from these neighbours. The council’s environmental protection team have considered the impact of the proposal on neighbouring properties and raised concerns regarding the close proximity of the delivery yard to neighbouring properties and the potential for night time deliveries to adversely impact on neighbouring residents. The council’s environmental protection team have liaised with the applicant during the application process requesting further details and clarification on the noise assessment submitted with the application.
- 6.7 Having taken into account the additional information submitted by the applicant, the environmental protection officer remains concerned about the potential noise and adverse impact that this could have on local residents but has concluded that a compromise, which would allow an assessment of the actual impacts of the removal of the condition, would be the most appropriate outcome. The environmental protection officer has therefore recommended that a temporary permission is granted for a 12 month period. This would allow the noise impacts to be accurately assessed and provide Tesco with an opportunity to demonstrate that they can carry out late night deliveries without adversely impact on neighbouring residents. If complaints are received over this period they will be investigated and recorded and be taken into account if an application is made to permanently remove the restriction.
- 6.8 Neighbour concerns in relation to the use of the service yard are acknowledged. In your officer’s view a permanent change to the approved delivery times is not considered

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appropriate at this time due to the close proximity of the delivery area to existing residential development next to the site. However, a temporary condition is considered reasonable as this will allow for further monitoring of the noise impact over a 12 month period.

- 6.9 The noise assessment accompanying the application included a number of delivery activity and service yard reduction measures, such as switching off engines as soon as vehicles are parked, no radios and refrigeration units to not be operated in the service yard. I have recommended a condition requiring deliveries between the hours of 2300 hours and 0600 hours to be in accordance with these measures.
- 6.10 With regard to other issues raised by consultees, any other applications for night time activities would be considered on their individual merits. I do not consider that there would be any increased issues with relation to air pollution as delivery vehicles currently use the roads in Henley during daytime hours when traffic is likely to be slower moving resulting in higher emissions. I appreciate the comments made in relation to noise and disturbance to other properties in Henley on the route to Tesco. In my opinion it would be difficult to sustain an objection on this basis given that the planning system has no control over the use of the highway by heavy goods vehicles and this is a matter that is controlled through other legislation.

7.0 **CONCLUSION**

- 7.1 Your officers recommend that a temporary variation of the delivery times is allowed for a period of 12 months to allow for further monitoring to take place. This temporary variation establishes a balance between protecting neighbour amenity and supporting the economic needs of an established business. As such the proposal accords with the Development Plan Policies.

8.0 **RECOMMENDATION**

**That planning permission is granted subject to the following conditions:**

- 1. That at the expiration of 12 months from the date of this permission the permitted delivery times shall revert to those hours permitted by Planning Permission P92/S0516/O.**
- 2. Deliveries between the hours of 2300 hours and 0600 hours to be in accordance with the delivery activity and service yard measures in the Environmental Noise Assessment.**

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