

APPLICATION NO.	P15/S2308/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	9.7.2015
PARISH	DIDCOT
WARD MEMBER(S)	Anthony Dearlove Margaret Davies Anthony Nash
APPLICANT	Punch Partnerships (PML) Ltd
SITE	The Wheatsheaf Wantage Road Didcot, OX11 0BS
PROPOSAL	Variation of condition 7 (store delivery times) of planning permission P14/S4067/FUL. Erection of a convenience retail store (Class A1). (As amplified by email from agent received 18 August 2015)
AMENDMENTS	None
GRID REFERENCE	451598/189858
OFFICER	Paul Bowers

1.0 **INTRODUCTION**

- 1.1 The application is referred to planning committee because the views of the Didcot Town Council Parish differ from the officer's recommendation.
- 1.2 The application site comprises part of the pub garden of the Wheatsheaf Public House located on the south side of the Wantage Road opposite the junction with Sherwood Road to the north. To the south of the site are residential dwellings on Drake Avenue and to the west is a car sales business.
- 1.3 A location plan identifying the site can be found at [Appendix 1](#).
- 1.4 Planning permission was granted in June of this year under application reference P14/S4067/FUL to erect a single storey building comprising an A1 shop and associated works.
- 1.5 A condition of that permission restricted times for deliveries to the shop. Condition 7 of that permission reads as follows;
- 1.6 **With the exception of newspaper deliveries, no deliveries shall take place outside 7.30 to 18.00 hours Monday to Friday, 7.30 to 13.00 hours on Saturdays and not at all on Sundays and public holidays.**

Reason: To protect the occupants of nearby residential properties from loss of amenity due to noise disturbance and in accordance with Policy EP2 of the South Oxfordshire Local Plan 2011.

2.0 **PROPOSAL**

- 2.1 The application has been made under section 73 of the Town and Country Planning Act 1990 to vary condition 7 of planning permission P14/S4067/FUL to allow for longer delivery hours on a Saturday until 6:00pm and for deliveries on a Sunday and bank holidays between 10:00am and 4:00pm.
- 2.2 The wording of the condition would therefore read as follows;

With the exception of newspaper deliveries, no deliveries shall take place outside 7.30 to 18.00 hours Monday to Saturday and 10.00 to 16.00 hours on Sundays and public holidays.

Reason: To protect the occupants of nearby residential properties from loss of amenity due to noise disturbance and in accordance with Policy EP2 of the South Oxfordshire Local Plan 2011.

- 2.3 The application includes a supporting statement and acoustic report. The supporting statement can be found at **Appendix 2** to this report.

The report, plans and representations can be viewed on the council's website www.southoxon.gov.uk under the planning application reference number.

3.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

- 3.1 **Didcot Town Council** – Recommend Refusal of planning permission.

The town council has concern about noise to local residents.

Neighbour Responses – 3 x letters of objection.

Local residents are concerned about the hours of opening and disturbance at weekends

Health & Housing - Env. Protection Team – Do not believe the additional disturbance would be sufficient grounds for refusal of planning permission.

Highways Liaison Officer - No objection.

4.0 **RELEVANT PLANNING HISTORY**

- 4.1 [P14/S4067/FUL](#) - Approved (03/06/2015)
Erection of a convenience retail store (Class A1). (As amplified by revised Planning Statement and Appendix 1 to the Planning Statement)

[P15/S0068/FUL](#) - Approved (09/03/2015)
Erection of new side entrance lobby, new boundary fencing and erection of two storage sheds.

5.0 **POLICY & GUIDANCE**

- 5.1 **South Oxfordshire Local Plan 2011** policies;

EP2 - Adverse affect by noise or vibration

South Oxfordshire Design Guide 2008
National Planning Policy Framework
National Planning Policy Framework Planning Practice Guidance

6.0 **PLANNING CONSIDERATIONS**

- 6.1 The main issue to consider in relation to this proposal is;

- **Whether the extended hours for deliveries will adversely affect the amenities of the occupants of nearby properties.**

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 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.

Whether the extended hours for deliveries will adversely affect the amenities of the occupants of nearby properties.

- 6.2 The main issue in this case is to consider the reason for condition 7 and whether it is now reasonable to remove or vary as appropriate. The original condition was imposed at the request of the council's Environmental Health Officer to protect the occupants of nearby residential properties from loss of amenity due to noise disturbance. It is a common approach to restrict delivery times for this the type of development where residential properties are close by.
- 6.3 The most up to date policy regarding noise is now paragraph 123 of the National Planning Policy Framework. 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 In support of this application the applicants have undertaken a noise assessment specific to this site and looked at the background noise levels on a Saturday. The report concludes that background noise levels during the proposed extended delivery hours i.e. 1.00pm to 6.00pm is greater than the already permitted hours for delivery i.e. 7.30am to 1.00pm.
- 6.5 Therefore the noise impact of deliveries during the extended hours on Saturday will not be greater than during the hours the council has already approved. The Environmental Health Officer has not expressed a concern about the extended hours on a Saturday.
- 6.6 In terms of allowing deliveries on Sundays and bank holidays there are some concerns. Even if the noise monitoring data in the report is representative and ambient noise levels are higher on Sundays (which cannot be assumed based on data from only one weekend's unmanned monitoring), the fact remains that Sundays are commonly perceived as a leisure day when residents like to be able to enjoy their gardens.
- 6.7 However, if delivery times are restricted to 7.30 am to 6.00 pm Monday to Saturday, 10.00 am to 4.00 pm Sundays and public holidays and there are no more than 7 deliveries daily on Saturdays and Sundays, the Environmental Health officer has concluded that the resulting additional disturbance would not be sufficient grounds for refusal of this application. They have however requested that the two following informative are attached to the decision notice;

- 1. In order to minimise disturbance to nearby residential properties, any future operators of the proposed convenience store should ensure that delivery vehicles (with the exception of early newspaper deliveries) do not enter the delivery area or adjoining car park before 7.30 am Monday to Saturday or 10.00 am Sundays and public holidays. Any vehicles arriving before these times should also be instructed not to wait in residential areas. Unloading should be completed by 6.00 pm Mondays to Saturdays and 4.00 pm on Sundays and public holidays.*

2. *Please note that although the council is satisfied that the proposed delivery schedule will not give rise to an unacceptable degree of disturbance, should there be any future increase in activity the council would be able to investigate and address as appropriate any future noise issues using powers provided by the Environmental Protection Act 1990.*

6.8 Therefore based on the lack of objection from the council's noise specialist and providing that a condition restricts the hours for deliveries as proposed, the overall level of harm to residential properties created by deliveries is not so great that it would justify the application being refused.

7.0 **CONCLUSION**

7.1 Your officer recommends that planning permission is granted because the level of harm that would be caused by the extension of opening hours beyond those restricted by Condition 7 of planning permission P14/S4067/FUL is not significant. The variation of the condition will accord with development plan policy.

8.0 **RECOMMENDATION**

8.1 **That the condition is varied to read as follows:**

With the exception of newspaper deliveries, no deliveries shall take place outside 7.30 to 18.00 hours Monday to Saturday, 10.00 to 16.00 hours on Sundays and public holidays.

Reason: To protect the occupants of nearby residential properties from loss of amenity due to noise disturbance and in accordance with Policy EP2 of the South Oxfordshire Local Plan 2011.

Author: Paul Bowers
E-mail : paul.bowers@southandvale.gov.uk
Contact No: 07801 203570