

Recommendation Report for Planning Permission

REF NO: LU/246/15/PL

LOCATION: Morrisons
Hawthorn Road
Littlehampton

PROPOSAL: Variation of condition 10 imposed under planning reference LU/307/12/ relating to delivery, loading or unloading times.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
SITE AREA	3.18 hectares
TOPOGRAPHY	Predominantly flat.
TREES	Tree Preservation Order on 3no. trees (2no. Sycamore & 1no. Oak) on northern boundary abutting Courtwick Lane. Many other trees on boundary to Courtwick Lane and verges between site and Lyminster Lane, together with the site and Hawthorn Road.
BOUNDARY TREATMENT	Internal boundary. Open wire fencing approx. 1.8m high. Trees/hedging on outside boundaries
SITE CHARACTERISTICS	The site is a class A1 (retail) foodstore with associated servicing, car & cycle parking off Hawthorn Road, hard & soft landscaping, petrol filling station with associated kiosk & proposed external works to existing office building to create an Enterprise Hub with new point of access off Courtwick Lane & associated landscape works & cycle parking provision.
CHARACTER OF LOCALITY	Mixture of residential and commercial. On Courtwick Lane and Lyminster Road opposite the site there are a number of residential properties. To the west of the site there are a number of commercial and office buildings.

RELEVANT SITE HISTORY

LU/307/12/ - Application for variation of condition 15 imposed under planning approval LU/271/11/ to vary delivery, loading or unloading times
Condition 10 of this application relates to the updated permitted times for delivery, unloading and loading. The original opening hours in planning application LU/271/11 set in in condition 15 were

6.00 until 22.00

LU/271/11 - Condition 12 of this consent sets prevents the Petrol Filling Station from being used for the purposes of convenience retail.

LU/178/12/NMA included a number of amendments to the scheme and the letter of approval includes a list of plans that should be read in conjunction with this application.

LU/215/12/MMA is an application under section 73 of the Town and Country Planning Act for Minor Material Amendments to the approved application LU/271/11 to alter the stores entrance canopy was approved on November 5Th 2012.

LU/226/12/MMA is an application under section 73 of the Town and Country Planning Act for Minor Material Amendments to the approved application LU/271/11 which approved the revision of the petrol filling station layout.

REPRESENTATIONS

Representations received:

Littlehampton Town Council

The following single objection was received 'I live about half a mile from the Morrisons site, and can clearly hear them crashing and banging during the evening. Overnight noise would unacceptable.'

The Littlehampton Town Council has no objection to this application subject to 'rigorous enforcement by the retailer of its Quiet Delivery (Noise Management) System to minimise the impact of the change on nearby residences'

Comments on Representations received:

Comments noted. The imposition of condition cited by Town Council will ensure that any breach can be effectively enforced.

CONSULTATIONS

Environmental Health

Consultations responses received:

Arun District Council's Environmental Health - no objection subject to Morrison's adherence to the control measures set out in their Quiet Delivery System set out in Appendix 3 of the Planning Statement dated 2015 which accompanies this application. I would request that this be conditioned so as to ensure that noise is kept to a minimum during deliveries in order to prevent disturbance to nearby residents.

Comments on Consultation responses:

Condition to be applied as recommended.

POLICY CONTEXT

Designation applicable to site:

ADOPTED LOC PLN

CLASS A ROAD

PD RESTRICTION

TREE PRES ORDER

PUBLIC SEWER ON SITE

DEVELOPMENT PLAN POLICIES

GEN2

Built-up Area Boundary

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Arun District Local Plan 2003:	<u>GEN7</u>	The Form of New Development
	<u>GEN32</u>	Noise Pollution
	<u>GEN33</u>	Light Pollution
	<u>GEN34</u>	Air Pollution
Publication Version of the Local Plan (October 2014):		SD SP2 Built-Up Area Boundary
		QE DM1 Noise Pollution

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

Arun District Council's Development Plans:

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used in the determination of this planning application. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place on 30th October 2014 for six weeks.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Angmering; Arundel; Barnham & Eastergate; Bersted; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; and Yapton.

No policies within the Littlehampton Neighbourhood Plan are considered to apply.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

PLANNING

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The proposed Variation of Condition application would amend the previously approved Condition 10 which restricts the hours of operation of deliveries, loading or unloading at the new A1 retail food store at Wick.

Condition 10 of LU/307/12/5 of LU/271/11 states:

No deliveries, loading or unloading shall take place outside the hours 06.00 to 23.00 for the Foodstore or the Petrol Filling Station hereby approved.

Reason: To safeguard the residential amenity of the neighbouring properties in accordance with Arun District Local Plan policies GEN7, GEN32, GEN33 and GEN34

The current condition restricts deliveries, loading and unloading to operate between 06.00 and 23.00. The applicants wish to extend opening hours to open earlier by one hour from 5.00 am Monday to Saturday only.

The applicant's have not conducted a further noise assessment however I their previous application LU/309/12/ their noise assessment highlighted that the change in the impact of noise from deliveries to the store at the closest residential receptors would be of no significance acoustically compared to the approved situation when the store opens. The absolute noise level generated by the deliveries are below the guidance approved by the World Health Organisation and BS8233 in order to protect amenity. Furthermore they have agreed to implement a Quiet Delivery System during night time hours to be conditioned within any planning approval

The District Council's Environmental Health department has considered the evidence provided in this application and has not objected to the proposed change. The loading bay is located on the western side of the store, and so it is expected that most of the noise will be shielded from the sensitive receptors on Lyminster Road and Courtwick Lane.

The proposed updated conditions are as follows:

"No deliveries, loading, or unloading shall take place outside the hours of 5.00 to 23.00 Monday to Friday and 06.00 to 23.00 on Sundays for the Food store or Petrol Filling Station hereby approved.'

Reason: To safeguard residential amenity of the neighbouring properties in accordance with the Arun District Local Plan policies GEN7, GEN32, GEN33 and GEN34."

Deliveries, unloading and loading must adhere to the control measures set out in their Quiet Delivery System set out in Appendix 3 of the Planning Statement dated 2015 which accompanies this application.

Reason: To safeguard the residential amenity of the neighbouring properties in accordance with Arun District Local Plan policies GEN7, GEN32, GEN33 and GEN34.

It is considered that the proposed revised condition will not have an appreciable impact on surrounding residents and would not be contrary to Local Plan Policy GEN7, GEN32, GEN33 and GEN34. It is therefore recommended that the application be approved subject to the updated conditions.

HUMAN RIGHTS ACT

Human Rights Act:

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8(right to private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal a neutral impact has been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

RECOMMENDATION

APPROVE CONDITIONALLY

1 The development hereby approved shall be carried out in accordance with the following

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approved plans:

PO-100 Site Plan Existing
PO-101 Site Plan Proposed
PO-110 Site Plan Landscaping Existing
PO-111 Site Plan landscaping existing and proposed trees
P1-110 Morrisons Ground Floor Plan
P1-111 Morrisons First Floor Plan
P1-112 Morrisons Roof Plan
P1-120 Enterprise Hub Ground Floor Plan
P1-121 Enterprise Hub First Floor Plan
P2-101 Morrisons Sections
P3-103 Enterprise Hub Elevations
P(000)09 Proposed Elevations
P(000)10 Proposed Entrance Tower Amendment
P(000)01 Rev B- Proposed Site Plan
P(000)20 Rev A- Proposed PFS Layout
P(000)21 - Proposed PFS Elevations

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN 7 of the Arun District Local Plan.

- 2 No deliveries, loading, or unloading shall take place outside the hours of 5.00 to 23.00 Monday to Friday and 06.00 to 23.00 on Sundays and Bank Holidays for the Food store or Petrol Filling Station hereby approved.

Reason: To safeguard the residential amenity of the neighbouring properties in accordance with Arun District Local Plan policies GEN7, GEN32, GEN33 and GEN34.

- 3 Deliveries, unloading and loading must adhere to the control measures set out in their Quiet Delivery System set out in Appendix 3 of the Planning Statement dated 2015 which accompanies this application.

Reason: To safeguard the residential amenity of the neighbouring properties in accordance with Arun District Local Plan policies GEN7, GEN32, GEN33 and GEN34.

- 4 INFORMATIVE: The list of approved plans as set out in Condition 1 above should be read in conjunction with applications LU/178/12/NMA; LU/215/12/MMA; LU/226/12/MMA; LU/314/12/NMA; LU/307/12/. All other conditions attached to the applications cited in this informative that have not been discharged continue to have full legal effect. The following conditions have been discharged - Conditions 1 (commencement has already taken place), 5, 6, 11, 16 (discharged by application LU/112/12/DOC) and condition 17 (discharged by application LU/301/12/DOC).

- 5 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.