



From: Delwyn Jones
Sent: 16 February 2016 11:33
To: David Easton
Subject: FW: Planning Decision on LU/246/15/PL : Morrisons
Importance: High

David

Thanks for your email dated 5 February the first I heard of this

You ask :-

we note that the new condition 2 appears to include an error in that it does not refer to Saturdays, as per extract below.

"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."

Given that this is clearly a drafting error can you advise if you are able to re-issue with the corrected wording i.e.:

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

I reply and advise :-

Yes I believe you can in these circumstances alter the condition to include the words – "to Saturday and"

Reasons and case law follow-

The developer itself asks this and Says the omission of Saturday " is clearly a drafting error"

I attach the Application, Submissions in support by Peacock and Smith and the officer report which refer to "and Saturday"

This document confirms that it was the intention of both LPA [who wrote the report] and the applicant[who wrote the application /and submission in support] to include the words "and Saturdays" in the amended condition ---see application ,Peacock and Smith page 12 para 4.03 ".....applicant seeks to vary the delivery hours by one hour in

the morning for Monday to Saturday” And the officer report penultimate page “conclusions” -

“.....”.....applicant wish to extend opening hours to open earlier by one hour from 5am Monday to Saturday only.....”

Also the consultations appear to have included references to Saturdays” –see Environmental Health email dated 27 August 2015 at 1505 refers to “.....extension 1 hour Monday to Saturday.....” so although the heading does not specifically refer to “and Saturday” this evidences that any public enquirer would have seen the terms on the planning file ---as I have done and see the reference to Saturday

All this evidences the omission of “and Saturday” is a typo omission

All parties understand and agree this and the public consultees would also

Case law says , in these circumstances , it can be done :-

Norfolk County Council v SoSe 1973 EPL Vol 2 para 70.71 clear mistake correctible by outside evidence

R v Arun DC ex Fowler 1997 EPL Vol 2 para 191.06 [in relation to CLEUD correction but still relevant by analogy]

And the problems identified in Fisher v Wychavon DC 2000 EPL Vol 2 par 70.72 don't arise because the parties and landowners remain the same and in all likelihood have operated according to “what should have been written ie with Saturday included ” not “what actually was written”

The time taken ie October till February circa 5 months, in this case, where parties remain the same wouldn't case a problem ---[not always the case]

So I conclude in this case you can correct the typo by inserting “Saturday “and re issuing the notice

By the way was this a delegated report/decision?

If so you can issue it under delegated authority and its another reason for being able to do it tis way

I have answered your question with fullest reasons

Delwyn

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Visit Arun's web site at www.arun.gov.uk



Save the environment - think before you print.

From: David Easton
Sent: 05 February 2016 14:2
To: Delwyn Jones

Subject: FW: Planning Decision on LU/246/15/PL : Morrisons
Importance: High

Hi Delwyn,

Could you please advise on the below. Don't hesitate to contact me should you have any further questions.

Regards,
David

From: Ed Kemsley [REDACTED]
Sent: 02 February 2016 16:04
To: David Easton
Subject: FW: Planning Decision on LU/246/15/PL : Morrisons
Importance: High

David

Further to our meeting last week, I mentioned the email below and attached decision notice. I have yet to receive a reply.

Can you advise who is dealing with this?

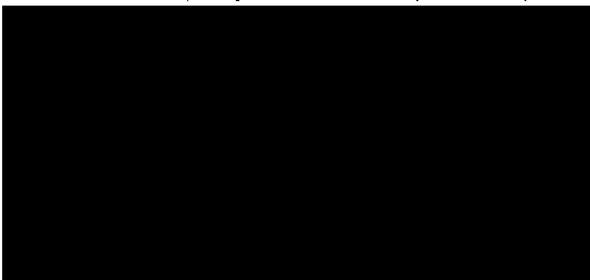
Many thanks

Ed

Ed Kemsley
Director



Second Floor | 2 Sycamore Street | London | EC1Y 0SF



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Registered address: Westwood House, 78 Loughborough Road, Quorn, Leicestershire, LE12 8DX
Registration No. 0130 6847

From: Ed Kemsley
Sent: 25 November 2015 13:45
To: 'planning.responses@arun.gov.uk' <planning.responses@arun.gov.uk>

Subject: RE: Planning Decision on LU/246/15/PL : Morrisons
Importance: High

Dear Sir / Madam

Further to the receipt of the attached approval, we note that the new condition 2 appears to include an error in that it does not refer to Saturdays, as per extract below.

*"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."*

Given that this is clearly a drafting error can you advise if you are able to re-issue with the corrected wording i.e.:

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

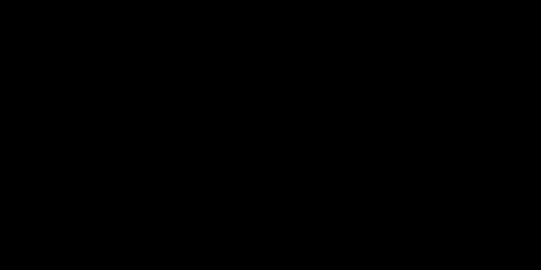
Many thanks

Ed

Ed Kemsley
Director



Second Floor | 2 Sycamore Street | London | EC1Y 0SF



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Registered address: Westwood House, 78 Loughborough Road, Quorn, Leicestershire, LE12 8DX
Registration No. 0130 6847

From: planning.responses@arun.gov.uk [<mailto:planning.responses@arun.gov.uk>]
Sent: 23 October 2015 15:03
To: Ed Kemsley [REDACTED]
Subject: Planning Decision on LU/246/15/PL : Morrisons

<http://www.arun.gov.uk>

NLPG UPRN 100062237016

DX 57406 Littlehampton

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