DELEGATED REPORT

Recommendation Made: 5 October 2011

Reference:- 11/00589/CONDIT **Parish:-**

Applicant:-
C/o Agent

Location:- Halfords And Focus Do It All Ltd Sword Drive Hinckley Leicestershire LE10 0GL

Proposal:- VARIATION OF CONDITION 13 OF PLANNING PERMISSION 96/00454/FUL TO ALTER THE PERMITTED OPENING HOURS

Introduction:-

This application seeks a variation of condition 13 of planning permission 96/00454/FUL. This planning permission was for the erection of a retail warehouse development with ancillary garden centre, pub/restaurant and associated works.

Condition 13 is worded as follows:- "The retail units shall be open to the public only between the hours of 8 – 20hrs Monday to Thursday, 8 – 21hrs Friday, 8 – 20 Saturdays and 10 –17 on Sundays"

This application seeks to vary the condition to:- "The retail units shall be open to the public only between the hours of 7 – 20hrs Monday to Thursday, 7 – 21hrs Friday, 7 – 20 Saturdays and 10 – 17 on Sundays"

The building that this application refers to is situated adjacent to the western boundary of the site. There is a storage area to the rear of the building and a large public car park to the front. There is a newly constructed residential development facing the site to the south and residential development further west of the site boundary.

Part of the building is currently under the process of being occupied by new clients.

A supporting statement has been submitted by the agent, this states the following:-

That paragraph 12 of PPG24 defines night-time hours being between the hours of 23.00 and 7.00 and that the opening hours proposed are considered daytime hours as defined within PPS24..

The reason for condition 13 was to safeguard the amenity of occupiers of nearby dwellings. The existing service yard is located adjacent to the residential dwellings. However there is no condition restricting the hours of deliver to the site and this, it is considered is likely to have the greatest impact on residential amenity.

There is a belt of extensive mature planting which separates the service yard and the boundaries of the rear gardens of the residential dwellings to the west. We understand that an acoustic fence was also previously required by condition 14 of the permission, to further safeguard the amenity of nearby dwellings.

The entrance to the store is located on the eastern boundary and the retail warehouse itself provides further screening of the car park from the dwellings. Any noise or disturbance resulting from the customers entering/existing the building and car park at the proposed times will be less than that of the existing service yard.

Relevant Planning History: -

There is a substantial planning history relating to this site, however the majority relate to applications for advertisement consent.

05/01131/FUL	INSTALLATION OF SECURITY GATES	Refused	19.12.05
04/00873/FUL	ERECTION OF SECURITY FENCING	Approved	16.09.04

Consultations:-

No objections have been received from: -

Director of Environment and Transport (Highways)

No objection subject to conditions has been received from:-

Head of Community Services (Pollution)

One letter of neighbour representation has been received, this raises the following issues:-

That the proposal will result in increased noise and light pollution
That there will be additional loading and unloading issues

Development Plan Policies:-

Adopted Core Strategy

Policy 1 – Development in Hinckley

Adopted Local Plan

The site lies within the settlement boundary of Hinckley as defined in the adopted Hinckley and Bosworth Local Plan.

Policy BE1 - Design and Siting of the Development

Appraisal:-

The main considerations in respect of this application are the principle of development and the impact of the proposed variation of opening hours on the residential amenity of surrounding properties.

The Principle of Development

The site is located within the settlement boundary of Hinckley, as defined in the Adopted Hinckley and Bosworth Local Plan Proposals Map; therefore there is a presumption in favour of development subject to all other planning matters being appropriately addressed.

Residential Amenity

As this application seeks to extend the current opening hours by 1 hour a day between Monday and Saturday; resulting in the unit being open to the public from 7am, potential impacts on the amenity of surrounding residential properties must be considered. Since the approval of the original scheme, a large residential development has been approved on the opposite side of Sword Drive (to the south of the site). Thus the site is now bound on two sides by residential development. This said however, the opening of the retail units to the public one hour earlier in the morning is not considered to result in a material increase in noise and disturbance to the residents of surrounding properties. Whilst the proposal may generate some additional vehicle movements during the time proposed; the amount of vehicle movements on Sword Drive has already been increased by the new residential development which is accessed off it. Thus, when considered alongside this, the amount of additional vehicle trips associated with the proposal are considered negligible. Retail units are not considered inherently noisy uses, which is why they are commonly situated adjacent to residential uses. Accordingly, although public visiting the store will generate some noise, this will be minimal. Further, given that the residential development to the south is separated by an access road, and the development to the rear is separated by a landscape bund, noise and disturbance will be further mitigated.

Head of Community Services (Pollution) has requested that a condition be placed on the application restricting hours of delivery. As there was no condition on the original application restricting delivery, and as this proposal will have no impact on deliveries to the site, it would not be reasonable in this case to impose such a condition. Head of Community Services (Pollution) have no objections in respect of the increased opening hours.

Concerns have been raised that the proposal will result in more disturbance through the loading and unloading of vehicles and more light pollution. The application only seeks to vary the condition in relation to opening hours to the general public. Accordingly this will generate no additional noise from the loading and unloading of delivery vehicles. There is no condition on the original application restricting delivery hours.

In respect of the generation of additional light pollution, due to the earlier opening time proposed, the retail unit will have to be lit from an earlier time in the morning. However, such internal lighting does not generally illuminate external areas, and resultant of the juxtaposition of development to the site, the internal lighting will have no impacts on the surrounding residential development. The development will not result in the need for additional external lighting, which could have an impact in terms of residential amenity. In any case, such lighting may require planning permission in its own right.

The revised wording proposed by the agent is considered acceptable.

Conclusion

The proposed variation of condition is not considered to result in any further material impacts in terms of residential amenity through additional noise and disturbance from members of the public shopping at the store, or from associated vehicle movements. Therefore the variation proposed is considered acceptable and is in accordance with policy BE1 of the adopted Local Plan.

RECOMMENDATION:- Permit subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that the proposed development by virtue of the hours proposed will have no material impacts in terms of noise and disturbance on the residential amenity of surrounding properties.
Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1

1 This permission shall relate to the variation of Condition 13 of permission 96/00454/FUL dated 21ST August 1996 only. All other conditions of the original permission remain, unless subsequent variations have been made.

2 The retail units shall be open to the public only between the hours of 7 – 20hrs Monday to Thursday, 7 – 21hrs Friday, 7 – 20 Saturdays and 10 – 17 on Sundays.

Reasons :-

1 To ensure that all other conditions attached to the original consent still apply.

2 To safeguard the amenity of occupiers of nearby dwellings to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.

2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the

Building Control Section.

3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.

4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).

Contact Officer:- Eleanor Shaw Ext 5680