

Delegated Report

Planning Ref: 25/00952/CONDIT
Applicant: Mrs Harriette Smith
Ward: Groby



Hinckley & Bosworth
Borough Council

Site: Co-op, 11 Leicester Road, Groby

Proposal: Application to vary condition 2 of planning permission 10/00442/CONDIT to amend opening hours to 7am–10pm Monday to Sundays.

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. Section 73 of the Town and Country Planning Act 1990 allows applications to be made for change or remove conditions which have been previously imposed. In this case, planning permission 10/00442/CONDIT granted permission for the variation of condition 13 of the original permission 99/00365/FUL to extend Sunday opening hours.
- 2.2. This application seeks planning permission for the variation of condition 2 of planning permission 10/00442/CONDIT to enable the approved development to exceed the originally approved opening hours on a Sunday for the same times as showing Monday to Saturday for the rest of the week.
- 2.3. The current permitted opening hours of the store are 08:00 – 22:00 Monday to Saturday, and 09:00 to 21:00 on Sundays. However, the store website indicates that the opening hours are currently 07:00 – 22:00 Monday to Saturday, and 09:00 to 21:00 on Sundays.
- 2.4. This proposal seeks to establish the permitted operating hours for the store to the public between the hours of **07:00 and 22:00**, Monday to Sunday.

3. Description of the site and surrounding area

- 3.1. The retail unit is a single-storey building with a traditional design that is finished with a mixture of red brick and natural stonework on the external walls. The roof is dual-pitched and finished with dark slate tiles. The frontage includes a prominent gable feature which fronts the main highway (finished in natural stonework) and a recessed and sheltered entranceway.
- 3.2. The unit is occupied by 'The Co-operative Food', as indicated by the signage on the projecting stone gable of the building. There is a small forecourt area adjacent to the public highway and to the left of the main entrance of the retail unit, used for vehicle access and short-term parking. The surrounding area incorporates a mixture of commercial and residential properties, three detached dwellings (Nos. 6, 8 and 10 Leicester Road) sit directly opposite the site and 'The Stamford Arms' public house sits adjacent to these dwellings.
- 3.3. The application site sits centrally to the Groby Conservation Area, within its associated settlement boundary and within the constraints of the National Forest. Groby Parish Council is currently actively progressing a Neighbourhood Plan, but this is not active yet.

4. Relevant planning history

99/00365/FUL

- CONSTRUCTION OF VILLAGE STORE WITH ASSOCIATED CAR PARKING
- PER
- 18.08.1999

99/01045/ADV

- DISPLAY OF EXTERNALLY ILLUMINATED AND NON-ILLUMINATED SIGNS
- ADV
- 02.02.2000

00/00150/CONDIT

- VARIATION OF CONDITION 13 OF PLANNING PERMISSION 99/00365/FUL TO ALLOW SUNDAY OPENING BETWEEN 8.00AM AND 9.00PM
- REF
- 29.03.2000

00/00334/CONDIT

- VARIATION OF CONDITION 13 OF PLANNING PERMISSION 99/00365/FUL TO ALLOW SUNDAY OPENING BETWEEN 9.00 AM AND 6.00 PM
- PER
- 17.05.2000

00/00536/CONDIT

- VARIATION OF CONDITION 13 OF PLANNING PERMISSION 99/00365/FUL TO ALLOW SUNDAY OPENING BETWEEN 9.00 AM AND 10.00 PM
- REF
- 19.07.2000

10/00442/CONDIT

- VARIATION OF CONDITION 13 OF PLANNING PERMISSION 99/00365/FUL TO EXTEND SUNDAY OPENING TIMES FROM 9AM-6PM TO 9AM-9PM
- PER
- 25.08.2010

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. No objections or comments have been received.

6. Consultation

6.1. The following were consulted on the proposals:

- Groby Parish Council
- LCC Environmental Health

6.2. No objections have been received.

7. Policy

7.1. Core Strategy (2009)

- No relevant policies

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM21: Locating Sustainable Town Centre Uses

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2019)
- Planning Practice Guidance (PPG)

7.4. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Impact upon neighbouring residential amenity
- Impact upon Conservation Area
- Impact upon highway safety and parking

Assessment against strategic planning policies

8.2. Policy DM1 of the Site Allocations and Development Management Policies DPD (SADMP) sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved unless material considerations indicate otherwise.

8.3. Policy DM21 of the SADMP seeks to guide town centre uses to the most sustainable and sequentially preferable locations. The use of this retail unit would be considered a main town centre use which should therefore be assessed against this Policy and is within the defined parameters of the Local Neighbourhood centre of Groby.

8.4. In England, small shops are permitted to open on any day and at any hour without restrictions. For the purposes of these regulations, a small shop is defined as having a total floor area of up to 280m². This measurement includes all areas used to display goods and serve customers. The Co-Operative Food retail unit benefits from a floorspace of 218m² and does not exceed the permissible retail floorspace in this case.

- 8.5 It is therefore considered that the proposed adjustment of opening times is sustainable and acceptable in principle subject to other material planning considerations being acceptable.

Impact upon neighbouring residential amenity

- 8.6 Policy DM10 of the SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings.
- 8.7 The proposed Sunday opening times reflect the opening times from Monday to Saturday and therefore this application assesses whether the opening times exacerbates the residential amenity of nearby dwellings. The proposed Sunday hours would extend opening times by three hours, which is a modest increase and is unlikely to further impact residential amenity beyond the current level.
- 8.8 The original lighting plan, as submitted as part of 99/00365/FUL details 3 x 42w low energy floodlights facing the carpark. The face toward the carpark and maintains a 26m separation distance from the nearest residential units (Nos. 6 and 8 Leicester Road). The adjacent residential unit, No. 1 Leicester Road, sits perpendicularly to the retail unit, with its side gable facing the application site and separated by heavy foliage and therefore poses no further detrimental impact in relation to the lighting.
- 8.9 The delivery loading bay is situated to the north of the application site and maintains a separation distance of 15m to the nearest residential dwelling. The separation distance is also broken by a green buffer of vegetation, and it is unreasonable to assume that the delivery of goods prior to the proposed opening times would provide a further detrimental impact to nearby residents.
- 8.10 The proposal would not give rise to a significant impact on residential amenity in accordance with policy DM10 of the SADMP.

Impact upon highway safety and parking

- 8.11 Policies DM17 and DM18 of the SADMP states that proposals should ensure that there is adequate provision for on and off-street parking for residents and visitors and there is no impact upon highway safety.
- 8.12 The site is located along Leicester Road and benefits from its own dedicated off-street car-parking facility. No changes to the access or car-parking facility are proposed.
- 8.13 Leicester Road is an arterial road with minimal availability of on-street parking. The unit currently operates to 10.00 pm on a Saturday, and has been since the original decision was issued in 1999. Saturday, like Sunday, is predominantly a non-working day and it would be reasonable to assume the retail unit would attract a comparable number of customers on both weekend days.
- 8.14 No objections have been raised by neighbours. By extending the opening hours on a Sunday (in line with the remaining weekdays and Saturday) it would be unreasonable to therefore assume that there would be an increase in off-street parking demand in comparison to its normal trading hours.
- 8.15 It is considered that the proposal would not have a significant impact on parking or highway safety in accordance with policies DM17 and DM18 of the Site Allocations and Development Management Policies DPD.

9. Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- 1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3 There are no known equality implications arising directly from this development. The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1. The proposal is a variation to an extant planning permission for extending the opening hours of 'The Co-operative Food Store'. For the reasons given in the report above, it is considered that the proposal for extended opening hours would not have any adverse impact on neighbouring residential amenities and parking facilities.
- 10.2. This application relates to the variation of condition 2 of the operative planning permission 10/00442/CONDIT. The remaining conditions relating to the operative permission 10/00442/CONDIT remain unaltered and must be complied with.
- 10.3. The proposal is considered to be in accordance with Policies DM1, DM10, DM17 DM18 and DM21 of the adopted SADMP, the general principles of the adopted Good Design Guide and the NPPF (2024).

11. Recommendation

11.1 Grant planning permission subject to:

- Planning conditions outlined at the end of this report

11.2 Conditions and Reasons

1. This permission relates to the variation of Condition 2 of planning permission 10/0044/CONDIT. The remaining conditions relating to the original approval 99/00365/FUL and operative approval 10/00442/CONDIT remain unaltered and must be complied with.

Reason: To ensure that all other conditions attached to the original consent continue to apply in accordance with Policies DM10, DM10, DM17, DM18, DM21, DM22, and DM23 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

2. The store shall be open to customers between the hours of 07:00 and 22:00, Monday to Sunday.

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. No deliveries shall be taken by the site between the hours of 18:00 on a Sunday to 06:00 on the following Monday.

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).