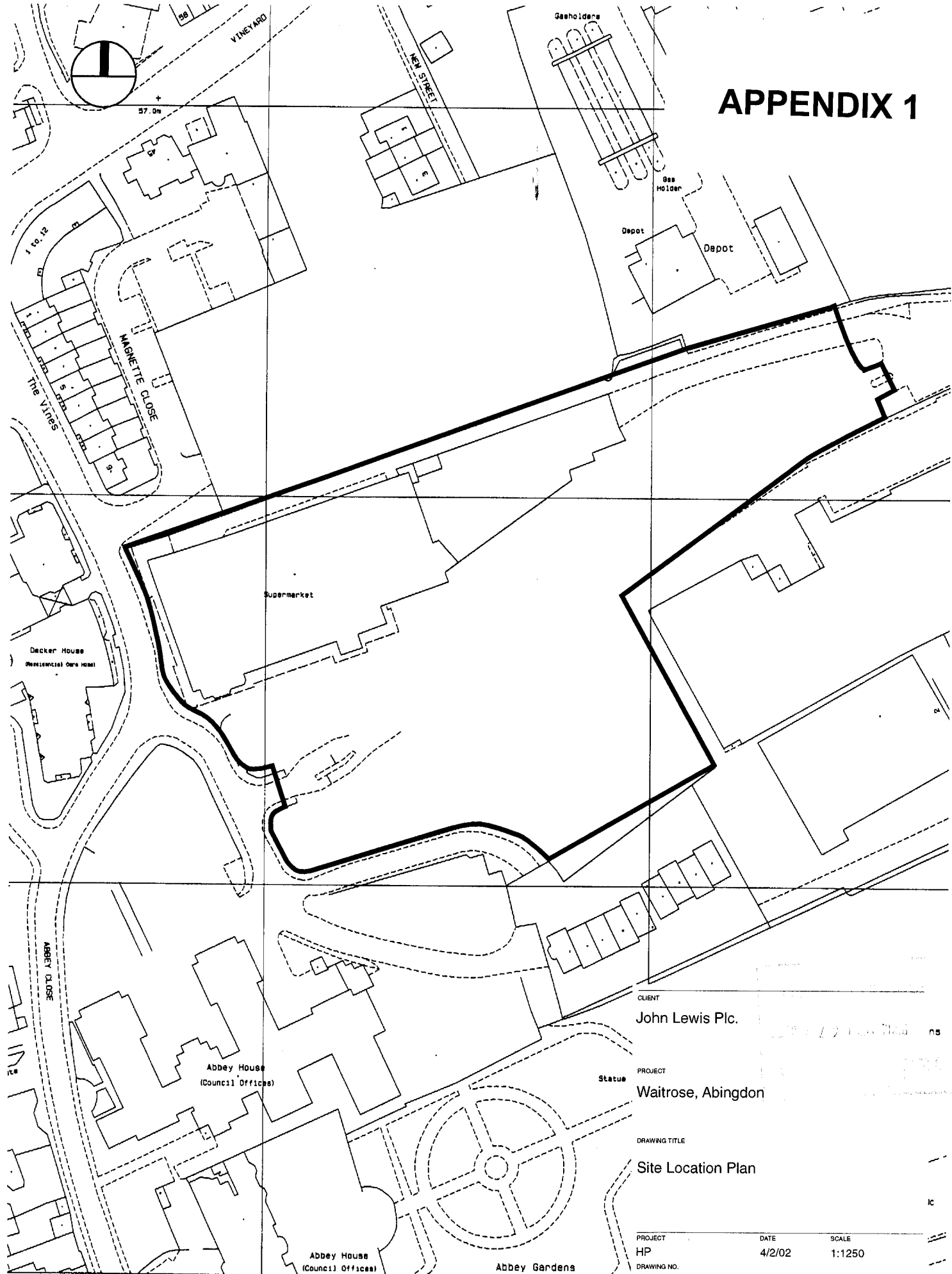


APPENDIX 1



CLIENT
John Lewis Plc.

PROJECT
Waitrose, Abingdon

DRAWING TITLE
Site Location Plan

PROJECT	DATE	SCALE
HP	4/2/02	1:1250

DRAWING NO.
JGC 0183:01

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Asa/14753/9
06/00303/FUL

KG/JCC4264

APPENDIX 1

17 February 2006

Stuart Walker
Planning Department
Vale of White Horse District Council
PO Box 127
Abbey House
Abingdon
OX14 3JN

Dear Mr Walker,

WAITROSE STORE, ABBEY CLOSE, ABINGDON

I am instructed by Waitrose Ltd to submit an application, which seeks the variation of condition 1 of planning permission ABG/14753/8 (granted on 14th March 2005) to allow the store to receive two deliveries between the hours of 2100 and 0630 on a permanent basis. This application comprises:

- This letter (five copies);
- Application Form (five copies);
- BAP Noise Report, dated January 2005 (five copies);
- Completed ownership certificate (one copy);
- Site Identification Plan; and
- Planning fee in the sum of £135.

I set out below additional information in support of the application.

Site and Surroundings

The Waitrose store is located in the built up area of Abingdon which lies in the eastern part of the Vale of White Horse District. Abingdon is a local town centre, and whilst it is overshadowed by the proximity of Oxford, it does provide a good range of retail outlets. The town centre is centred upon the High Street. The Waitrose store is located to the north east of the town centre, but lies within the defined town centre boundary. Waitrose is the main foodstore within Abingdon town centre and serves a large catchment area.

The store itself is located within a mixed use area. Residential development is situated to the west, south and east and the Vale of White Horse District Council offices are located to the south west. Directly to the north of the site there is further residential development including the Maltings Development. The Maltings Development obtained planning permission in April 2003 and consists of 90 residential units housed in 4 separate blocks (Blocks A – D) plus parking and 'ancillaries'. Blocks B and C (both 3 storeys) are closest to the Waitrose service yard, being approximately 5 metres away from the northern boundary. Only 12 bedrooms with windows directly overlook the service yard and these are all within Block C.

The Waitrose store is located in the north west corner of the site with the customer car park to the south and service yard lying to the east of the store. The car park can also be used by visitors to the town centre subject to a fee if using the car park for over 2 hours. Customer access is obtained from the Vines to the west of the store and Audlett Drive to the east. Deliveries to the store can only be made via the access off Audlett Drive.

The service yard is surrounded by a 3.5m high fence. Once in the service yard area, lorries reverse into the loading bay canopy area where they are unloaded. There are no other residential properties located near the service yard.

Planning History

Planning consent was granted for the store in April 1993 (Planning reference ABG/6394/10). Condition 9 of this consent stipulated that deliveries to the store could only be made between the hours of 0630 and 2100.

In 1998 outline planning permission was granted for an extension to the store (ref: ABG/14753/X) and a reserved matters application (ref: ABG/14753/6) was subsequently approved on 26 June 2003.

In November 2002 an application was submitted (ref: ABG/14753/5) for the variation of Condition 9 of permission ABG/6394/10 to allow a maximum of 2 deliveries between 2100 and 0630 for a temporary period of one year. The application was refused under delegated authority on 23 May 2003 for the following reason:

Planning permission has been granted for the residential development of the site immediately to the north of the foodstore's existing service yard. Due to this proximity and to the peak noise levels which occur during deliveries to the foodstore, the proposed night-time deliveries would be harmful to the residential amenities of the occupiers of these new dwellings. As such, the proposal is contrary to Policy D2 of the adopted Vale of White Horse Local Plan and Policy DC9 of the First Deposit Draft review of the Local Plan.

The residential site referred to in the above reason for refusal is known as the Maltings development, comprising 90 residential units.

Planning permission, however, was subsequently granted on appeal (ref: APP/V3120/A/03/1127004) on 14 January 2004 subject to a condition restricting the permission to a temporary period of 12 months. This permission was implemented in accordance with a Special Delivery Method which was approved by your authority on 5 March 2004.

In January 2005 an application was submitted (ref: ABG/14573/8) seeking permanent consent and this application was accompanied by a noise report undertaken by Bickerdike Allen Partners (BAP). The results of the BAP noise survey confirmed that the majority of the night-time delivery would be inaudible at the Maltings development and therefore would not cause an unacceptable degree of disturbance. Notwithstanding this your authority granted consent for a temporary period of 12 months only on the grounds that the residential development to the north of the site was incomplete and unoccupied.

Impact of Proposal on Residential Amenity

It is considered that the main issue in determining this application is whether the impact of night-time deliveries would have such an adverse effect on the residential amenity of the occupiers of the Maltings Development as to justify withholding consent.

As mentioned previously, Bickerdike Allen Partners (BAP) undertook monitoring of the sound levels produced during two night-time deliveries at the store back in November 2004 in support of the previous application. The night-time deliveries were carried out in accordance with the special night-time delivery method and a report detailing the result of this monitoring work is enclosed.

The noise survey was carried out during the night between the 25th and 26th November 2004 and its aim was to determine the typical ambient noise levels incident on the future facade of the Maltings development during the night time and noise levels during two night-time deliveries involving a minimum amount of activity within the service yard.

The noise survey found that as a result of the recently completed store extension the measured night-time noise level was significantly lower than previously measured in 2002. Previously a night-time noise level of around 50 dB L_{Aeq} was measured whereas the measured night-time noise in between the two deliveries in the 2004 survey was round 45 dB $L_{Aeq,T}$. Previous subjective observations of the special night-time delivery method carried out in the 2002 assessment indicated that the main activities of unloading the delivery inside the warehouse were likely to be inaudible during the night time. As the night time noise level measured is significantly less than that measured in 2002, this was not the case in the observed 2004 night-time deliveries. The main activities were generally just audible at the measurement position (around 55 dB $L_{Aeq,T}$) with occasional peaks created by the scissor lift metal panel falling onto the back of the floor of the lorry. The BAP noise report therefore concluded that the arrival, manoeuvring and departure of the delivery vehicle will be audible outside the Maltings development. These events would occur 4 times during the night period (i.e. 2 no. arrivals and 2 no. departures).

In terms of measured noise levels of peak noise events created by the scissor lift drop, the BAP noise survey indicated that these are around 60-70 dB $L_{AS,max}$, which are at least 12 dB less than the night-time criterion given in PPG24 (82 dB $L_{AS,max}$).

The noise survey also indicated that measured noise levels of peak noise events created by the passing of HGV are around 70-75 dB $L_{AS,max}$. These levels are again well below the 82 dB $L_{AS,max}$ criterion in PPG24. Furthermore these levels occur as the HGV passes the microphone at a distance of approximately 5m, therefore the noise levels incident on the proposed housing due to these events will be noticeably less.

The BAP noise survey further points out that measured noise levels of peak noise events created by the scissor lift are around 63-73 dB $L_{AS,max}$ which would result in noise levels within the unscreened bedrooms in the range 30-40 dB $L_{AF,max}$. This indicates that the noise levels will be well within the 45 dB $L_{AF,max}$ guideline criterion for new developments.

The BAP noise survey concluded that the average night time noise level during the four hour survey period including the two deliveries was 54 dB $L_{Aeq,4h}$ and the complete night time average over the standard night time period (2300-0700) will be less, around 51 dB $L_{Aeq,8h}$. This would result in noise levels within any unscreened bedrooms of around 18 dB $L_{Aeq,8h}$ indicating that the noise levels will be well within the 30-35 dB $L_{Aeq,8h}$ guideline criterion for new developments given in BS8233.

Pre-Application Discussions

Having made enquires with both yourself and Mr Alick Natton in Environmental Health I understand that the Maltings development has now been completed and occupied and that the Council has not received any complaints in respect of the night-time deliveries to the store. I can confirm that Mr Natton has agreed, in discussions with David Trew of BAP, that there is not a need to undertake any further noise

surveys to assess the impact of night-time deliveries on the Maltings development as there has been no change in circumstances since the last survey was undertaken in November 2004. However during discussions with BAP, Mr Natton did raise concerns over the impact of night-time noise from passing HGV's on the new housing development to the south of the access road.

It is accepted that the new housing development to the south will be exposed to some night time noise due to HGV passbys, however, this level of noise will be comparable to that already experienced at the existing residential properties to the north along the delivery route. As confirmed by both yourself and Mr Natton there have not been any complaints regarding this noise. Also when your authority refused permission back in May 2003 it did so solely due to the impact of the proposals on the residential amenities of the future occupiers of the Maltings development. The application was not refused due to the impact on the amenities of residents along the route to the store.

The Inspector in granting consent in January 2004 considered this issue and in this respect I refer you to paragraph 10 of the decision letter whereby the Inspector concludes:

"In my view, the existing dwellings to the east and south would be sufficiently far away from the relocated service yard for any noise and disturbance associated with night-time delivery activities not to be a significant problem. Nor, on its own, do I believe that the noise of delivery lorries, which would need to pass the residential properties to the east of the site on route to and from Audlett Drive further to the east, would be so serious as to justify refusal".

In light of this and the fact that no complaints have been received it is considered that there is not a need to carry out further noise survey work to support this application for permanent night-time deliveries.

Need for Night-time Deliveries and Benefits to Customers

The Waitrose store in Abingdon is the main food supermarket in the town serving a large catchment area. It is a very popular, busy and successful store. Since the store opened in 1994, consumer demands have changed and the pattern of retailing has had to change to respond to these demands. Customers require produce to be as fresh as possible and available at all times of the day. In order to achieve this a flexible and more efficient method of stock replenishment and distribution is required.

The delivery restrictions imposed by condition 9 of planning permission ABG/6394/10 requires the store to receive the majority of deliveries between 06.30hrs and 21.00hrs. This results in congestion in the warehouse area and a slow down in the process of getting stock on the shelves in the morning. If night-time deliveries are permitted on a permanent basis it will enable the number of deliveries during the day to be reduced by the same quantity.

The inability to adequately stock shelves, particularly with fresh produce leads to:

- An uneven supply of produce and reduced customer choice;
- Wastage. If fresh produce does not reach the shelves early in the morning, customers who shop at this time are faced with a limited choice and a high percentage of "reduced only products." If this produce is not sold it has to be thrown away.

Night-time deliveries will not increase the number of deliveries but merely redistribute the times, resulting in a great harmonisation of delivery hours on a regional basis. The need for greater harmonisation is becoming more important as retailers rationalise the number of their distribution depots by providing larger depots in key locations capable of servicing large elements of the retail portfolio within statutory driver times. This requires a flexible and more efficient stock distribution. The Waitrose store at Abingdon is served from the Brinklow depot which serves Waitrose stores in the central, southern and eastern regions of England. This new method of distribution is necessary for an efficient competitive and innovative retail sector and requires flexibility and realism from the local planning authority.

The benefits of night-time deliveries has been recognised by the Commission for Integrated Transport and the Freight Transport Association who have launched an investigation into the effect of night-time deliveries curfews on day time congestion.

The Freight Transport Association claims that current congestion on the roads costs UK industry £20 billion, much of that because trucks are forced to target their deliveries in the day time hours, effectively using just half of the 24 hour day.

Reductions in the number of journeys will benefit the local community by:

- Decreasing emission levels during the morning peak;
- Improving safety levels during the morning school run;
- Less day-time congestion.

Balance between the need for customer choice and the effect on residential amenity

The benefits of night-time deliveries in terms of customer choice and service in this important town centre store, reduced congestion and greater harmonisation of deliveries on a regional basis, outweigh any of the effects on residential amenity. Although, it must be noted that the effects on residential amenity will be limited. The noise levels predicted are well below the levels that are indicated in PPG24 as causing a risk of sleep disturbance. The proposal is considered to accord with Policy D2 of the adopted Vale of White Horse Local Plan and Policy DC9 of the second deposit draft of the Local Plan.

Conclusions

1. The Waitrose store is located within the defined town centre of Abingdon, contributing to the vitality and viability of this town centre. It is a successful and busy store providing for the needs of the residents of Abingdon.
2. Customers visiting the store expect the store to be fully stocked at all times, with a wide range and choice of products.
3. Night-time deliveries would result in the spreading out of deliveries during the day resulting in less congestion in the warehouse area and would reduce congestion and harmful emissions.
4. The extension to the Waitrose store provides physical screening to the Maltings development by increasing the mass of the store and moving the position of the service yard to the east, away from bedroom windows. The store extension ensures no bedroom windows overlook the service yard.

5. The issue to be addressed in the case of an application for night-time deliveries therefore is whether the impact of the proposal would have such an adverse effect on the amenity of local residents so as to outweigh the need for night-time deliveries.
6. Waitrose have employed a special delivery method to ensure noise levels are reduced to a minimum.
7. The results of the BAP noise survey undertaken in November 2004 indicate that the majority of the night-time delivery will be inaudible at the nearby residential properties and therefore will not cause an unacceptable degree of disturbance.
8. The mitigations measures offered by Waitrose provide an appropriate balance in meeting the needs of the customers, contribute towards the health of the town centre, secure the appropriate standard of amenity to local residents and help to reduce congestion and harmful emissions.

Once the application has been registered, and you have had the opportunity to consider the proposal, we would welcome the opportunity of a meeting for further discussion. If in the meantime, you should require any further information please feel free to contact me.

Yours sincerely,



KATE GAPPER
Principal Planner



Appeal Decision

Site visit made on 31 December 2003

by **Richard Merelie MSc DipTP MRTPI**

an Inspector appointed by the First Secretary of State

APPENDIX 2

Bristol BS1 0RN
☎ 0117 372 6372
e-mail: enquiries@planning-
inspectorate.gsi.gov.uk

Date

14 JAN 2004

Appeal Ref: APP/V3120/A/03/1127004

Waitrose Store, Abbey Close, Abingdon, Oxfordshire OX14 3HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Waitrose Ltd against the decision of the Vale of White Horse District Council.
- The application (Ref. ABG/14753/5), dated 13 November 2002, was refused by the Council by notice dated 23 May 2003.
- The application sought the variation of a condition attached to a planning permission (Ref. ABG/6394/10), dated 29 April 1993, for the erection of a Waitrose foodstore with associated car parking at The Vineyard, (Area 3, 7 & Part of 4), Abbey Close, Abingdon, Oxon.
- The condition in dispute is No 9, which states that: Deliveries to the foodstore hereby permitted shall be made only between the hours of 0630 and 2100 during any day the foodstore is open to the general public.
- The reason given for the condition was: In the interest of the amenities of nearby residents.
- The variation sought is to allow a maximum of 2 deliveries between the hours of 2100 and 0630 during any day the foodstore is open to the general public for a temporary period of 1 year.

Summary of Decision: The appeal is allowed and the planning permission varied.

Main Issue

1. I consider the main issue in this case to be the effect of varying the condition on the living conditions of future nearby residents, in terms of noise and disturbance.

Planning Policy

2. The development plan for the area includes the 1999 adopted Vale of White Horse Local Plan. Policy D2 seeks to ensure that new development does not cause demonstrable harm to the occupiers and users of neighbouring development in terms of several effects, including noise. Policy D15 states that development likely to generate significant noise will not be permitted close to existing or proposed noise sensitive development, if existing or proposed occupiers would, in consequence of the proposed development, be exposed to excessive noise levels.
3. Similarly, policies DC9 and DC10 of the First Deposit Draft review of the Local Plan seek, respectively, to protect the amenities of neighbours and to resist noise generating development close to noise sensitive development.
4. Reference is made to Circular 11/96, The Use of Conditions in Planning Permissions and to Planning Policy Guidance Notes 1: Planning Policies and Principles, 6: Town Centres and Retail Developments, and 24: Planning and Noise.

Reasons

Background

5. The appellant explains that night-time deliveries are required due to the large amount of chilled food and fruit and vegetable products, with a short shelf life, that is sold at the store. This is in response to customers' needs for food freshness at all times of the day.
6. The appellant points to the additional benefits of night-time deliveries, as recognised by the Commission for Integrated Transport and the Freight Transport Association, such as a reduction in the number of miles travelled by vehicles with a corresponding decrease in emission levels, and a reduction in day-time congestion.
7. The appellant also contends that occupants of residential properties close to sustainable town centre locations, such as in this case, cannot reasonably expect the same degree of tranquillity as those living in wholly residential areas.
8. All that may be so, but the development plan still requires that the living conditions of existing as well as future residents be protected from undue noise.
9. There are existing residential properties some distance to the east and south of the foodstore and there have been objections from a few existing residents and from Abingdon Town Council. However, the District Council's concern is with the potential impact of the appeal proposal on the future residents of the Maltings, a development site immediately adjacent to the north of the appeal site. Work has begun, following the grant of planning permission on 4 April 2003 for 90 dwellings.
10. In my view, the existing dwellings to the east and south would be sufficiently far away from the relocated service yard for any noise and disturbance associated with night-time delivery activities not to be a significant problem. Nor, on its own, do I believe that the noise of delivery lorries, which would need to pass the residential properties to the east of the site, on route to and from Audlett Drive further to the east, would be so serious as to justify refusal.
11. The planning application was accompanied by a noise report by Bickerdike Allen Partners, which concludes that night-time deliveries can be carried out without causing an unacceptable degree of disturbance by using a special night-time delivery method. This includes no use of reversing hazard alarms, the use of vehicles with silenced air brakes and no use of radios.
12. The Council takes issue with the appellant's use of PPG24 standards, arguing that this is at least in part misleading. Further, the appellant acknowledges that there is no official guidance on the specific criteria that should be applied to service yard operations impact assessment and that the report analysis is not ideal.
13. On the other hand, the Council's Environmental Health Officer appears to have made only one on-site monitoring assessment on 6 January 2003 at 3.30pm, that is to say not at night-time. His report refers to clatter noise from cages being rattled over the yard and into the trailer. Yet the special night-time delivery method precludes such use of delivery cages, whether empty or full.

Impact on the Maltings

14. The existing foodstore is in the process of being extended to the east in order to provide an additional sales and warehouse area, following the approval of a reserved matters application on 26 June 2003. Completion is due in late summer 2004.
15. As a result, the previous service yard is to be moved further to the east, but it would still be close to the southern end of Block B and to the south east corner of Block C of the Maltings, both of which would be 3 storeys high. It may be that none of the bedroom windows would directly face the relocated service yard, but they would be in very close proximity to it.
16. Bearing in mind that it seems unlikely that any of the dwellings next to the service yard will be ready for occupation within a year or so, there would be no occupants that could be affected by granting temporary permission for one year. For that reason alone, I believe that withholding temporary permission would be unreasonable.
17. Furthermore, I have not experienced for myself either the actual level of noise and disturbance generated by the special night-time delivery method or the ambient night-time noise levels. Although comparing the technical measurement of noise with recommended standards can be an important exercise, I consider that some element of judgement is also called for, given that the impact of noise and disturbance is a personal, subjective matter.
18. In these circumstances, the temporary permission sought would provide the Council with an opportunity to assess more fully at first hand the effectiveness of the special night-time delivery method. This would need to be set out in detail, as part of the permission, for monitoring purposes. The Council would then be in better position to judge both whether the level of noise and disturbance would be likely to be unacceptable to future occupants and whether the provision of an acoustic fence along the northern boundary of the site would make a significant difference.
19. Overall, I am led to conclude that a trial run of one year would not conflict with the development plan.

Other matters

20. I note the appellant's suggestion that the temporary permission sought could be extended to 18 months. However, it seems to me that one year would be a sufficient period for the Council to make a more realistic and fuller assessment, even allowing for the time likely to be taken initially in submitting for approval the details of the special night-time delivery method. A one year period would also be sufficient to allow an assessment to be made after the store extension is due for completion.
21. The appellant refers to 3 appeal decisions in London, Woking and Paddock Wood, which are in different local planning authority areas to this Waitrose store. No plans of the sites in question have been submitted and I am not familiar with their surroundings. These cases have not therefore influenced the outcome of the current appeal, which I have considered on its own merits.

Conclusion

22. For the reasons given above and having regard to all other matters raised, including the question of precedent, I conclude that the appeal should be allowed.

Formal Decision

23. I allow the appeal and vary the planning permission (Ref. ABG/6394/10) for the erection of a Waitrose foodstore with associated car parking at The Vineyard, (Area 3, 7 & Part of 4), Abbey Close, Abingdon, Oxon, granted on 29 April 1993 by the Vale of White Horse District Council, by deleting condition 9 and substituting therefor the following condition 9: *Deliveries to the foodstore hereby permitted shall be made only between the hours of 0630 and 2100, during any day the foodstore is open to the general public save, in addition, a maximum of 2 deliveries may be made between the hours of 2100 and 0630 for a temporary period of one year from the date of this decision. The night-time deliveries hereby permitted shall be carried out strictly in accordance with a special delivery method, the details of which shall first have been submitted to and approved by the local planning authority.*

Information

24. This decision does not convey any approval or consent that may be required under any enactment, by-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.
25. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.

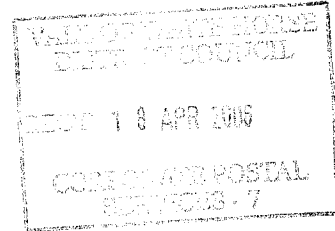
Richard Mearns

INSPECTOR

EL/JCC4264

13 April 2006

Stuart Walker
Planning Department
Vale of White Horse District Council
PO Box 127
Abbey House
Abingdon
OX14 3JN



Dear Mr Walker,

WAITROSE STORE, ABBEY CLOSE, ABINGDON
Application No: ABG/14753/9

Further to our conversation earlier this week regarding the above application, I have pleasure in enclosing details of the Special Delivery Method that the proposed night-time deliveries will be carried out in accordance with.

The following delivery method will be observed when making deliveries between the hours of 2100hrs and 0630 hrs:

1. Upon entry to the service area, the delivery vehicle reversing alarm will be switched off;
2. The delivery driver will not have the truck radio switched on during the delivery;
3. Personnel radios will not be used in the yard;
4. Delivery vehicles will be required to reverse right up to the delivery door of the loading bay to ensure that cages are not moved across the service yard;
5. Once the delivery vehicle has reversed into the rubber surround of the delivery bay the engine will be switched off as soon as reasonably practicable;
6. When fully 'docked' all activities and any associated noise will effectively be contained 'inside';
7. During deliveries, staff of the store operator and other people engaged in the delivery process will keep noise to a minimum as far as is reasonably practicable;
8. No delivery cages (full or empty) will be rolled over the yard;
9. Delivery vehicle loading ramps will be lowered and raised in such a manner as to minimise impact noise so far as is reasonably practicable;
10. A minimum gap of 15 minutes shall be maintained between the departure of one

Waitrose delivery vehicle and the arrival of another to ensure Waitrose delivery vehicles do not have to wait on the highway;

11. The store operator will keep a log of all Waitrose delivery vehicle arrival and departure times to enable the planning authority to monitor compliance with the Special Delivery Method; and
12. Copies of this Special Delivery Method will be displayed on staff notice boards and given to employees directly engaged in the delivery process as far as is reasonably practicable.

I trust that this provides you with the relevant information, however, please do not hesitate to contact me if I can be of any further assistance.

Yours sincerely,



Emma Langmaid

Senior Planner

Email: langmaide@rpsgroup.com