

ABG/14753/9 – Waitrose Ltd

Variation of condition 1 of planning permission ABG/14753/8 to allow the store to receive two deliveries between the hours of 2100 and 0630. Waitrose, Abbey Close, Abingdon

1.0 The Proposal

- 1.1 This application seeks planning permission to vary a planning condition in order to allow night time deliveries to continue on a permanent basis.
- 1.2 Waitrose is situated on the eastern side of Abbey Close, and is bounded by residential developments to the north. Its service yard is located to the east of the premises. A copy of the plan showing the location of the store together with the applicant's supporting information is attached at **Appendix 1**.
- 1.3 The application has been referred to Committee at the request of Councillor Julia Mayhew Archer. Four letters of objection have also been received.

2.0 Planning History

- 2.1 In April 1993 planning permission was granted for the erection of a food store with associated parking. As part of that permission, a condition (condition 9) was attached that restricted deliveries to the store between the hours of 0630 and 2100.
- 2.2 In May 2003 planning permission was refused for a variation of condition 9 on the grounds that the deliveries would be harmful to the residential amenities of the occupiers of the new dwellings currently being built to the north of the site.
- 2.3 Planning permission however was allowed on appeal for a temporary period of 12 months. This expired in January 2005. A copy of the Inspector's decision letter which granted temporary consent is attached at **Appendix 2**.
- 2.4 A further planning permission was granted in March 2005 for another temporary period of 12 months which expired on 31 March 2006.
- 2.5 Waitrose Ltd is now seeking planning permission to continue the two night time deliveries in accordance with their special 'night time' method of delivery that was agreed under the original temporary permission. A copy of this is attached at **Appendix 3**.

3.0 Planning Policies

- 3.1 Policy D2 of the adopted Vale of White Horse Local Plan seeks to ensure that all new development does not cause demonstrable harm to the amenity of neighbouring development (in terms of noise, vibration and other forms of pollution).
- 3.2 A similar policy to that above has been included in the Second Deposit Draft Local Plan 2011, Policy DC9.

4.0 Consultations

- 4.1 Abingdon Town Council does not object, but request the following is taken into account:
"That no reversing hazard alarms are used as the vehicles manoeuvre and reverse into the delivery bay, and that the engines are switched off as soon as reasonably practical".
- 4.2 County Engineer – Raises no objections.
- 4.3 Environmental Health – No objections, subject to conditions.

4.4 Four letters of objection have been received stating the following:

- Night time deliveries are disturbing, especially when vehicles use the Audlett Drive car park and go over the speed humps there, and sometimes using reversing alarms when entering the yard.
- Living close to the store's delivery service entrance, we do not wish to be troubled by additional noise beyond that which we tolerate already.
- Delivery trucks (for Waitrose) wait outside the entrance with their engines running, so the nuisance is not just from passing traffic. Vehicles often reverse into the delivery entrance with their reverse warning noise activated and service cages are wheeled across the yard which are creaky and noisy. Whilst content to tolerate this noise during (daytime) working hours, object strongly to it being allowed to continue through the night.
- The worst aspect of night time deliveries is when a lorry arrives and the driver does not switch off the engine while waiting for the gate to the yard to be opened. If such deliveries are permitted, please impose a condition that engines must be switched off on arrival at the gate.
- Night time deliveries are unnecessary, as deliveries are very intermittent at the moment, so if more are required they can happen during the daytime.
- Since the store expanded, there have been numerous night time disturbances and an increase in "youth" hooliganism (late night drinkers, shouting etc) in the Waitrose car park, as well as cars driving through (at speed). Increasing traffic for the purpose of deliveries will exacerbate the situation. The two entrances to the car park should be closed to prevent these nightly occurrences. (This is not a material planning consideration in this case, as HGV deliveries cannot access the store via the store's own car park).

5.0 **Officer Comments**

- 5.1 The main issue in this case is considered to be the impact of the proposal on the amenities of neighbouring properties in terms of noise and disturbance.
- 5.2 In refusing planning permission for a variation to the condition in May 2003, the Council was concerned that night time deliveries would harm the amenities of residents who would eventually live nearby in those properties being constructed to the immediate north of the service yard.
- 5.3 The Planning Inspector in determining the appeal considered this point carefully. He concluded that as these dwellings were not constructed at the time of his visit, and that deliveries at night had not occurred, he could not fully assess the noise and disturbance impact that may arise. He subsequently granted a temporary consent for 12 months, stating that such permission would provide the Council with the opportunity to assess more fully the impact when the new dwellings on the adjacent site were occupied. Since that decision in 2003, a further temporary consent was granted to enable the Council to assess the impact because the residential development had still not been substantially completed at the end of the first 12 month period.
- 5.4 In the past 12 months, those properties most likely to be affected by deliveries have now been built and are either occupied or are ready for occupation. As such, an assessment can now be made on whether deliveries are so harmful to warrant a restriction to day time deliveries only.
- 5.5 Your Officers consider that no undue harm would be caused to those properties which immediately adjoin the site from granting a permanent permission for the continuation of the two existing night time deliveries in accordance with the delivery method attached at **Appendix 3**. The Council's Environmental Health Officer is also happy with the special delivery method and, subject to deliveries taking place in accordance with this, has raised no objections to the application.

- 5.6 The noise survey carried out in November 2004 (as referred to by the applicant in the supporting statement) showed that deliveries could take place without detriment to those residents living nearby. As there has been no change in circumstance since these surveys were undertaken that would warrant a new survey, the results are considered to remain valid and lend significant weight in allowing the two night time deliveries to continue.
- 5.7 Since granting the last temporary permission in March 2005, there has been no evidence to suggest the night time deliveries taking place have caused significant disturbance to nearby residents to warrant their cessation. There have been no complaints to Environmental Health for example, and there is no evidence that the applicants have been operating outside the terms of the special delivery method previously agreed by the Council. If deliveries were significantly disturbing and intrusive, it would be reasonable to expect those residents affected to have raised such issues with either the Planning Department to enforce the planning condition / delivery method or with Environmental Health under noise nuisance legislation prior to this application being submitted.
- 5.8 Your Officers note that the objections received to this application indicate that there may have been breaches of the agreed special delivery method. These allegations have been brought to the applicant's attention. In response, they have confirmed they are willing to continue to fully comply with the special night time delivery method, as agreed under the previous permission (**Appendix 3**). Residents are fully aware (through this application) that the terms of operation under night time delivery method can be enforced, and are urged to contact the Council's Planning Enforcement Officer or our colleagues in Environmental Health should there be further problems in relation to any breaches of the night time delivery method. On balance, provided the special delivery method is adhered to, your Officers see no reason to withhold permission on the grounds of the night time deliveries being harmful to residents.
- 6.0 **Recommendation**
- 6.1 *That planning permission be granted subject to the following condition:*
1. *Deliveries to the food store hereby permitted shall be made only between the hours of 0630 and 2100, during any day the food store is open to the general public save, in addition, a maximum of 2 deliveries may be made between the hours of 2100 and 0630. The night time deliveries hereby approved shall be carried out strictly in accordance with the special delivery method set out in the applicant's letter dated 13 April 2006.*