

## **ABG/14753/10 – Waitrose Ltd.**

**Variation of condition 1 of planning permission ABG/14753/9 to allow the store to receive two deliveries between the hours of 2100 and 0630 on a permanent basis. Waitrose, Abbey Close, Abingdon, OX14 3HL.**

### **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 comes to Committee because a number of letters of objection have 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 imposed 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 proposed night time deliveries would be harmful to the residential amenities of the occupiers of the new dwellings currently being built immediately 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 permission 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. This was renewed in May 2006 for another 12 month period which expired on 8 May 2007.
- 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 (which was agreed under the original temporary permission) on a permanent basis. A copy of the special night time method of delivery is attached at **Appendix 3**.

### **3.0 Planning Policies**

- 3.1 *Vale of White Horse Local Plan 2011*  
Policies DC9 (quality of new development) is relevant and seeks to ensure that development does not cause harm to the amenity of neighbours (in terms of noise, vibration and other forms of pollution).

### **4.0 Consultations**

- 4.1 Abingdon Town Council had not responded at the time of writing the report. Any comments received will be reported at the Meeting.
- 4.2 County Engineer – no objections.
- 4.3 Environmental Health – No objections, subject to deliveries being made in accordance with the special delivery procedure already agreed.

4.4 6 letters of objection have been received stating the following:

- Night time deliveries will be disturbing, not just from vehicle noise, but from unloading as well.
- The noise survey was carried out at a time when the Maltings was unfinished. No other survey seems to have been made. This area is now residential, and noise generated affects everyone who lives nearby. A further survey should be carried out to take account of the flats as built and other HGVs that use the car park.
- Current night time deliveries disturb neighbours on every occasion because of the considerable noise levels that occur. The vehicles are noisy when passing by, reversing and waiting with their engines running, and unloading causes further banging and crashing.
- If this is granted what is to stop Waitrose coming back for further deliveries? (This is not a material planning consideration in respect of this application, as any further increase would require a fresh planning application).

#### 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, further temporary consents have been 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 night time 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 to allowing the two night time deliveries to continue.

5.7 Since granting the last temporary permission in March 2006, 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. 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 local residents. If noise disturbance does occur, it will be a matter for the Council to enforce Waitrose's compliance with the agreed special delivery method.

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.*