

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

10th August 2016

Planning Application 2015/368/S73

Revision of condition 7 of planning permission 2014/036/FUL to allow 0600 - 2200 Monday to Saturday with Sundays, Bank and Public Holiday hours of opening to remain the same.

Asda Store, Jinnah Road, Smallwood, Redditch, Worcestershire, B98 7ER,

**Applicant: Asda
Ward: CENTRAL**

(Site Plan attached)

The author of this report is Sharron Williams, Planning Officer (DM), who can be contacted on Tel: 01527 534061 Email: sharron.williams@bromsgroveandredditch.gov.uk for more information.

Site Description

The site is formed from the existing B & Q warehouse retail site, and includes the surface car parking area to the north of the building, the building itself and the servicing areas to the rear (south). The site is set adjacent to a large interchange on the main highway route running through the town, with residential development all around.

Proposal Description

Permission is sought to change the following condition 7:-

The retail unit newly created under this consent at the eastern end of the building hereby permitted shall not trade to the public outside the following hours:-

08.00 - 22.00 Mondays to Saturdays
10.00 - 17.00 Sundays
09:00 - 18:00 on bank and public holidays

To as follows:-

The retail unit created under 2104/036/FUL shall not trade to the public outside the following hours:-

06:00 - 22:00 Monday to Saturdays
10:00 - 17:00 Sundays
09:00 - 18:00 on bank and public holidays

Relevant Policies :

Borough of Redditch Local Plan No.3:

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CS02	Care for the Environment
CS06	Implementation of Development
CS07	The Sustainable Location of Development
S01	Designing Out Crime
BBE13	Qualities of Good Design
ETCR01	Vitality and Viability of the Town Centre
ETCR02	Town Centre Enhancement
ETCR04	Need and the Sequential Approach
CT07	Public Transport Infrastructure
CT12	Parking Standards

Emerging Borough of Redditch Local Plan No. 4

Policy 3:	Development Strategy
Policy 19:	Sustainable travel and Accessibility
Policy 20:	Transport Requirements for New Development
Policy 30:	Town Centre and Retail Hierarchy
Policy 31:	Regeneration for Town Centre
Policy 39:	Built Environment
Policy 40:	High Quality Design and Safer Communities

Others:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

Relevant Planning History

2014/036/FUL	Reconfiguration of the existing store to create a Class A1 (bulky goods) unit and a Class A1 foodstore, together with associated external alterations and selected car park reconfiguration NMA received 5/6/15 for various alterations - see associated documents (Non Material Amendment)	Approved	02.04.2015
2015/075/ADV	8 No. Fascia Signs and external car park signage	Approved	24.04.2015
015/185/ADV	Various advertisements to provide ASDA signage for the new foodstore - see application covering letter for full details.	Approved	08.10.2015
2015/186/FUL	Construction of an ATM pod	Approved	07.08.2015

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2015/277/ADV	New totem sign for Retail Park adjacent delivery entrance	Approved	08.10.2015
2015/278/ADV	New Totem sign for Retail Park adjacent to roundabout at junction of Coldfield Drive and Tunnel Drive	Approved	08.10.2015
2015/319/ADV	Two new post mounted campaign advertisements facing Asda from Union Street edge of car park	Approved	21.07.2016

Consultations

Worcestershire Regulatory Services

Would suggest that a new noise assessment is carried out to accurately establish the current noise climate in the area at the nearest residential property(s) and the likely increase in noise levels from the proposed extension of opening hours.

Additional comments dated 24 June 2016

The revised noise assessment concludes that additional noise from extended opening hours would have a minimal impact on local residents. It would appear that the main noise source in the area is mainly from the adjacent dual carriageway. The assessment does not mention deliveries to the store and I assume deliveries will be within the current opening times. Therefore no objection to the application.

Public Consultation Response

58 Objections submitted. Comments submitted relate to 24 hr / 06:00 – 24:00 hour operation Monday to Saturday. Comments summarised as follows:-

- Don't believe there is a demand for 24 hour opening.
- Will generate anti social behaviour.
- Reference to illumination of existing signage.
- Increase in noise, fear of crime in the area.
- Concerns regarding parking and residential amenity being hindered.
- Unlikely to generate any real additional revenue if operated 24/7.
- Concern about business selling alcohol all night long close to residential properties.
- Increase in litter in the area.
- Lodge Road is direct route from Town Centre to Asda, and as such will be a draw for people who will leave the Town after pubs have closed.

3 Comments on final hours of opening (06:00 – 22:00 hours Monday to Saturday)

- Concerns about noise and disruption.
- Don't want to see any change in hours of opening.

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- Concerns relate to how the noise survey has been carried out.

Smallwood Residents Association

Comments to increase hours 24 hours and 06:00 – 24:00 hours Monday to Saturday

- Adverse impact re. noise and other issues on health and quality of life required under the NPPF. Noise emanating from car alarms, doors slamming and engine noise, fear of crime.
- Concern that increase of hours would hinder the local environment in terms of character of the area. (Reference to the roof sign).
- Impact of people coming from the town late at night to use Asda café or buy alcohol and possibility of bottles being left in the street creating an unsafe environment.
- No proof of demand for the store to be open during these times.
- Current hours are akin to existing food stores.
- Customers /staff seem to use the residential roads rather than the car park.

Comments from Smallwood Residents Association on the noise assessment:-

1. The assessment attempts to predict noise of cars arriving and departing. This is only part of the noise which would be produced. Equally significant is the footfall noise since many of the customers visiting during the late hours will be seeking to purchase alcohol and not domestic shopping. A bigger contribution to noise will be customer 'chatter' which this assessment ignores. Chatter carries far further at night. A revised assessment is required to assess these noise levels.
2. Two monitoring devices were used in this assessment. Although proximity is important these sensors were positioned well below the level of the car park and shielded by a number of trees. We would suggest that these are left in any retest for reasons described below we believe a retest should be conducted with two additional sensors placed half way up Millsboro Road and Lodge Road because these positions will be on the same level as ASDA car park.
3. The monitoring period is too narrow. The SRA team include a number of data analysts and for more accurate forecasting the industry standard is to incorporate as much data across many time periods as possible. We recommend that the four monitoring devices gather data throughout 24 hours and for at least a month. This will allow us to understand what noise nightly distribution causes and how effective the current screening is. It also allows us to measure the noise generated during the current operating hours and compare this with the assessment previously produced to determine how accurate ASDA's forecasting model in their earlier report in comparison with their current trading operation.
4. For the current assessment ASDA's team decided to arbitrarily change the time cycle. The monitoring time cycle was trebled from every five minutes to every fifteen minutes. Since we require as much data as possible – and to be able to assess the

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accuracy of the previous assessments we recommend that during any retest the time period for the recording devices revert back to five minutes.

Assessment of Proposal

Members will be aware that planning permission (Ref:- 2014/036/FUL) was granted for the creation of a foodstore within the B & Q building on 2 April 2015. The store opened in early November 2015 and has been operating under the hours imposed.

In order to obtain greater flexibility with respect to opening the store, the applicant initially applied for 24 hour opening Monday to Saturday with Sundays, bank and public holidays to remain the same as that originally conditioned. A considerable number of objections were submitted to these requested hours of opening for reasons stated above in this report. Given the location of the store to existing residential properties close by, officers had concerns with an increase in the opening hours and potential impact it could have on residential amenity. The only foodstore that is open 24 hours Monday to Saturday is Tesco and that is due to the unique location of the store in relation to neighbouring residential properties nearby. A tree planted buffer zone exists around Tesco, therefore, any general noise emanating from the site is unlikely to cause serious noise disturbance to the occupiers concerned.

Negotiations were held with the applicant to revise the requested hours of opening. The requested hours of opening changed from 24 hour opening to 06:00 – 24:00 Monday to Saturday. Residents still raised concerns to the late opening hours due to the general noise and disturbance that would be experienced as a result of the store being open after pubs have closed for the evening.

Further negotiations held with the applicant have now resulted in an increase to the opening hours in the mornings only as indicated above in the Proposal Description.

Given the only change to the opening hours now relate to the hours between 06:00 – 08:00 Monday to Saturday, officers consider the revised hours of opening to be acceptable and unlikely to cause any detrimental impact on the amenities of neighbouring occupiers in terms of general noise and disturbance. It is important to note that the revised hours of opening are akin to other foodstores in the locality. For example Sainsburys are open 07:00 – 22:00 hours Monday to Saturday whilst Morrisons are open 06:00 – 22:00 hours Monday to Saturday.

Following a request from WRS, a revised noise assessment has been submitted in order to take into account general noise in the area now that the store is open. The assessment submitted was based on the store trading 06:00 – 24:00 hours Monday to Saturday. The assessment concluded that additional noise from extended opening hours would have a minimal impact on local residents. Smallwood Residents Association made comments on how the noise assessment was carried out. However, WRS are satisfied that the approach applied for the noise assessment is acceptable, and clarify that the main noise

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source in the area is from the adjacent dual carriageway and as such have no objection to the revised hours of opening.

Other matters]

The application is a variation of a condition imposed under planning approval reference 2014/036/FUL which had a signed S106 Agreement. Therefore, a Supplemental Agreement will be required for this S73 application. The purpose of a Supplemental Agreement is to ensure that relevant obligations contained in the original Agreement are still applicable upon implementation of this S.73 application. In addition, conditions that still apply under 2014/036/FUL will need to be included as part of this application.

RECOMMENDATION:

That, having regard to the Development Plan and to all other material considerations, authority be delegated to the Head of Planning and Regeneration Services to GRANT planning permission subject to:-

1) the satisfactory completion of a Supplemental Agreement;

and

2) the Conditions and informatives as summarised below:

Conditions

1. Details of any roof plant to be installed shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

Reason: In the interests of visual and residential amenity and in accordance with Policy B(BE)13 of the Borough of Redditch Local Plan No.3.

2. The travel plan submitted and approved to discharge condition 3 of planning approval reference 2014/036/FUL shall be implemented and updated in agreement with Worcestershire County Councils Travel plan co-ordinator or other relevant person via the Local Planning Authority.

Reason: To reduce vehicle movements and promote sustainable access in accordance with Policy CS7 of the Borough of Redditch Local Plan No.3 and the NPPF.

3. Cycle parking details shown on Dwg. No. 12.096.A(00)00_18 Rev A submitted and approved to discharge condition 4 of planning reference 2014/036/FUL, shall be implemented on site and thereafter be maintained available for use.

Reason: In the interests of sustainable travel and in accordance with Policy CT12 of the Borough of Redditch Local Plan No.3. and the NPPF.

4. The development shall be operated in accordance with the details contained in the noise and air quality reports submitted in support of the original application reference 2014/036/FUL in

Reason: In the interests of noise and air quality and the surrounding residential amenity, and in accordance with the NPPF.

5. The retail unit created under 2104/036/FUL shall not trade to the public outside the following hours:-

06:00 - 22:00 Monday to Saturdays

10:00 - 17:00 Sundays

09:00 - 18:00 on bank and public holidays

Reason: In the interests of residential and community amenities and in accordance with Policies CS2 and B(BE)13 of the Borough of Redditch Local Plan No.3.

6. Safety and security measures of the premises, both buildings and surrounding land, shall be in accordance with details submitted and approved to discharge condition 8 of planning reference 2014/036/FUL.

Reason: In the interests of minimising crime and disorder and in accordance with Policy S1 and the SPG Community Safety.

7. The site shall operate at all times in accordance with the agreed management plan submitted and approved to discharge condition 9 of planning reference 2014/036/FUL.

Reason: In the interests of highway safety and residential amenity and in accordance with Policy C(T)12 of the Borough of Redditch Local Plan No.3.

8. The development hereby approved shall be implemented in accordance with Dwg. No. 12.096.A(00)00_01.

Reason: To accurately define the permission for the avoidance of doubt and to ensure that the development is satisfactory in appearance in order to safeguard the visual amenities of the area in accordance with Policy B(BE).13 of the Borough of Redditch Local Plan No.3.

9. The litter management strategy for the site considered under planning approval reference 2014/036/FUL shall be implemented throughout the life of the

development, and variations to it shall be submitted to and agreed in writing by the LPA where the need arises and the LPA considers them acceptable.

Reason: In the interests of the visual amenities and health and wellbeing of the area and of biodiversity in accordance with Policies CS02 and B(BE)13 of the Borough of Redditch Local Plan No.3 and the NPPF.

10. Details of trolley controls submitted and approved under condition 12 of planning approval reference 2014/036/FUL shall be implemented throughout the lifetime of the development to ensure that it is not physically possible for trolleys to leave the site other than as intended by the operators for the purpose of repair/replacement/removal.

Reason: In the interests of the biodiversity and visual amenity of the surrounding area and in accordance with Policies S1 and B(BE)13 of the Borough of Redditch Local Plan No.3.

11. Boundary treatment around the whole of the perimeter of the site, including any hard and soft landscaping, shall thereafter remain in place and be well maintained for the lifetime of the development.

Reason: In the interests of security and amenity and in accordance with Policies CS2, S1 and B(BE)13 of the Borough of Redditch Local Plan No.3.

12. Customer vehicle access restriction details shown on Dwg. No. 12.096.A(00)00_19 Rev A submitted and approved to discharge condition 14 under planning reference 2014/036/FUL, shall be in force in accordance with the hours restrictions conditions above or such longer time as the other unit operates plus half an hour at either end at the entrance to the site, and shall be maintained in a functioning state to continue this for the lifetime of the development. Alternative arrangements shall be agreed in writing with the Local Planning Authority as appropriate to operating arrangements throughout the lifetime of the use of the site as hereby permitted.

Reason: In the interests of noise and disturbance reduction to local and residential amenity in accordance with Policies B(BE)13 and S1 of the Borough of Redditch Local Plan No.3 and the NPPF.

Informatives

- 1) The applicant should be aware that this permission also includes a supplemental agreement under S106 of the Town and Country Planning Act 1990 (as amended) and that the requirements of that and the conditions listed above must be complied with at all times.

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- 2) Proactive engagement by the local planning authority has continued throughout the consideration of this application, and was as per the PPA agreed until the applicant chose to depart therefrom.
- 3) The applicant is advised that a separate application for advertisement consent will be required in relation to new advertisements on the premises.

Procedural matters

This application is being reported to the Planning Committee because the application requires a Supplemental Agreement. As such the application falls outside the scheme of delegation to Officers.

This application is being reported to the Planning Committee because two (or more) objections have been received.