

The application is to vary condition 10 of permission 96/00178/FUL - so as to allow two deliveries to be made to the front of the store between midnight and 6 a.m.. (This condition currently reads: There shall be no deliveries to the store or the petrol station between 12 midnight and 6.00 am). The reason given for the condition is "in the interests of amenity and in particular to minimise the potential for nuisance/disturbance being caused to local residents".

The site is within urban area of Kidsgrove as defined on the Local Development Framework Proposals Map.

The 13 week period for the determination of this application expires on 20<sup>th</sup> November 2014.

### **RECOMMENDATION**

Approval subject to the following conditions:-

1. Description of terms of consent being granted and confirmation that other conditions of 96/00178/FUL are not amended by the consent
2. List of plans and document referred to in decision
3. No use of service yard for deliveries between midnight and 6 a.m. the next day
4. Recommendations within the Environmental Noise Assessment to be implemented.
5. Refrigerated motors to be turned off prior to vehicles entering the site and back on once they have left the site
6. Vehicle delivery route option involving no reversing movements to be used
7. Submission and approval of management plan to ensure pedestrian safety maintained

### **Reason for Recommendation**

Although the proposal could result in significant adverse impact on residential amenity as a result of the extended hours of delivery, and could reduce public safety due to vehicle and pedestrian movement conflict, it is considered that these concerns can be addressed through appropriate conditions and accordingly planning permission can be granted.

### **Statement as to how the Local Planning Authority has worked with the applicant in a positive and proactive manner in dealing with this application**

The Local Planning Authority has worked in a positive and proactive manner in dealing with this and the previous withdrawn application, advising of issues of concern and the need to provide additional supporting information.

### **Policies and Proposals in the approved Development Plan relevant to this decision:-**

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (adopted 2009) (CSS)

Strategic Aim 5:	To foster and diversify the employment base
Strategic Aim 7:	To secure a network of accessible and complementary, vital, vibrant and distinctive North Staffordshire Town Centres
Strategic Aim 16:	To eliminate poor quality development
Policy CSP1:	Design Quality.
Policy ASP5:	Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy T18	Development – Servicing requirements
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**Other material considerations include:**

National Planning Policy Framework (NPPF) (March 2012)

National Planning Practice Guidance (March 2014)

**Relevant Planning History**

96/00178/FUL	Permitted	09.10.1996	Demolition of existing houses and erection of Retail store (Class A1).
97/00863/FUL	Permitted	02.02.1998	Variation of condition 9 of planning permission 96/178/FUL to allow opening 07.00 to 22.00 Monday to Saturday, and no more than 6 hours between 09.00 to 18:00 on Sundays.
12/00395/FUL	Permitted	31.08.2012	Variation of condition 9 of permission 96/00178/FUL and condition 1 of permission 97/00863/FUL to allow Sunday trading between the hours 09:00 and 20:00 during the London Olympic Games.
13/00952/ELD	Granted	10.02.2014	Lawful development certificate of non-compliance with condition limiting the store's opening/trading hours. (The Applicant was able to demonstrate that it had been trading over a 24 hour day for over 10 years).
14/00095/FUL	Withdrawn	10.04.14	Variation of condition 10 of planning permission 96/00178/FUL to allow two deliveries to be made to the front entrance of the store between midnight and 0600 hrs

**Views of Consultees**

**Kidsgrove Town Council**

No comments have been received, and with the period for comments having expired it must be assumed that the Town Council has no observations to make. With respect to the previous application the Town Council indicated that they had no objections

**Environmental Health Division**

The **Environmental Health Division** indicates that peak noise level arising from the proposed vehicle manoeuvring activities will be likely to exceed the value recommended by the World Health Organisation. However the measurements of the existing noise climate indicate that peak noise levels are (already) higher than this recommended value throughout the night-time period and therefore the degree of additional disturbance that is likely to be caused by the proposed activities is unlikely to be great if care is taken to mitigate noise generated during the deliveries. Recommends that a condition is applied to any consent to require the recommendations within the Environmental Noise Assessment are implemented as well as an additional condition requiring refrigerated motors to be turned off prior to vehicles entering the site and back on once they have left the site.

**Highways Authority**

There are no objections on Highway grounds to this proposal.

**Police Architectural Liaison Officer** - no objection, presuming that the applicants have given due consideration to any impact upon store security that could conceivably arise from the proposal

**Representations**

None received.

### Applicant/agent's submission

An Acoustic Report has been submitted. The objective of the assessment is to establish if a proposal to extend delivery hours could be implemented without adversely affecting nearby residents. The service yard is overlooked by the dwellings in Whitehall Avenue; there is no realistic prospect of being able to screen these dwellings from delivery actively within the service yard. This assessment accordingly considers deliveries being made not to the Service Yard but to the front elevation of the store between Midnight and 6 a.m.

Methodology, reading and possible noise reduction methods are set out.

It is concluded that in the context of nationally recognised standards and planning guidance that predicted noise levels from up to two deliveries made to the an entrance on the front elevation of the store between midnight and 6 a.m. will not adversely affect residential amenity.

The agent indicates that the previous application was withdrawn for the Tesco team to consider how the deliveries would be made to the front door. As such Tesco are proposing two options for the Council to consider

This document is available to view at the Kildgrove Service Centre and on [www.newcastle-staffs.gov.uk/planning/1400637FUL](http://www.newcastle-staffs.gov.uk/planning/1400637FUL)

### **KEY ISSUES**

This is an application to vary a condition of planning permission 97/00863/FUL which restricts the hours of deliveries to the store to between 6 a.m. and midnight on all days. The specific variation of the condition applied for is to allow two deliveries made to the front entrance of the store between midnight and 6 a.m. – the service yard lying relatively close to residential properties.

Within the superstore curtilage delivery vehicles are normally restricted to the service yard and the access way which connects the car parking areas and service yard to the A50 Liverpool Road. As such reversing movements by delivery vehicles is separated from pedestrians and private motorists. Delivery to the front elevation of the store would necessitate delivery vehicles either reversing across the mini roundabout from the store's petrol filling station, or driving through the parking area of the store. Plans showing the 'tracking' of vehicles undertaking such movements have been provided as part of this application.

The Key Issues to be considered by the Committee are:-

- Residential Amenity;
- Safety.

### Residential Amenity

The National Planning Policy Framework paragraph 9 states that pursuing sustainable development involves seeking positive improvements in people's quality of life, including improving the conditions in which people live work, travel and take leisure. Paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. The impact on the amenity of surrounding residents has to be taken into considered.

Deliveries between midnight and 6 a.m. have the potential to cause a loss of amenity to the occupiers of nearby dwellings. The Environmental Health Division, as the Council's technical advisers, following the receipt of additional information, are satisfied that, subject to certain conditions being attached, the degree of additional disturbance that is likely to be caused by the proposed activities is unlikely to be material. They do in particular wish to see the route

used for deliveries to avoid reversing movements in closer proximity to the houses than the mini roundabout, and this is reflected in the recommended condition No.6.

### Safety

NLP policy T18 indicates that developments should provide satisfactory arrangements for service deliveries to stand, manoeuvre, load and unload within their sites and to enter and leave in a forward gear. CSS Strategic Aim 16 refers to the importance of achieving good, safe design as a universal baseline.

The Highways Authority has not objected to the proposal but this is not necessarily indicative that the proposal is safe; rather that the servicing point is so remote from the public highway that the proposed servicing arrangement presents no danger to the users of the highway – that being the matter of interest to the Highways Authority.

The planning system is required to consider issues of public rather than private interest. In assessing this application it is appropriate to consider safety within the site.

The store site is entered from Liverpool Road by a road link to a mini roundabout which gives access to the petrol filling station, the service yard, and the car park. The door that it is proposed to use is set a short distance from the roundabout with a two way road to and from the more westerly parking bays crossing in front of it. There is a setting down point to the east of the door (i.e. towards to petrol filling station), that is most commonly used by drivers making use of the cash machine, and it would appear that it is Tesco's intention to make use of this if clear of parked vehicles. An inspection of the site late at night suggests that they will in all likelihood be able to turn within the car parking area to the more westerly parking area (which is far less likely to be used at this time being remote from the front door of the store), and the tracking drawing confirms this. Whilst the internal roadway within the site might be partially obstructed by the vehicles when they make their deliveries, the consequences of this are not considered to be severe, in the context of the likely number of customers visiting the store by car between midnight and 6 a.m. The store can be expected to make their own arrangements to warn customers of the presence of delivery vehicles at this time and the submission and approval of a management plan can address any residual concern on this point.

In conclusion there is no reason to consider that any material harm to safety will arise from the proposed delivery arrangement during these times.

### Background Papers

Planning File  
Development Plan  
National Planning guidance/statements

### Date report prepared

15<sup>th</sup> October 2014