

The application is for the removal of condition 12 of planning permission 18/00486/FUL (limitation of delivery times) to allow deliveries between 0300 and 0400 hrs.

Planning permission for the redevelopment of the site for two A1/A3 retail units was granted in December 2018.

The site is located within the urban area of Newcastle as defined by the Local Development Framework Proposals Map.

The application has been called in to Committee by two Councillors due to resident's concerns about the impact of noise.

The 8 week period for the determination of this application expired on the 20th January but the applicant has agreed an extension of time to the statutory determination period to the 7th February 2020.

RECOMMENDATION

PERMIT the variation of Condition 12 of 18/00486/FUL so that it reads as follows:

No deliveries shall take place before 03.00 or after 20.00 hours and shall be carried out in strict accordance with the procedures and practices set out in the Delivery Management Plan. All other servicing and waste/recycling collections shall not be before 08.00 hours or after 20.00 hours on any day

and subject to the imposition of all other conditions attached to planning permission 18/00486/FUL that remain relevant at this time.

Reason for Recommendation

Through the submission of a noise impact assessment and the delivery management plan it has been demonstrated that the delivery hours would not result in a significant harmful impact to the residential amenity and quality of life of neighbouring residents, subject to a revised condition. The proposal is therefore compliant with the guidance and requirements of the National Planning Policy Framework.

Statement as to how the Local Planning Authority has worked in a positive and proactive manner in dealing with the planning application

The LPA has allowed the applicant the opportunity to address the initial concerns of the Environmental Health Department which has resulted in acceptable information being received to overcome objections. The development is now considered to represent a sustainable form of development.

Key Issues

The application is for the removal of condition 12 of planning permission 18/00486/FUL (limitation of delivery times) to allow deliveries between 0300 and 0400 hrs.

Planning permission for the redevelopment of the site for two A1/A3 retail units was granted in December 2018 but the buildings are not yet occupied.

Condition 12 of the planning permission sets out that;

"12. Any deliveries, servicing or waste and recycling collections shall not be before 08.00 hours or after 20.00 hours on any day.

R12: To control activities on the site to protect residential amenity levels of neighbouring properties from noise and disturbance in accordance with the guidance and requirements of the National Planning Policy Framework 2018.”

The Authority, in the determination of this application, cannot reconsider the principle of the use of the buildings or whether the delivery hours should be restricted more than is currently the case, but it does have the following options:-

- If it considers that any additional hours for deliveries, servicing or waste and recycling collections would result in an adverse impact on the living conditions of nearby residents, the original condition should remain and the application refused,
- If it considers that the condition should be varied/removed then it should approve the application without the condition or subject to a reworded/different condition as it considers appropriate.

The effect of a grant of permission upon an application to vary a condition is to create a new planning permission. Accordingly, unless there have been other material changes, such a permission should also make reference to the other conditions of the original planning permission where they remain relevant.

Given the above, the sole issue in the consideration of this application is the impact of additional hours for deliveries, servicing or waste and recycling collections on the residential amenity levels and quality of life of neighbouring occupiers.

Paragraph 180 of the NPPF sets out, amongst other things, that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

The application seeks to extend the delivery hours to the shop unit which will operate as a Greggs bakery when it is occupied. The adjacent Costa Coffee drive thru on the site is also covered by the conditions of the planning permission but is further away from the nearest residential properties.

The applicant has submitted a delivery management plan (DMP) to support the application which sets out that deliveries between the hours of 03:00 and 04:00 would supply the shop with fresh products to meet the proposed trading hours of 06:30 to 19:00 Monday to Saturday and 09:00 to 18:00 Sunday and Bank Holidays.

The submitted DMP sets out that the store will have two deliveries per day via a HGV. The deliveries will be to the front of the store accessed via the A34 Congleton Road. The DMP also sets out possible mitigation measures to reduce the noise and disturbance impact of the deliveries. These measures include that delivery vehicles will park within the loading area adjacent to the store only and vehicles will manoeuvre on site with as little noise as possible. Drivers will also need to engage gears quietly; keep engine revs to a minimum; apply brakes gently and close the driver's door quietly.

The application site is located on a busy road junction but there are residential properties beyond the east boundary on Unity Way, which are set on a lower level. A brick wall is situated on this boundary.

It is noted that the shop unit is adjacent to the northern boundary and the unloading of the HGVs will be well away from the eastern boundary. However, the car parking and circulation space within the site would result in a HGV manoeuvring close to the eastern boundary in order to exit the site in a forward gear.

A number of objections to the application have been received from neighbouring properties on the grounds that the additional hours are unreasonable and would have a significant adverse impact on their residential amenity.

The Environmental Health Division (EHD) initially raised concerns and a noise assessment was submitted by the applicant in an attempt to address the concerns and objections.

The noise assessment concludes that whilst the commercial sound from deliveries could have a significant adverse impact, the context of the site, located on a signalised road junction on an A-road, will result in the noise impact from deliveries being very low level and no significant harm would be caused.

EHD have considered the noise assessment and have indicated that it has satisfactorily demonstrated that existing background noise levels and attenuation provided by onsite buildings and boundary walls would result in no significant adverse impact to neighbouring amenity levels. They therefore raise no objections to the removal of the condition.

Your officers consider that the condition should be varied rather than removed so as to allow deliveries as early as 3am but only if the mitigation measures for unloading and loading, as set out in the DMP, are adhered to during deliveries. This would further minimise the impact of deliveries on neighbouring amenity levels and is considered justified.

In consideration of the above it has been demonstrated that the proposed additional delivery hours are unlikely to result in a significant harmful impact to the residential amenity levels and quality of life of neighbouring properties subject to the condition as varied. The proposal therefore complies with the guidance and requirements of the NPPF and should be approved.

APPENDIX

Policies and Proposals in the Approved Development Plan relevant to the decision:-

[Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy \(CSS\) 2006-2026](#)

Policy ASP5 Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy

[Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Nil

Other Material Considerations

National Planning Policy

[National Planning Policy Framework](#) (February 2019)

[Planning Practice Guidance](#)

Relevant Planning History

18/00486/FUL	Redevelopment of the site for two A1/A3 retail units with 40 no. car parking spaces and associated landscaping	Approved
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Views of Consultees

The **Highways Authority** raises no objections.

The **Environmental Health Division** raises no objections following the submission of a noise assessment.

No comments have been received from **Kidsgrove Town Council** and given that the date for comments has ended, it is assumed that they have no observation to make on this application

Representations

Five letters of objection have been received, including one from Councillor Robinson, who raise the following concerns;

- The proposed delivery times are unreasonable,
- The proposal would have an adverse impact on the health and wellbeing of neighbouring properties,
- Disturbance to sleep patterns, and
- It would set a clear precedent for other neighbouring commercial uses.

Applicants/ Agents submission

The applicant has submitted a delivery management plan and noise assessment which sets out various mitigation measures.

All of the application documents can be viewed on the Council's website using the following link: <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/19/00919/FUL>

Background Papers

Planning File
Planning Documents referred to

Date Report Prepared

22nd January 20220