

TESCO, LIVERPOOL ROAD, KIDSGROVE  
TESCO STORES LTD. 12/00395/FUL

**The Application** is to vary both condition 1 of permission 97/00863/FUL and condition 9 of permission 96/00178/FUL - so as to allow Sunday and Bank Holiday trading between 09:00 hrs and 20:00 hrs during the London Olympic Games. (These conditions currently limit opening on Sundays to no more than six hours between 09:00 and 18:00 hrs). The desired hours are already permitted on other days of the week.

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 10 October 2012.**

### **RECOMMENDATION**

**Permit subject to conditions relating to the following:-**

- (i) **The opening times of the store shall be limited to between 07:00 hrs and 22:00 hrs Monday to Saturday, and no more than 6 hours between 09:00 hrs and 18:00 hrs on Sundays, except on Sundays between 22 July 2012 and 9 September 2012 when there shall be no opening of the store to the public other than between 09:00 and 20:00 hrs.**
- (ii) **Other conditions in permission 96/00178/FUL & 97/00863/FUL to continue to apply.**

### **Reason for Recommendation**

The proposal would not result in any significant adverse impact on residential amenity as a result of the extended hours of use and as such the proposal accords with Policy D2 of the Structure Plan and the aims and objectives of the National Planning Policy Framework (NPPF).

### **Policies and Proposals in the Approved Development Plan Relevant to This Decision:-**

West Midlands Regional Spatial Strategy 2008 (WMRSS)

Nil

Staffordshire and Stoke on Trent Structure Plan 1996 – 2011 (SSSP)

Policy D2: The Design and Environmental Quality of Development

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

Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy

Newcastle-under-Lyme Local Plan 2011 (LP)

Nil

### **Other Material Considerations include:**

NPPF (March 2012)

### **Relevant Planning History**

- |      |              |   |
|------|--------------|---|
| 1996 | 96/00178/FUL | Demolition of existing houses and erection of Retail store (Class A1) – permitted October 1996.   |
| 1997 | 97/00863/FUL | 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 |

## **Views of Consultees**

**Environmental Health Division** - no objections.

**Police Architectural Liaison Officer** - no adverse comment.

**Kidsgrove Town Council** - disconcerted that this application is being processed too late given that the store is already opening at the new times without permission.

## **Representations**

None received to date.

## **Applicant/Agent's Submission**

A Supporting Statement has been submitted. The Sunday Trading (London Olympics and Paralympics) Act 2012 temporarily suspends the current restrictions in the Sunday Trading Act 1994 on Sunday opening times for large shops. This application is to enable this relaxation to be taken advantage of by changing the opening hours on Sundays and Bank Holidays to between 09.00 and 20.00 between 22 July to 9 September 2012. The agents indicate that the extended hours will bring a number of benefits including greater flexibility for customers, reduce pressure on stores and balancing out peaks, providing a better customer experience and relieving potential pressure on the surrounding area and generally provide a much needed boost to the economy. Tesco is keen to minimise any unnecessary impact on the surrounding area so the opening hours will not be unnecessarily extended and will reflect normal opening hours. Any change will be temporary and will not result in any significant or demonstrable harm. The proposal is fully consistent with the Government's policy, both in terms of its specific relaxation of Sunday opening hours during the Olympics and also the provisions of the NPPF. The unique circumstances of the Olympic Games are a material consideration and should also be taken into account.

This document is available to view at the Guildhall and on [www.newcastle-staffs.gov.uk](http://www.newcastle-staffs.gov.uk).

## **Key Issues**

This is an application to vary a condition of planning permission 97/00863/FUL which restricts the hours of opening of the store to the public to between 07:00 and 22:00 hrs Mondays to Saturdays, and to no more than 6 hours between 09:00 and 18:00 on Sundays. For the avoidance of doubt it is also being treated as an application to vary condition 9 of the original permission for the store (96/00178/FUL) – which similarly restricted opening hours on Sundays. The specific variation of the condition applied for is to allow opening of the store between 09:00 and 20:00 on Sundays while the London Olympic Games and Paralympic Games are in progress. As such it would not be appropriate to consider within this determination the issue of the store's opening hours on other days.

The application was received too late for it to be brought before the Committee before the commencement of the period in question (22 July to 9 September 2012). Information received indicates that the store is already opening on Sundays for the hours sought in the application. That the application is now retrospective should have no bearing upon its determination.

Assuming that it is still considered appropriate (to protect residential amenity) to limit opening hours in some manner, the Authority has a number of options:-

- If it considers that the present condition should be maintained throughout the duration of the London Olympic Games and Paralympic Games it should refuse the application, and consider what enforcement steps, if any, it wishes to take with respect to any breach of the current condition, or
- If it considers that the condition in an amended form is acceptable it should approve the application and apply the amended condition.

The NPPF indicates that core planning principles include that planning should proactively drive and support sustainable economic development and also seek a good standard of amenity for existing and future occupiers of land and buildings. Planning decisions should mitigate and reduce to a minimum adverse

impacts on health and quality of life, as may arise from noise from new development, including through the use of conditions. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

The site is located on the A50 Liverpool Road. When the store is open there will be comings and goings from the premises as a consequence, including vehicular movements. There are residential properties adjacent to the site on Whitehall Avenue. Most of these adjoin either the building itself, its servicing yard or the associated petrol filling station. The hours of use of the latter two elements is not the subject of this application (the petrol filling station has no hours of opening planning restriction) whilst the permitted hours of deliveries to it and the store are the subject of another condition. There is a section of the store's car park which does adjoin the back gardens of several of the dwellings on Whitehall Avenue. This section in question is that furthest away from the store's main entrance and thus the least used. On this basis it is not anticipated that the proposal will result in a material loss of residential amenity. It is to be noted that the Environmental Health Division have no objections to the application.

The amendment sought to the condition is furthermore a temporary one. It could be argued that there are unusual and exceptional economic benefits arising from store opening during the period of the Games, and this is a relevant material consideration in this decision. At a national level Parliament has accepted this argument. Objections to Sunday trading per se and concerns about the working conditions of those working on Sundays are not material considerations to the determination of this planning application.

The proposal does not raise any other key issues and in view of the above the proposed temporary amendment to the permitted Sunday opening hours is considered acceptable.

**Background Papers**

Planning File

Development Plan

National Planning guidance/statements

**Date Report Prepared**

3 August 2012