

**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 5 February 2013  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

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*Note: this application was called off the Scheme of Delegation List by Councillor Trotter for the following reasons: to give the people who have raised concerns a chance to put their case to the committee.*

Application No. **12/00641/P**

Proposal Variation of condition 3 of planning permission P/1218/90 to allow delivery and collection of goods between the hours of 6am and 10pm 7 days a week

Location **32 Hopetoun Drive  
Haddington  
East Lothian  
EH41 3AT**

Applicant The Co-operative Group

Per GL Hearn

Ward 6

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

This application relates to the Co-Op shop on the north side of Hopetoun Drive. The shop is within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008.

Planning permission (ref.P/1218/90) was granted on 13 March 1991 for an extension to the shop building, subject to 3 conditions. Of these, Condition 3 stipulates that:

“Between the hours of 10.00pm and 7.00am each day of the week no deliveries will be made to, and collections made from, the shop, no delivery goods will be deposited on its forecourt, and no delivery vehicles will be parked with their engines running on that forecourt.

Reason:

To ensure that the proposed expansion in the use of the shop does not have an adverse affect on the residential amenity of the area.”

As originally submitted this application first sought a variation of Condition 3 of planning permission P/1218/90 to allow delivery and collection of goods to and from the shop between the hours of 6.00am and 11.00pm 7 days a week. Subsequently the applicant's agent has confirmed in writing that the applicant does not require an extension to the delivery and collection of goods times to 11.00pm, and thus this extended time period is no longer proposed.

Therefore, through this application planning permission is now sought for a variation of Condition 3 of planning permission P/1218/90 to allow delivery and collection of goods to and from the shop 1 hour earlier each morning of the week. Thus the now applied for variation to Condition 3 is to allow the delivery and collection of goods to and from the shop between the hours of 6.00am and 10.00pm 7 days a week.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

There are no policies of the approved Edinburgh and the Lothians Structure Plan 2015 relevant to the determination of this application.

Relevant to the determination of the application is Policy ENV1 (Residential Character and Amenity) of the adopted East Lothian Local Plan 2008.

Three written objections to the application have been received. The main grounds of objection are:

- (i) the proposed extended hours for deliveries and collections would lead to a noise nuisance harmful to the amenity of neighbouring and nearby residential properties;
- (ii) delivery vehicles sometimes park on double yellow lines;
- (iii) vehicles in the area cause congestion;
- (iv) driveways of properties are blocked by vehicles; and
- (v) groups of people hang around the shop and are noisy.

The Royal Burgh of Haddington and District Community Council, as a consultee on the application raise objection to the proposed extended hours for deliveries and collections to and from the shop as it would lead to a noise nuisance harmful to the amenity of neighbouring and nearby residential properties.

The matter of illegal parking on double yellow lines is a road traffic offence and, therefore, it is not a material consideration in the determination of an application for planning permission.

Antisocial behaviour is controllable under other legislation and, therefore, it too is not a material consideration in the determination of this planning application.

The determination of this application rests on the planning considerations of the likely additional impacts the proposed extension to the hours of delivery and collection of goods

to and from the shop for an additional hour between 6.00am and 7.00am of the morning of each day of the week would have on the residential character and amenity of the predominantly residential area in which the shop is located.

With regard to these considerations Policy ENV1 of the adopted East Lothian Local Plan 2008 requires that the predominantly residential character and amenity of an existing housing area has to be safeguarded from the adverse impacts of uses other than housing.

In that the additional service vehicle movement and parking likely to occur as a consequence of the applied for 1 hour extension to the existing delivery and collection times would take place during that early time of the morning it would not readily conflict with the greater vehicle movements and parking generated by customers of the shop at other times of the day.

The Council's Environmental Protection Manager acknowledges that it is possible that the applied for extension to the hours of delivery and collection of goods to and from the shop would result in some additional noise generation in the locality of the shop. However he advises that provided deliveries and collections were made by vehicles no larger than transit van size, as the applicant's agent informs would be the case, then any noise arising from any such activity between 6.00am and 7.00am would not have a harmful impact on the amenity of the neighbouring residential properties. This is because the amount of potential noise generating activity resulting from the use of such smaller vehicles would, in each instance, be less in comparison to that which would result from the use of larger vehicles, due to the lesser amount and shorter duration of unloading and loading.

The Council's Transportation service confirms that the Department of Transport categorises transit van sized vehicles as N1 vehicles having a maximum mass not exceeding 3.5 tonnes.

In conclusion, the Environmental Protection Manager is satisfied that provided deliveries and collections to and from the shop during the applied for additional hour of 6.00am to 7.00am each morning of the week are carried out using only vehicles with a maximum mass not exceeding 3.5 tonnes, the impact of such additional activity of delivery and collection to and from the shop would not have a harmful noise impact on the amenity of the neighbouring residential properties.

In which case what is applied for as a variation of Condition 3 of planning permission P/1218/90 does not conflict with Policy ENV1 of the adopted East Lothian Local Plan 2008.

#### CONDITION:

1 Condition 3:

Between the hours of 10.00pm and 6.00am each day of the week no deliveries will be made to, and collections made from, the shop, no delivery goods will be deposited on its forecourt, and no delivery vehicles will be parked with their engines running on that forecourt. Between the hours of 6.00am and 7.00am deliveries made to, and collections made from, the shop shall only be made by vehicles having a maximum mass not exceeding 3.5 tonnes, no delivery goods will be deposited on its forecourt, and no delivery vehicles will be parked with their engines running on that forecourt.

Reason:

In the interests of safeguarding the amenity of neighbouring residential properties.