

REPORT TO: Planning Committee

MEETING DATE: Tuesday 31 March 2015

BY: Depute Chief Executive
(Partnership and Services for Communities)

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the Scheme of Delegation List by Councillor Goodfellow for the following reasons: There is significant concern expressed by surrounding neighbours that the extended hours for deliveries proposed in the report would give rise to noise nuisance.

Application No. **14/00968/P**

Proposal Variation of Condition 7 of planning permission P/00696/92 to change the opening hours from 08.00 to 20.00 Monday to Friday and 08.00 to 18.00 Saturdays and Sundays to 08.00 to 22.00 Monday to Saturday and 09.00 to 19.00 Sundays and removal of delivery/servicing restrictions

Location **48 - 52 Dunbar Road
North Berwick
East Lothian
EH39 5AB**

Applicant Aldi Stores Ltd

Per GVA Grimley Ltd

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application relates to the former Co-op supermarket in North Berwick which is currently vacant. It occupies a corner site immediately to the south of the junction of Glenburn Road and Dunbar Road. It is within a mixed use area as defined by Policy ENV2 of the adopted East Lothian Local Plan 2008. It is outwith the defined town centre of North Berwick.

Outline planning permission ref: P/00696/92 (now planning permission in principle) was granted on 18 March 1993 for the erection of the supermarket and associated access and car parking, subject to 13 conditions. Of these, Condition 7 stipulates that:

“The supermarket will not be open to trading outwith the hours 0800 to 2000 Monday to Friday and 0800 to 1800 hours on Saturdays and Sundays.

No goods delivery vehicles will enter or leave the site between 1900 to 0700 Mondays to Saturdays and at any time on Sundays. No offloading or loading of goods or refuse to or from vehicles or containers will take place to or from the premises during those hours.

Reason:

To safeguard the amenity of the occupants of nearby residential properties”

Planning permission is now sought through this application for a variation of Condition 7 of outline planning permission P/00696/92 to:

(i) change the opening hours of the supermarket from 0800 to 2000 Monday to Friday and 0800 to 1800 hours on Saturdays and Sundays to 0800 to 2200 Monday to Saturday and 0900 to 1900 on Sundays; and

(ii) remove the time restriction on goods delivery vehicles entering or leaving the site and for the offloading or loading of goods or refuse to or from vehicles or containers such that this could take place at any time of day or night.

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 South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) relevant to the determination of this application.

Relevant to the determination of the application is Policy ENV2 (Town and Village Centres, Other Retail or Mixed Use Areas) of the adopted East Lothian Local Plan 2008.

One written objection to the application has been received. It takes the form of a petition with 11 signatories. The grounds of objection are to the proposed extended opening hours of the supermarket and the proposed removal of the time restriction on goods delivery vehicles entering or leaving the site.

One written representation has also been received to the application in which points are raised with regard to noise from delivery vehicles and the protection of existing tree planting.

The determination of this application rests on the planning considerations of the likely additional impacts the proposed extension in opening hours and the removal of the time restriction on goods delivery vehicles entering or leaving the site and for the offloading or loading of goods or refuse to or from vehicles or containers would have on the amenity of any neighbouring use, including neighbouring residential properties.

With regard to these considerations Policy ENV2 of the adopted East Lothian Local Plan 2008 requires that proposals that would have a significant environmental impact, particularly on existing housing, will not be permitted.

The Council’s Environmental Protection Manager advises that the operation of the

supermarket during daytime hours, which are defined as 0700 to 2300 hours, would not have a harmful noise impact on the amenity of any neighbouring or nearby residential property. Therefore the Environmental Protection Manager confirms that the proposed opening hours of 0800 to 2200 Monday to Saturday and 0900 to 1900 on Sundays, by being within daytime hours, would not harmfully impact on the amenity of any neighbouring or nearby residential property through noise associated with the proposed increase in the operational hours of the supermarket.

Although the applicant proposes the varied opening hours of 0900 to 1900 on Sundays, the current restriction imposed on opening hours by Condition 7 of outline planning permission P/00696/92 allow the supermarket to open at 0800 hours on Sundays. Given this there would be no justifiable necessity in restricting the opening of the supermarket to 0900 hours on Sundays as proposed by the applicant and it would be reasonable to continue to allow the supermarket to open at 0800 hours on Sundays. The Environmental Protection Manager does not object to the retention of this opening time on Sundays.

With respect to the proposal to remove the time restriction on goods delivery vehicles entering or leaving the site and for the offloading or loading of goods or refuse to or from vehicles or containers, the Environmental Protection Manager advises that the complete removal of the delivery/servicing restrictions part of Condition 7 of outline planning permission P/00696/92 is not acceptable due to the fact that noise arising from vehicle movements and loading/unloading of goods and refuse during night time hours of 2300 to 0700 would unacceptably impact on the amenity of neighbouring residential properties. The Environmental Protection Manager therefore advises that an amendment to Condition 7 of planning permission P/00696/92 to restrict delivery/servicing movements to daytime hours only (0700 to 2300 hours) would be acceptable and would not harmfully impact on the amenity of neighbouring and nearby residential properties.

Therefore, the Environmental Protection Manager is satisfied that if the varied Condition 7 were to read as follows there would be no harmful noise impact on any neighbouring or nearby residential property and thus no harmful impact on the amenity of such residential properties:

'The supermarket will not be open to trading outwith the hours of 0800 to 2200 Monday to Saturday and 0800 to 1900 hours on Sundays.

No goods delivery vehicles will enter or leave the site between 2300 to 0700 hours Mondays to Sundays. No offloading or loading of goods or refuse to or from vehicles or containers will take place to or from the premises during those hours.

Reason:

To safeguard the amenity of the occupants of nearby residential properties.'

The applicant's agent confirms in writing that the applicant is agreeable to this wording.

The variation of Condition 7 of outline planning permission P/00696/92 as noted above is consistent with Policy ENV2 of the adopted East Lothian Local Plan 2008.

Given that this application is seeking only to vary Condition 7 of outline planning permission P/00696/92, all other conditions imposed on the grant of outline planning permission P/00696/92 would otherwise remain unaltered and in force. It would be prudent to confirm this in an advisory note on the decision notice.

CONDITION:

1 Condition 7

The supermarket will not be open to trading outwith the hours of 0800 to 2200 Monday to Saturday and 0800 to 1900 hours on Sundays.

No goods delivery vehicles will enter or leave the site between 2300 to 0700 hours Mondays to Sundays. No offloading or loading of goods or refuse to or from vehicles or containers will take place to or from the premises during those hours.

Reason:

To safeguard the amenity of the occupants of nearby residential properties.

Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)