

Agenda Item	Committee Date	Application Number
A5	11 November 2019	19/01067/VCN

Application Site	Proposal
Lidl 98 Westgate Morecambe Lancashire	Demolition of existing garage and erection of a food store with associated parking, access, servicing and landscape arrangements (pursuant to the variation of condition 2 on approved application 16/01071/VCN to allow deliveries on Sundays and Public Holidays)

Name of Applicant	Name of Agent
Mr T Hanrey	Mr Chris Smith

Decision Target Date	Reason For Delay
18 November 2019	N/A

Case Officer	Mrs Petra Williams
Departure	No
Summary of Recommendation	Approval with a condition for 12 month temporary consent

1.0 The Site and its Surroundings

- 1.1 The application relates to an existing retail unit, located on the corner of Westgate and Banbury Road in Morecambe. The building is set back from Westgate, and there is a large parking area to the front of the site. There are residential properties that abut the site boundary to the east and south, and further dwellings to the west separated by Banbury Road. On the opposite side of Westgate is another retail unit and a public house.
- 1.2 Westgate is one of the main arterial routes through Morecambe and as such it is a relatively busy thoroughfare. Morecambe Football Stadium, Morecambe Fire Station and Westgate Primary School are located further west of the site on the northern side of Westgate. White Lund Industrial Estate lies further east of the site.
- 1.3 The site lies within a Flood Zone 2 area.

2.0 The Proposal

- 2.1 Planning permission was granted in December 2016 (16/01071/VCN) to vary the condition on the original consent for the food store which restricted the hours of opening. Condition 2 of 16/01071/VCN reads as follows:

*All deliveries to and from the site shall occur between the hours of 0700 and 2000 Monday to Saturday with no deliveries on Sundays or on Public Holidays.
Reason: For the avoidance of doubt and to protect the amenity of nearby residents.*

This application seeks to vary condition 2 of 16/01071/VCN in order to allow deliveries on Sundays and Public Holidays.

3.0 Site History

3.1 The most relevant planning applications to the site is set out below, including the planning permission that the current application seeks to vary.

Application Number	Proposal	Decision
17/00379/VCN	Erection of a side extension to existing retail unit, recladding of existing elevations, removal of canopy, installation of door to south elevation, alterations to the vehicular access point and rearrangement of existing car park layout (pursuant to the variation of conditions 2, 4 and 7 and removal of condition 5 on planning permission 16/01043/FUL to amended approved plans, materials and boundary treatment and remove proposed freestanding trolley bay)	Permitted
16/01043/FUL	Erection of a side extension to existing retail unit, recladding of existing elevations, removal of canopy, installation of door to south elevation, alterations to the vehicular access point and rearrangement of existing car park layout	Permitted
16/01071/VCN	Demolition of existing garage and erection of a food store with associated parking, access, servicing and landscape arrangements (pursuant to the variation of condition 18 on planning permission 06/00717/FUL to extend the opening hours)	Permitted
16/01065/ADV	Advertisement application for the display of an internally illuminated 6 metre high totem sign	Permitted
08/00538/VCN	Retrospective application to vary Condition 2 on application no. 06/00717/FUL to install two windows to existing south elevation	Permitted
06/00717/FUL	Demolition of existing garage and erection of a food store with associated parking, access, servicing and landscape arrangements	Permitted

4.0 Consultation Responses

4.1 The following responses have been received from statutory and non-statutory consultees:

Consultee	Response
County Highways	No objection
Environmental Health	No objection but suggest that a 12 month temporary consent is granted.
Parish Council	No observations received within the statutory timescales

5.0 Neighbour Representations

5.1 One item of objection has been submitted from a near neighbour to the site and raises noise issues as a key concern.

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework (NPPF)

Paragraph 11 – The presumption in favour of sustainable development
Paragraph 80 Building a Strong, Competitive Economy
Paragraph 108, 109 and 110 – Access and transport
Paragraphs 124 and 127 – Achieving well-designed places
Paragraph 180 – Impacts from noise

6.2 Local Planning Policy Overview – Current Position

On 15 May 2018, and in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended), Lancaster City Council submitted the following documents to the Secretary of State (Planning Inspectorate) for examination:

- (i) The Strategic Policies and Land Allocations DPD; and,
- (ii) (A Review of) The Development Management DPD

The Examination Hearing Sessions took place between the 9 April 2019 and the 1 May 2019. The Council has published the proposed Main Modifications to the Local Plan. An eight-week consultation into the modifications is currently underway and expires on 7 October 2019.

The **Strategic Policies and Land Allocations DPD** will replace the remaining policies of the Lancaster District Core Strategy (2008) and the residual 'saved' land allocation policies from the 2004 District Local Plan.

The **Review of the Development Management DPD** updates the policies that are contained within the current document, which was adopted in December 2014. As it is part of the development plan the current document is already material in terms of decision-making.

Given the current stage of both DPDs, it is considered that some weight can be attributed to the policies contained therein subject to the extent to which there are unresolved objections to the relevant policies and their consistency with the National Planning Policy Framework.

6.3 Development Management DPD

DM20 – Enhancing Accessibility and Transport Linkages
DM35 – Key Design Principles

6.4 Lancaster District Core Strategy

SC1 – Sustainable Development
SC5 – Achieving Quality in Design

7.0 Comment and Analysis

7.1 The main issues to be considered in the determination of this application are:

- Economic benefits
- Impact on residential amenity

7.2 Economic benefits

7.2.1 The application is made under Section 73 of the Town and Country Planning Act (TCPA), which seeks to vary a planning condition associated with the hours of deliveries. Where an application is granted

under Section 73 of the TCPA the effect is to issue a new planning permission, sitting alongside the original permission, which remains intact and un-amended.

7.2.2 The proposal as amended seeks to vary the condition to allow deliveries to take place between the hours of 07:00 to 20:00 Monday to Saturday and 10:00 to 20:00 on Sundays. The submission seeks to allow deliveries on Public Holidays which would accord with the permitted Monday to Saturday permitted delivery hours of 07:00 and 20:00.

7.2.3 The submission puts forward that the current situation, which allows the store to be open to customers on Sundays and Public Holidays but not receive deliveries on these days, creates significant operational inefficiencies that have consequential impacts upon customers. The submission goes on to point out that increased demands around Public Holidays such as Easter, Christmas and the New Year period results in an increased stock turnover for the store and as such significant importance is placed on the delivery process and the replenishment of goods in order to meet customer demand.

7.2.4 The supporting statement explains that a Lidl store will typically receive up to two deliveries per day, which may increase over these busy periods. Taking the Easter period as an example, the store is currently prohibited from receiving any deliveries on Good Friday, Easter Day or Easter Monday. This means that multiple deliveries have to be received during the permitted delivery hours on the Thursday and Saturday, which creates a number of operational issues such as:

- Multiple delivery vehicles required to manoeuvre through the car park to the delivery dock during times when the car park is busy with customers;
- Staff have to be taken away from the busy sales floor to receive and process the deliveries;
- The store warehouse area frequently becomes over-congested with stock at is not of a scale capable of holding sufficient stock to meet customer demands over a two to three day period;
- Decreased efficiency in transferring stock to the sales floor due to the congestion in the warehouse and on the sales floor;
- Popular products can frequently run out of stock, especially fresh, chilled and frozen goods;
- It is challenging to offer customers the freshest possible produce and there is an increased risk of fresh produced going to waste; and
- As departing delivery vehicles take all waste away from the store, refuse is not removed from the store on a daily basis, placing significant pressure on the store's waste storage capacity.

7.2.5 Deliveries currently take place on average once a day with up to two per day during busier periods. It is worth noting that the proposed variation of condition 2 will not result in an overall increase in deliveries being undertaken at the store. The submission explains that the same number of deliveries will be undertaken, but they will be spread over a 7-day week, thereby removing the potential for a concentrated period of multiple deliveries on certain days.

7.2.6 It is therefore considered that the proposed variation would accord with the economic objections of section 2 of the National Planning Policy Framework and paragraph 80 which places significant weight on economic growth. As such the proposal is acceptable in principle, subject to matters relating to residential amenity being acceptable.

7.3 Impact on residential amenity

7.3.1 A key consideration with this application is whether residential amenity would be adversely effected by a relaxation on allowing deliveries to occur on Sundays and Public Holidays.

7.3.2 The site is bordered on the southern and eastern boundaries by residential properties with the nearest one (6 Broughton Grove) being approximately 6 metres from the rear elevation of the delivery bay. The closest property to the site entrance is 35 Deanpoint which abuts the eastern site boundary.

7.3.3 Condition 1 of planning approval 16/01071/VCN permits the store to open to customers between the hours of 07:00 to 22:00 on Monday to Saturday (including Public Holidays) and 10:00 to 17:00 on Sundays. As such the current consent would already generate a degree of noise associated with the opening hours relating to customer vehicles arriving, manoeuvring/parking and leaving as well as the shutting of vehicle doors.

- 7.3.4 Condition 2 of planning approval 16/01071/VCN does not permit deliveries on Sundays or Public Holidays. The submission states that there would be no valid planning reason for treating deliveries on Public Holidays differently to any other day of the week and as such suggests that there should be no reference to Public Holidays within the condition proposed to be varied in respect of deliveries. However, it is considered that in the interest of nearby residential amenity it would be wholly reasonable to restrict deliveries in line with those proposed for Sunday.
- 7.3.5 The application has been accompanied by a Noise Assessment which has been assessed by the Council's Environmental Health Officer (EHO). The EHO initially raised concerns regarding the originally-proposed delivery times of 08:00 - 20:00 on Sundays. However, during the course of the application the proposed hours have been amended to 10:00 - 20:00 and a temporary 12 month consent on this basis has been suggested by the EHO.
- 7.3.6 Given the store already has permitted opening hours on a Sunday between 10.00 and 17.00 and between 07:00 to 22:00 on Public Holidays, it is considered that receiving deliveries between 10:00 and 20:00 would be acceptable and reasonable in this context, particularly given the existing background noise levels due to the proximity of the main road. It is also considered reasonable to restrict deliveries on Public Holidays in line the Sunday hours
- 7.3.7 It is noted that the application has generated one item of objection from a near neighbour to the site. The EHO reports that no noise complaints have been received in respect of the existing operations (the store has been functioning for over 10 years). The EHO is satisfied that the imposition of a temporary consent over a 12 month period would allow any impacts which may arise from the proposal to be assessed. This approach has been utilised in similar circumstances (e.g. Tesco, Carnforth).

8.0 Planning Obligations

- 8.1 There are no planning obligations to consider as part of this application.

9.0 Conclusions

- 9.1 The store has been in operation for approximately 10 years with a restrictive condition in respect of deliveries on Sundays and Bank Holidays. However, this is now causing operational difficulties. It is considered that the application can be recommended for approval with the condition varied to allow for deliveries on Sundays and Public Holidays between the hours of 10:00 and 20:00 on a temporary 12 month basis, in light of the need to ensure nearby residential amenity.

Recommendation

That Planning Permission **BE GRANTED** subject to the following conditions:

1. Hours of store opening restriction to between:
 - 07:00 and 22:00 Monday to Saturday and
 - 10:00 and 17:00 on Sundays.
2. Hours of deliveries restricted to between:
 - 07:00 and 22:00 Monday to Saturday
 - 10:00 and 20:00 on Sundays and Public Holidays for a temporary 12 month period

Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015

In accordance with the above legislation, the City Council can confirm that it has made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the agent to secure development that improves the economic, social and environmental conditions of the area. The recommendation has been made having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/ Guidance.

Background Papers

None.