

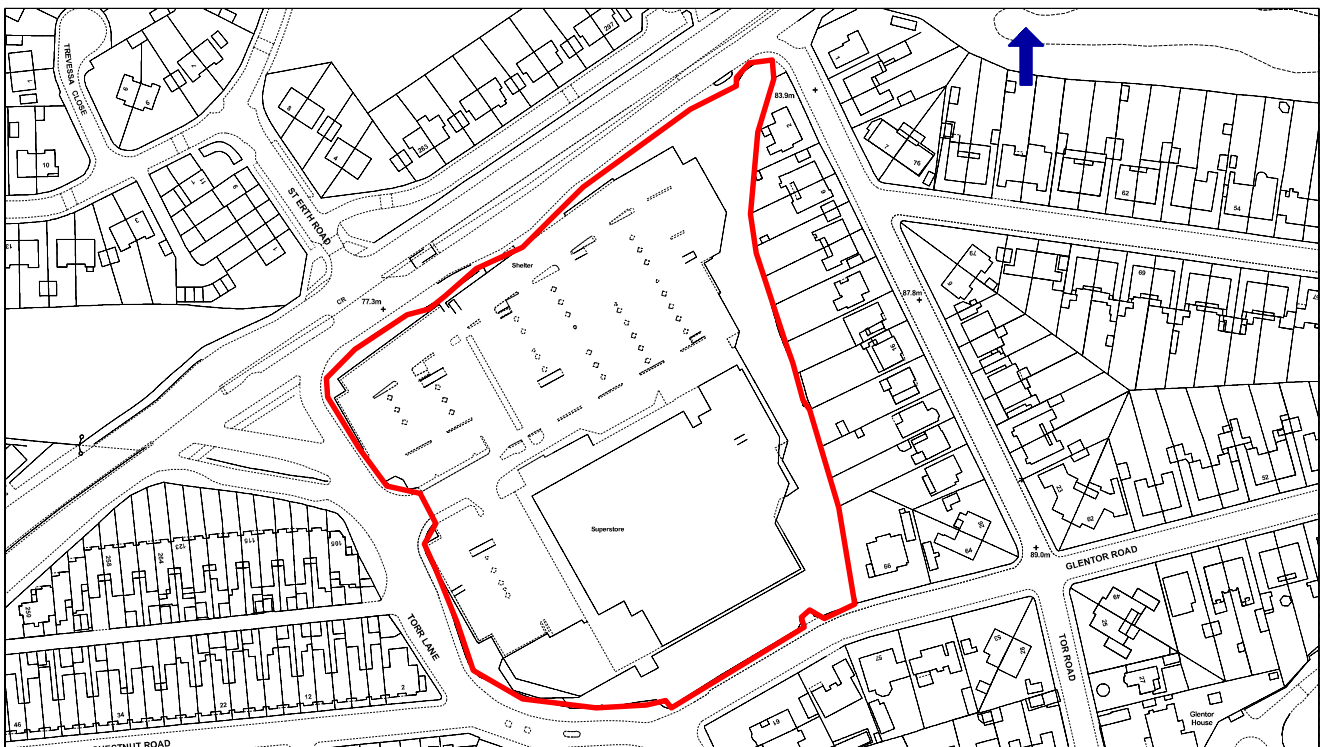
# PLANNING APPLICATION REPORT



<b>Application Number</b>	15/02132/FUL	<b>Item</b>	02
<b>Date Valid</b>	13/11/2015	<b>Ward</b>	Peverell

<b>Site Address</b>	282 OUTLAND ROAD PLYMOUTH		
<b>Proposal</b>	Variation of condition 1 of application 98/00780/FUL to allow temporary extended hours of 0600 to 2400 for 4 days prior to Christmas		
<b>Applicant</b>	WM Morrison Supermarkets Plc		
<b>Application Type</b>	Full Application		
<b>Target Date</b>	12/02/2016	<b>Committee Date</b>	Planning Committee: 17 December 2015
<b>Decision Category</b>	Member/PCC Employee		
<b>Case Officer</b>	Christopher King		
<b>Recommendation</b>	Grant Conditionally		

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This application has been referred to planning committee by Cllr John Mahony

## **1. Description of site**

The application site comprises an area of approximately 2.4 hectares fronting onto Outland Road on the edge of the Peverell/Beacon Park area of the city. The site is currently occupied by a Morrison's food store, associated customer parking, servicing and landscaping. The store building occupies the south eastern and central parts of the site with customer parking located to the north, between the store building and Outland Road, and on the western part of the site, adjacent to Tor Lane. Shared vehicular access, for customers and delivery Lorries, is from Tor Lane.

There is a row of tall leylandi trees along the eastern boundary, which screens the property from residential property in Tor Road to the east, and rows of much smaller trees, planted as part of the original landscape strategy in the car park. These trees are protected by a group Tree Preservation Order (TPO No 271 and 209). Levels fall within the site from east to west (approximately 5m) and from south to north (approximately 2m) in accordance with the surrounding topography.

The existing store building is essentially a flat roofed structure, but this is disguised by an element of roof plane, all around and on the conspicuous higher parts of the building, so that it appears, when viewed from ground level, as a pitched roofed building with decorative arches and an entrance portico.

The character of the surrounding area is dominated by Outland Road (A386), a dual carriageway which forms one of the main arterial route ways into the city.

The area around the site is completely residential in character. On the opposite side of Tor Lane, and in Chestnut Road to the west, are larger Edwardian/ Victorian terraces. Houses in Glentor to the south, Tor Road to the east and facing Outland Road, and in St Erth Road to the north, are a mixture of detached and semidetached houses in reasonable sized plots, dating from the middle of the last century.

## **2. Proposal description**

Variation of condition 1 of application 98/00780/FUL to allow temporary extended hours of 0600 to 2400 for 4 days prior to Christmas. The proposal requests that temporary extended hours be permitted on the following days:-

Saturday 19<sup>th</sup> December 2015; Monday 21<sup>st</sup> December 2015; Tuesday 22<sup>nd</sup> December 2015 and Wednesday 23<sup>rd</sup> December 2015, which are the last four trading days prior to Christmas that is not restricted by the Sundays trading and as Morrisons has not applied for extended hours on Christmas Eve.

Opening hours will then revert in perpetuity to the originally approved hours on the 24<sup>th</sup> December 2015 imposed by the planning inspector.

No other conditions are proposed to be varied by this application.

## **3. Pre-application enquiry**

No pre-application advice has been sought with regards to this proposal

#### 4. Relevant planning history

The site has an extensive planning history (35 applications since 1974). Some predate the current supermarket use and others relate to signage and minor applications. The following are considered relevant:-

- Ref: 15/01617/FUL - Variation of condition 6 of planning permission 12/01724/FUL to permit the delivery of goods between 0500 hours and 2300 hours Monday to Saturday; and 0700 hours and 2300 hours on Sundays and Bank Holidays – Under consideration by the Local Planning Authority
- Ref: 15/01619/FUL - Variation of condition 2 of planning permission 98/00780/FUL to permit the delivery of goods between 0500 hours and 2300 hours Monday to Saturday; and 0700 hours to 2300 hours Sundays and Bank Holidays – Under consideration by the Local Planning Authority
- Ref: 12/01724/FUL - Extension to food store 1,030sqm including decked car park and access works. Granted conditionally subject to S106 agreement.
- Ref: 12/00515/FUL – Extension to food store (1,415sqm) including 2 storey car park and access works. Withdrawn. The application had been prepared for a recommendation to committee to refuse the application due to highway concerns, design concerns, amenity and safety.
- Ref: 00/00379/FUL - Single storey side extension to retail sales area to provide an additional 585 sq. metres of retail sales floor space. The scheme reduced the number of parking spaces by 31 and provided 50 additional jobs. Granted subject to conditions Oct 2001
- Appeal Ref: T/APP/NI 160/A/98/299599/P4 – Planning Inspector overturned Local Planning Authority decision to refuse 98/00780/FUL; granting conditional approval
- Ref: 98/00780/FUL - Variation of Cond.13 & 14 of Notice No.643/90 to now permit Sun. trading & Sun. deliveries, revised (shorter) delivery hours Mon-Sat, alterations to enclose & landscape service yard, additional landscaping. Approved Nov 1998 on Appeal T/APP/NI 160/A/98/299599/P4
- Ref: 96/00743/FUL - Vary Condition 13 and 14 of Notice No. 0643/90 to now permit Sunday trading and Sunday deliveries, revised (shorter) delivery hours Monday-Saturday; alterations to increase height of boundary walls an Refused Dec 1996
- Ref: 96/00742/FUL - Variation of Cond.13 and 14 of Notice No.643/90 to now permit Sun. trading and Sun. deliveries, revised (shorter) delivery hours Mon-Sat, alterations to enclose and landscape service yard, and off site Withdrawn Dec 1996
- Ref: 93/00143/FUL - Variation of condition 13 of Notice ref NO.643/90 to allow for Sunday trading Granted Jun 1993
- Ref: 91/01241/REM - New access and highway improvements in connection with the outline permission Ref.0643/90 (dated Apr 1991). Granted
- Ref: 91/01372/REM - Erection of superstore with associated parking and service areas (approval of reserved matters) GRANTED Jan 1992

- Appeal Ref: LI 120/A/90/156592 and 1172788 - Planning Inspector overturned LPA decision to refuse 90/00643/OUT; granting conditional approval
- Ref: 90/00643/OUT - outline application to develop industrial site by erection of a retail shop (47,050sqft) with car parking new access and highway improvements. Granted on Appeal LI 120/A/90/156592 and 1172788

## 5. Consultation responses

Local Highways Authority – No Objections

Police Architectural Liaison – No Objections

Public Protection Service – No Objections

## 6. Representations

1 letter of representation has been submitted to the Local Planning Authority objecting to the proposal for the following reasons:

- Morrison's to increase sales and profits by unfairly attracting trade from competitors
- No mention of adverse social effects on staff having to work unsocial hours
- Will it rely on genuine volunteers or work to involve compulsion and zero hours contracts?

Officers do not consider these to be valid planning considerations

## 7. Relevant Policy Framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan comprises of the Local Development Framework Core Strategy (Adopted April 2007).

The development plan is currently being reviewed as part of the Plymouth Plan. The Plymouth Plan-Part One was approved by the City Council in September 2015. The Plan, which incorporates draft development plan policy, has been prepared following a consultation process. As such it is a material consideration for the purposes of planning decisions.

The policies contained in National Planning Policy Framework (the Framework) and guidance in National Planning Practice Guidance (NPPG) are also material considerations which should be taken into account in the determination of planning applications. Due weight should be given to relevant policies in existing and emerging plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

The Framework provides that the weight to be given to an emerging draft plan is also to be determined according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given). The Plymouth Plan is at a relatively early stage of preparation.
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given).

At the heart of the Framework is a presumption in favour of sustainable development. In the context of planning applications, this means approving development proposals that accord with the development plan without delay but where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits; or
- Specific policies in the Framework indicate development should be restricted.

## 8. Analysis

This application has been considered in the context of the development plan, the draft Plymouth Plan, the Framework and other material policy documents as set out in Section 7.

1. This application turns upon policies CS22 (Pollution), CS28 (Local Highways Considerations) and CS34 (Planning Application Considerations) of the Local Development Framework Core Strategy; and Policy 30 (Safeguarding environmental quality, function and amenity) of the Emerging Plymouth Plan Part One.
2. The principle issues relating to this application are considered to be impact toward the residential amenity in terms of noise pollution, traffic and general disturbance.
3. This Morrison's supermarket is permitted to sell goods between the hours of 8.00am and 9.00pm Monday to Saturday, and between 10.00am and 4.00pm on Sundays, which are considered normal trading hours for a supermarket of this size. These hours were approved by the Planning Inspectorate following an appeal of planning application 98/00780/FUL which was refused by the Local Planning Authority.
4. It is noted that when compared to other supermarkets in the city, the hours it is permitted to trade are in more restricted. The Morrison's supermarket in Pomphlett Mill, Plymstock for example is permitted to trade 24 hours a day excluding Sunday and the Sainsbury's superstore at Marshmills can trade from 7am to 11pm (excluding Sunday), although it recognised that the Marshmills store is not as close to residences as others.
5. Officers are therefore of the opinion that local residents in close proximity to the application site are currently well protected from noise and disturbance on a normal basis due to the

hours that the Local Planning Authority has approved when compared to other locations in the city.

6. As noted in the section two of the report, the application does not seek to vary any other conditions on decision notice 98/00780/FUL; however conditions that were pre-commencement that are no longer required having been discharged to the satisfaction of the Local Planning Authority, have been omitted.
7. The case then, is to consider only whether the variation of condition 1, opening hours, for four days prior to Christmas 2015 will be detrimental to the amenity of the area. This application proposes that on Saturday 19th December 2015; Monday 21st December 2015; Tuesday 22nd December 2015 and Wednesday 23rd December 2015 only, the store will open two hours earlier in the morning, and close three hours later at night, equalling an additional five (5) hours of trading on these four days.
8. Paragraph 1.03 of the Planning Statement suggests that the Christmas period is the busiest time of year for Morrison's and in particular the final week in the lead up to Christmas day. The Statement suggests that when continuing to operate to the standard permissible hours it has in the past lead to a number of issues including:
  - a. Congestion on surrounding roads, at the access point into the store car park and around the store car park itself;
  - b. Lack of available car parking spaces;
  - c. Congested aisles within the store, long queues at the tills and increased pressure on Morrison's employees; and increased noise levels with a potential adverse impact on local residents.
9. The applicant also states that a temporary permission to allow extended opening hours over the four days prior to Christmas Eve would serve to spread the anticipated high demand from customers over a longer timeframe, thereby mitigating against the potentially adverse impacts which could arise over this period.
10. In officers view the extended hours could give rise to increased customer activity, and as such, increased vehicular movements; however as identified in the application documents, it is anticipated that this will be spread over a greater period, thus reducing congestion at peak times, and improving the general amenity of the area during these normally busy periods. The Public Protection Service has indicated that they do not have any concerns with the proposal from an environmental/noise aspect, and as such do not object. Furthermore, the Local Highways Authority has not identified any highways concerns and is not objecting to the proposal either. No issues have been raised by the Police Architectural Liaison officer over the temporary late night trading.
11. Only one letter of representation has been received thus far, and focuses on issues relating to employment and trading, not residential amenity, pollution or congestion. Officers are of the view that if the extended hours do in fact increase employment opportunities then that is a positive employment feature of the proposal in accordance with CS04 of the Core Strategy, benefiting local residents who are employed at the store.
12. The one letter of representation also suggests that approving the proposal will give the applicant an unfair advantage over its competitors; however this report has identified that

many other supermarket in the city already have longer trading hours than this particular store; however members should note that this not a planning consideration.

13. Officers recognise that this is a particularly busy time of year for all locations in and around a major supermarket therefore if a strategy that can reduce the pressure at peak times is presented, then the Local Planning Authority should look to support this. Due to the temporary nature of the proposal, and given the likely impact it will have on reducing congestion at peak times, officers consider that the extended temporary hours are acceptable, and will not have a significantly detrimental impact on residential amenity for the four days in the lead up to Christmas in accordance with policies CS22 and CS34. The proposed hours will also reduce the need for nearby residents to travel further distance at potentially unsociable hours to other stores with later trading hours.
14. The store hours will revert back to the normal hours of 8am to 9pm on the 24<sup>th</sup> December 2015, meaning this temporary permission will expire. Should the applicant seek to permanently extend the trading hours on Mondays and Saturday, then a new planning application will be required, and it will be considered on its own merits. Officers do not consider that this temporary consent will set an unhelpful precedent for future applications, and are of the view that this will be helpful in monitoring the impact if any permanent change is proposed in the future.

## **9. Human Rights**

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

## **10. Local Finance Considerations**

N/A

## **11. Planning Obligations**

N/A

## **12. Equalities and Diversities**

There are no equality or diversity issues to consider

## **13. Conclusions**

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the proposal accords with policy and national guidance and specifically the Local Development Framework Core Strategy and is therefore recommended for conditional

approval. The conditions attached include those relevant as imposed by the inspector following the appeal of application 98/00780/FUL.

### 13. Recommendation

In respect of the application dated **13/11/2015** and the submitted drawings Planning Statement Nov 2015, it is recommended to: **Grant Conditionally**

### 14. Conditions

#### CONDITION: OPENING HOURS

(1) The premises shall only be open for the sale of goods between the hours of 0800 and 2100 Mondays to Saturdays (inclusive), and 1000 and 1600 on Sundays; and for a four day temporary period the premises shall be permitted to open for the sale of goods between the hours of 0600 and 0000 on Saturday 19th December 2015; Monday 21st December 2015; Tuesday 22nd December 2015 and Wednesday 23rd December 2015 only.

#### Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects, including noise and disturbance likely to be caused by persons arriving at and leaving the premises, and avoid conflict with Policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraph 123 of the National Planning Policy Framework 2012 .

#### CONDITION: DELIVERY HOURS

(2) There shall be no deliveries made to the premises after 2000 hours or before 0800 hours Mondays to Saturdays (inclusive) and after 1600 hours or before 0900 hours on Sundays.

#### Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects, including noise and disturbance likely to be caused by delivery vehicles arriving at and leaving the premises, and avoid conflict with Policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraph 123 of the National Planning Policy Framework 2012 .

#### CONDITION: SERVICE YARD

(3) The service yard shown hatched blue on the drawing accompanying planning permission 98/1453, and also shown on drawing No 2697/10 Rev D, shall be kept clear at all times as a manoeuvring space for delivery vehicles, except for the area cross hatched blue, which shall only be used for the parking of delivery vehicles when being loaded and unloaded. The service yard shall not be used for any other purposes.



**Reason:**

To ensure that space is available at all times to enable such vehicles to be loaded and unloaded off the public highway so as to avoid:- (i) damage to amenity; (ii) prejudice to public safety and convenience, and (iii) interference with the free flow of traffic on the highway; in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraph 32 of the National Planning Policy Framework 2012.

**CONDITION: LOADING AND UNLOADING**

(4) There shall be no loading or unloading of delivery vehicles on any part of the premises, other than in the enclosure illustrated on Drawing No 2697/10 Rev D.

**Reason:**

To enable such vehicles to be loaded and unloaded off the public highway so as to avoid:- (i) damage to amenity; (ii) prejudice to public safety and convenience; and (iii) interference with the free flow of traffic on the highway; in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraph 32 of the National Planning Policy Framework 2012.

**CONDITION: ACOUSTIC CURTAIN**

(5) The acoustic curtain within the shutter door as illustrated on Drawing 2697/10, Rev D, and described in the letter from the Appellant's agent dated 8 February 1999, shall remain drawn at all times when the door is opened.

**Reason:**

To protect the residential and general amenity of the area from any harmfully polluting effects, including noise and disturbance likely to be caused by persons using the premises, and avoid conflict with Policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraph 123 of the National Planning Policy Framework 2012 .

**Informatives**

**INFORMATIVE: CONDITIONAL APPROVAL (NO NEGOTIATION)**

(1) In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

**INFORMATIVE: (NOT CIL LIABLE) DEVELOPMENT IS NOT LIABLE FOR A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION**

(2) The Local Planning Authority has assessed that this development, due to its size or nature, is exempt from any liability under the Community Infrastructure Levy Regulations 2010 (as amended).