

# PLANNING APPLICATION REPORT



**Application Number** 16/01914/S73

**Date Valid** 05/10/2016

**Item** 07

**Ward** Peverell

**Site Address** MORRISONS SUPERMARKET, 282 OUTLAND ROAD, PLYMOUTH

**Proposal**

Variation of condition 1 of notice 16/00368/FUL to allow extended opening for the sale of goods between 0600-2200 Mondays - Saturdays and 1000-1600 Sundays and 0600-0000 for 4 days prior to Christmas Eve (excluding Sundays)

**Applicant**

WM Morrison Supermarket PLC

**Application Type**

Removal or Variation of Condition

**Target Date**

**04/01/2017**

**Committee Date**

**Planning Committee: 24  
November 2016**

**Decision Category**

Major - more than 5 Letters of Representation received

**Case Officer**

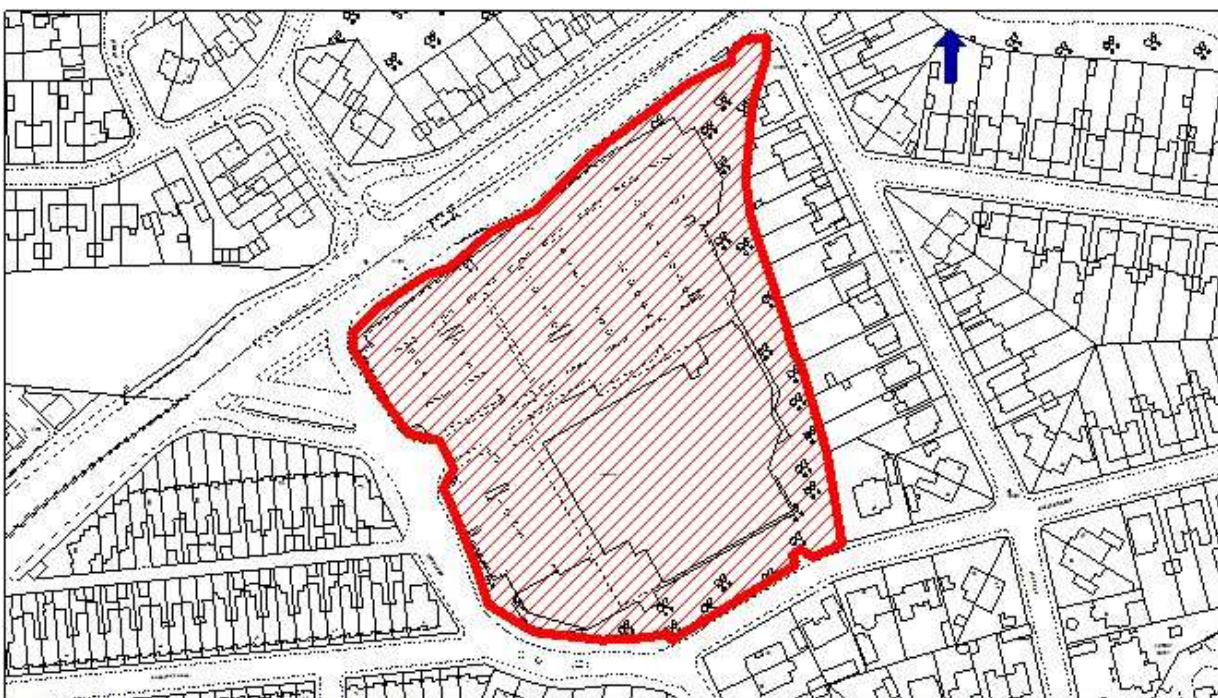
Christopher King

**Recommendation**

Grant Conditionally

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## **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 notice 16/00368/FUL to allow extended opening for the sale of goods between 0600-2200 Mondays - Saturdays and 1000-1600 Sundays and 0600-0000 for 4 days prior to Christmas Eve (excluding Sundays).

The current permitted opening hours are 07:00 to 22:00 hours Mondays to Saturdays and 10:00 to 16:00 hours on Sundays.

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

There has been no pre-application enquiry with regards to this planning application

## **4. Relevant planning history**

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

- Ref: 16/00368/FUL - Variation of condition 1 of decision notice 98/00780/FUL to allow extended opening for the sale of goods between 07:00 to 22:00 hours Mondays to Saturdays and between 10:00 to 16:00 hours on Sundays – Permitted.

- Ref: 15/02132/FUL - Variation of condition 1 of application 98/00780/FUL to allow temporary extended hours of 0600 to 2400 for 4 days prior to Christmas – Permitted.
- Ref: 15/01619/FUL - Variation of condition 2 of planning permission 98/00780/FUL to permit the delivery of goods between 07:00 hours and 21:30 hours Monday to Saturday; with no changes to Sunday hours – Permitted
- Ref: 15/01617/FUL - Variation of condition 6 of planning permission 12/01724/FUL to permit the delivery of goods between 0700 hours and 2130 hours Monday to Saturday; and No Change on Sundays and Bank Holidays – Withdrawn because planning permission 12/01724/FUL is not being implemented
- Ref: 12/01724/FUL - Extension to food store 1,030sqm including decked car park and access works - Grated conditionally subject to S106 agreement
- Ref: 12/00515/FUL – Extension to food store (1,415sqm) including 2 storey car park and access works - Withdrawn.
  - NB: The application had been prepared for a recommendation to committee to refuse the application due to highway concerns, design concerns, amenity and safety.
- Appeal Ref: T/APP/N1160/A/98/299599/P4 – Planning Inspector overturned LPA decision to refuse 98/00780/FUL; granting conditional approval to allow Sunday trading and delivery's on Sundays.
- 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/N1160/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
- Appeal Ref: L1120/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 L1120/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

The Local Planning Authority has received 7 letters of representation objecting to the proposed development. Below is a summary of the comments that have been made by those objecting to the proposal:-

- Loss of residential amenity with an increase in noise at unsuitable hours in a residential area
- Morrisons continue to push the boundaries and they have ongoing noncompliance with existing delivery conditions which is an issue and is to the detriment of residents
- Extra traffic generation and noise is disturbing to residents and longer hours will inevitably lead to attracting more custom, much of it arriving by motorised transport and increasing pressure upon an already heavily trafficked location.
- Delivery hours are already heavily restricted and earlier deliveries were rejected by the council for amenity issues.
- Much of the noise does not occur exclusively when vehicle unloading is taking place and the extended hours will exacerbate this
- Store is unusual as it trades in the middle of an established residential area and this application could upset the balance in the area and residents have a legal right to quiet enjoyment of their homes
- There is already an issue with rubbish in the evenings
- Temporary extended Christmas hours maybe acceptable

## 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.

*Additionally, the following planning documents are also material considerations in the determination of the application:*

- *Sustainable Design Supplementary Planning Document*
- *Development Guidelines Supplementary Planning Document*

## **8. Analysis**

1. 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.
2. This application turn upon polices CS22 (Pollution) and CS34 (Planning Application Considerations) of the Local Development Framework Core Strategy; Policy 30 (Safeguarding environmental quality, function and amenity) of the Emerging Plymouth Plan Part One and paragraphs 17 and 123 of the NPPF.
3. There are two elements to this application, those being the additional trading hour between 6am and 7am Mondays to Saturdays, and the extended hours (6am to midnight) on the 4 days prior to Christmas on a permanent basis.
4. In considering the proposal, the main consideration is the impact of the extended opening hours towards neighbouring residential amenity through the possibility of increased noise and traffic disturbance.
5. The application site is an existing supermarket and is bordered by residential dwellings with the closest being located on Tor Road, Glentor Road and Tor Lane. The site's vehicle access

is from Torr Lane, with the majority of parking located in the northern half of the site. The principle access to the supermarket for customers is through the northwest elevation, which is angled away from the majority of surrounding dwellings towards Outland Road itself.

6. As noted in the accompanying Planning Statement, the application to vary the opening hours has been submitted to overcome the following issues that the store has identified as a result of its current trading arrangements:-
  - Congestion on surrounding roads, at the access point into the store car park and around the store car park itself;
  - Lack of available car parking spaces;
  - Congested aisles within the store, long queues at the tills and increased pressure on Morrisons employees;
  - Increased noise levels with a potential adverse impact on local residents.
7. The Local Highways Authority has not raised an objection, and made no comments relating to increased traffic movements or congestion. Officers consider that the extended hours will not give rise increased traffic levels, and therefore will not harm amenity or prejudice existing highways conditions.
8. The Public Protection Service (PPS) has been consulted, and do not object to the proposal, stating that there is no concern over the proposed extended hours. The PPS and the Food Safety Team have only ever received complaints relating to deliveries and have no records of complaints being received that relate to the store's opening hours.
9. Furthermore, no complaints were received during or after the temporary extended Christmas opening hours that were approved by the planning committee in December 2015. The Local Planning Authority (LPA) therefore does not have any substantive evidence, nor has it been provided with any evidence to suggest that the extended opening hours will result in a demonstrable loss of residential amenity during the extended trading periods.
10. As highlighted in the letters of objection the Council has in the past received complaints relating to noise and disturbance as a result of deliveries rather than visitors/customers. Officers can advise members that the LPA is continuing to monitor this situation, and is proactively working with the applicant to resolve these issues to protect local residents.
11. Whilst every application is considered on its own merits, officers have reviewed opening hours of other large supermarkets within proximity of residential areas in Plymouth, and consider that the proposal at this store is consistent with what the LPA has permitted elsewhere.
12. Officers consider that the extended hours would not cause an increased or demonstrable loss of residential amenity, and is unlikely to result in a situation that conflicts with Policy CS22 (1) and Policy CS34 (6) of the Core Strategy, and Policy 30 of the Emerging Plymouth Plan Part One. Furthermore, officers are of the view that the proposal accords with paragraphs 17 and 123 of the NPPF, and will not result in demonstrable loss of amenity or disturbance through noise for existing or future occupiers adjacent to the site.

## 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 the Plymouth Plan Part One and is therefore recommended for approval.

#### 14. Recommendation

In respect of the application dated **05/10/2016** and the submitted drawings PL-101 Site Location Plan; Planning Statement, it is recommended to: **Grant Conditionally**

#### 15. Conditions

##### CONDITION: OPENING HOURS

(1) The premises shall only be open for the sale of goods between the hours of 0600 and 2200 Mondays to Saturdays (inclusive), 1000 to 1600 on Sundays and 0600 to 0000 for the 4 days prior to Christmas Eve (excluding 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 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 2130 hours or before 0700 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 of planning permission 98/00780/FUL, 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 of planning permission 98/00780/FUL.

#### 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 of planning permission 98/00780/FUL, and described in the letter from the Appellant's agent dated 8 February 1999 (submitted as part of planning permission 98/00780/FUL), 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).