

APPLICATION NO	PA/2015/0513
APPLICANT	Mr Jenopan Kaudappillai, Best One Convenience Store, Ferry Road
DEVELOPMENT	Planning permission to remove condition 4 of planning permission PA/2014/0629 for limiting opening hours
LOCATION	Best One Convenience Store, 15 Ferry Road, Scunthorpe
PARISH	SCUNTHORPE
WARD	Crosby and Park
CASE OFFICER	Andrew Law
SUMMARY RECOMMENDATION	Grant permission subject to conditions
REASONS FOR REFERENCE TO COMMITTEE	Member 'call in' (Councillor O'Sullivan – concerns over residential amenity)

POLICIES

National Planning Policy Framework: Paragraph 206 – planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

North Lincolnshire Local Plan: Policy DS1 (General Requirements)

CONSULTATIONS

Highways: No objection.

Environmental Health: This condition was originally added to protect residents from noise disturbance. Subsequently, additional information has been received in relation to the use and layout of the development. The hours of use of the café area are controlled under licensing and as such Environmental Health do not object to the removal of the condition.

PUBLICITY

Neighbouring properties have been notified by letter. No comments or objections have been received.

ASSESSMENT

The application site is an existing convenience store located on and accessed from Ferry Road, Scunthorpe. The site is located within the development boundary for Scunthorpe, outside of any defined town or district shopping centre. The surrounding area is predominantly residential in nature and the site is surrounded by domestic properties on all sides.

The site has consent (PA/2014/0629) for the erection of a large, single-storey side extension to provide additional retail space and a sandwich bar subject to conditions, including a condition restricting opening hours. This application seeks planning permission to remove condition 4, relating to opening hours, of this previous consent.

Condition 4 states that the retail unit shall not be open to customers before 7am nor after 11pm. The reason given for this condition was to protect residential amenity in accordance with policy DS1 of the North Lincolnshire Local Plan.

The main issues in the determination of this application are whether the condition is reasonable and whether it is required to protect the amenity of neighbouring residential properties.

Condition 4 was recommended by the council's Environmental Health department with the intention of protecting the amenity of neighbouring residential properties as a result of noise and disturbance at unsocial hours. However the main retail unit does not have any planning restriction on its hours of operation. The consented development does not constitute a separate planning unit, it is an extension to an existing premises. Therefore it is unreasonable to limit the hours of opening of the extension when the main premises is not restricted. Furthermore, the condition does not prevent noise and disturbance from the premises, as the main shop unit can operate without any planning restriction on hours.

The council's Environmental Health department has been consulted on this application and has confirmed that they have no objection to the removal of condition 4 should the extension be used as additional retail area as consented. This is because there are no planning conditions restricting the opening hours of the existing shop and as such it would be unreasonable to restrict the opening of an ancillary extension.

However Environmental Health have confirmed that a licensing application was received and approved for the extension which appears to show the area being used as a café. Environmental Health have confirmed that should the extension be used as a café then the hours of operation would be controlled by the premises licence and as such no planning condition would be required to restrict hours of operation. However it should be noted that there is no planning consent for any part of the site to be used as a café and, should the applicant intend to use this area as a café, planning permission would be required for this use in its own right.

In conclusion, it is considered that condition 4 is neither reasonable nor necessary and as such does not pass the six tests set out in paragraph 206 of the National Planning Policy Framework. Therefore it is recommended that condition 4 should be removed.

RECOMMENDATION Grant permission subject to the following conditions:

1.

The development must be begun before the expiration of three years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990.

2.

The development hereby permitted shall be carried out in accordance with the following approved plans: JK/13/01, JK/13/02, JK/13/02a, JK/13/03 and JK/13/04.

Reason

For the avoidance of doubt and in the interests of proper planning.

3.

At no time shall the retail unit be subdivided without the prior consent of the local planning authority.

Reason

To prevent the establishment of a new retail unit outside of a defined town or district shopping centre in accordance with policy S8 of the North Lincolnshire Local Plan.

4.

Details of any externally-mounted air-conditioning units shall be submitted to and approved in writing by the local planning authority prior to their installation. The submitted information shall include details of the noise output of any proposed equipment and the details of any noise mitigation measures necessary. Only the approved air-conditioning units shall be installed and these units shall be removed when no longer required.

Reason

To protect the amenity of neighbouring residents in accordance with policy DS1 of the North Lincolnshire Local Plan.

Informative

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraphs 186 and 187 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.



Title: PA/2015/0513

Drawn by: Sue Barden

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