

APPLICATION NO	PA/2017/884
APPLICANT	Mr Gary Rafferty, Lidl (UK) GmbH
DEVELOPMENT	Planning permission to vary condition 7 of PA/2000/0552 to 'No deliveries shall be made to the retail unit before 7am nor after 9pm Monday to Saturday, and not before 8am nor after 6pm on Sundays or public/bank holidays.'
LOCATION	Lidl Supermarket, High Street, Barton upon Humber, DN18 5PU
PARISH	Barton upon Humber
WARD	Barton
CASE OFFICER	Andrew Willerton
SUMMARY RECOMMENDATION	Grant variation of the condition
REASONS FOR REFERENCE TO COMMITTEE	Objection by Barton upon Humber Town Council Member 'call in' (Cllr Paul Vickers – significant public interest)

POLICIES

National Planning Policy Framework: Paragraph 14 states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision taking. For decision taking this means approving proposals that accord with the development plan without delay or, where the development plan is absent, silent or out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as whole or where specific policies in the Framework indicate development should be restricted.

Paragraph 19 states that significant weight should be placed on the need to support economic growth through the planning system.

Paragraph 23 states that the vitality and viability of competitive town centres should be promoted.

Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being adversely affected by unacceptable levels of noise pollution.

Paragraph 196 states that planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise and that the National Planning Policy Framework forms a material consideration.

Paragraph 197 states that in assessing and determining development proposals local planning authorities should apply the presumption in favour of sustainable development.

North Lincolnshire Local Plan:

HE2 (Development in Conservation Areas)

(DS1 (General Requirements)

North Lincolnshire Core Strategy:

CS1 (Spatial Strategy for North Lincolnshire)

CS2 (Delivering More Sustainable Development)

CS5 (Delivering Quality Design in North Lincolnshire)

CS6 (Historic Environment)

CS3 (Development Limits)

CS14 (Retail Development)

Housing and Employment Land Allocations Development Plan Document:

Inset Map for Barton upon Humber

TC-1 (Development in North Lincolnshire's Town Centres and District Centres)

CONSULTATIONS

Highways: No objection or comments to make.

Drainage: No comments received.

Environmental Health: No objection, but recommends a condition to secure service yard management plans. Notes that the site is within a conservation area thus properties have single-glazed windows and that the site has historically breached a delivery hours condition.

Conservation Officer: No comments received.

TOWN COUNCIL

Barton upon Humber Town Council objects to the application as it considers the condition should remain as it is as it was made in respect of the adjacent residential area the store is located within.

PUBLICITY

The application has been advertised by site notice and within the local press. One letter of objection has been received which questions what has changed since the previously refused variation of condition application and considers that people are entitled to peace before 7am and on bank holidays.

ASSESSMENT

The application site is Lidl Supermarket, High Street, Barton upon Humber and is within the conservation area. The site is also within the development limit and town centre area for Barton upon Humber, as defined by the Housing and Employment Land Allocations Development Plan Document (HELA DPD). Planning permission is sought to vary condition 7 of PA/2000/0552 to allow deliveries on Sundays and Bank Holidays between the hours of 8am and 6pm.

Condition 7 of PA/2000/0552 restricts the delivery hours of the approved retail store to between 7am and 9pm Monday to Saturday with no deliveries on Sundays or Bank Holidays. The condition was imposed to protect the amenities of local residents.

The application for consideration today is a re-submission of PA/2016/799. This was refused in August 2016 for the following reason:

“The applicant has failed to demonstrate in the submitted noise assessment and proposed mitigation measures that there would be no loss of amenity to the occupants of nearby residential property through noise and general disturbance from delivery vehicles. The proposal is therefore contrary to policy DS1 of the North Lincolnshire Local Plan.”

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance the development plan consists of the North Lincolnshire Local Plan (NLLP) which was adopted in May 2003 and the North Lincolnshire Core Strategy (NLCS) which was adopted in June 2011. Material considerations exist in the form of national planning policy and guidance contained within the National Planning Policy Framework (NPPF) and the suite of documents comprising National Planning Practice Guidance (PPG).

The main issue for consideration with regard to this application is whether the additional delivery hours would be to the detriment of residential amenity.

With regard to the 2016 application, the Environmental Health Team deemed the supporting noise impact assessment inadequate and did not satisfactorily demonstrate that there would be no harm to the amenities of nearby sensitive residential receptors in relation to additional delivery hours.

The applicant has worked with the Environmental Health Team to address the deficiencies of the noise impact assessment. The Environmental Health Team has reviewed the Noise Impact Assessment produced by Environmental Noise Solutions dated May 2017 and concludes that the assessment demonstrates that the inclusion of daytime delivery on a Sunday will not result in a loss of amenity to nearby residents. It is noted that the submitted Noise Impact Assessment and response from the Environmental Health Team refer to a service yard management plan which has not been supplied. The service yard management plan would require delivery vehicle engines and refrigeration units to be switched off whilst goods delivery takes place. It is considered that the requirement to switch off delivery vehicle engines and refrigeration units could be conditioned and it is recommended that such a condition be included in addition to the variation of condition 7.

It is noted that the site is within the conservation area and thus a number of residential properties feature single-glazed wooden windows which provide less of an acoustic barrier

than double-glazed windows. However, technical data within the Noise Impact Assessment demonstrates that there would be no significant adverse effect as a result of daytime delivery operations on Sundays and Bank Holidays provided that delivery vehicle engines and refrigeration units are switched off during a goods delivery.

It is acknowledged that the store has previously not complied with condition 7 having made deliveries outside of the permitted hours. However, this issue does not form a material consideration and the application must be determined on its own merits based upon the supporting technical information.

Barton upon Humber Town Council has objected to the proposal and considers that the condition should not be altered given it was imposed to protect residential amenity. However, given the findings of the Noise Impact Assessment and the comments by the Environmental Health Team, it is considered unreasonable to refuse the application as evidence suggests that no significant effect upon residential amenity would occur as a result of daytime delivery hours on Sundays or Bank Holidays.

RECOMMENDATION Grant permission subject to the following conditions:

1.

The development hereby permitted shall be begun before the date of five years from the date of this permission.

Reason

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

2.

No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be carried out in its entirety in accordance with the approved details before the building is occupied.

Reason

To enhance the appearance of the development and to protect the amenity of nearby properties.

3.

No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, including a timetable for the investigation, which has been submitted by the applicant and approved in writing by the local planning authority.

Reason

In recognition of the archaeological importance of the site.

4.

No development shall take place until details have been submitted to and approved in writing by the local planning authority of the make, type and colour of all external facing materials for the development and only the approved materials shall be used.

Reason

To enable the local planning authority to ensure that the building is in keeping with its surroundings, in the interests of visual amenity.

5.

The roof shall be covered in natural clay pantiles.

Reason

To enable the local planning authority to ensure that the building is in keeping with its surroundings, in the interests of visual amenity.

6.

No refrigerator lorries shall park overnight within the curtilage of the retail unit.

Reason

To protect the amenities of adjoining residents.

7.

No deliveries shall be made to the retail unit before 7am nor after 9pm Monday to Saturday inclusive, and not before 8am nor after 6pm on Sundays or public/bank holidays.

Reason

To protect the amenities of adjoining residents.

8.

The supermarket shall not open for trading until:

- (i) the vehicular access from Fleetgate is constructed and completed;
- (ii) the car park, turning, loading and unloading areas have been completed;
- (iii) the pedestrian accesses from High Street and Holydyke have been constructed and completed and shall thereafter retained

Reason

In the interests of highway safety and to ensure adequate parking and access provision is available before the store opens and which will be retained.

9.

The engines and refrigeration units of delivery vehicles shall be switched off whilst stationary for the duration of goods delivery at the store.

Reason

To protect the amenities of adjoining residents.

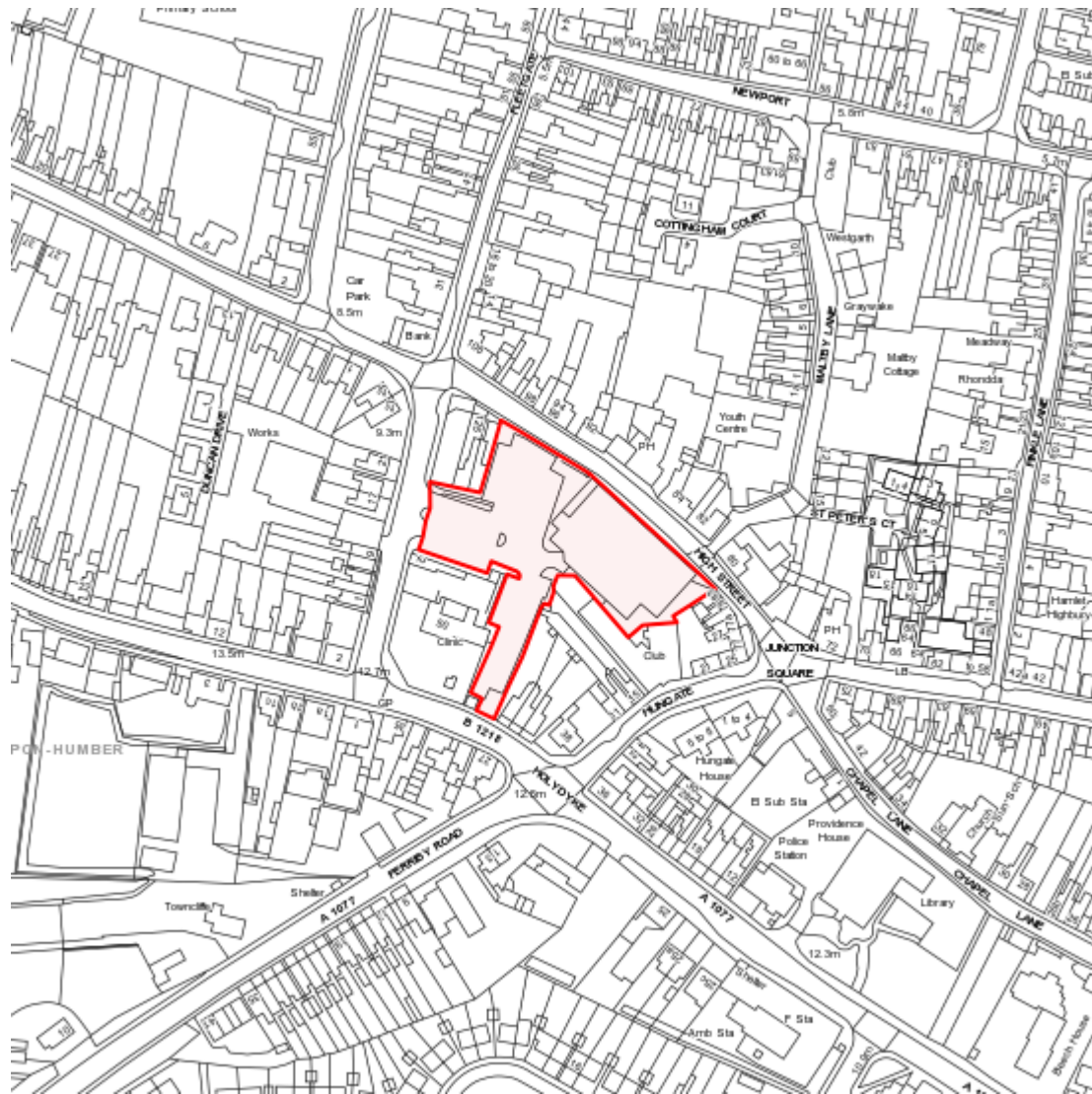
Informative 1

All conditions, except for conditions 7 and 9, have been repeated from the original decision notice under PA/2000/0552 for the purposes of continuity. Any conditions that have been discharged under PA/2000/0552 are considered to be discharged under this permission also.

Informative 2

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.

PA/2017/884 – Site Location



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