

REF: DB/MR/R00388

Planning Department
Ground Floor
Town Hall Extension
Mount Street Entrance
Albert Square
Manchester
M2 5DB

9th March 2021

Dear Sir / Madam,

**SECTION 73 APPLICATION TO VARY CONDITION 17 (OPENING HOURS) ATTACHED TO
PLANNING PERMISSION REF. 083957/FO/2007/N1
RETAIL UNIT, 6 OLDHAM ROAD, MANCHESTER, M45DB**

I write on behalf of the applicant, Tesco Stores, to submit a Section 73 application to vary condition 17 (Opening Hours) of planning permission ref. 083957/FO/2007/N1.

Background to Application

The application site is an existing vacant office unit located to the ground floor of a 6-storey building, accommodating residential uses above.

The site is located in the Ancoats Conservation Area but is not listed. There are various listed buildings in the neighbouring area, including Victoria Square, Crown and Kettle Public House and the Daily Express Building. The predominant land use in the surrounding area is comprised largely of professional and commercial business outlets, including a solicitor's, tanning salon and interior design studio located further south of Oldham Road, as well as the residential apartments that sit above these premises. The site is understood to have been most recently occupied as office space.

The vacant unit, with a lawful planning use of Use Class E (retail), is intended to be occupied in part by a Tesco Express (Tesco). In order to facilitate Tesco's occupation this application proposes to widen the permitted opening hours of the unit, which are currently restricted via condition 17 of LPA ref. 083957/FO/2007/N1. This is detailed further below.

Planning History

A search of the Council's online planning records has been undertaken and the following is of relevance to this application.

LPA reference: 01/P/00881 – Outline planning permission was granted on 30th October 2001 for *“redevelopment to provide 525 dwellings, employment, nursing home, community facilities, retail, health and fitness centre, open space and associated roads”*. This permission acts as the host outline consent

for the site.

LPA reference: 066438/FO/NORTH1/02 – Planning permission was granted on 9th April 2003 for “Five storey building comprising office use at ground, first, second and third floors and residential use (8 apartments) at fourth floor level. Ancillary car parking at ground and first floor level”.

LPA reference: 073431/FO/2004/N1 – Planning permission was granted 20th April 2005 for “Erection of 6 storey building comprising office /retail units at ground floor level (A1, A2 or B1), 3972 sq. metres office space at first floor level, and 56 no apartments at 2nd to 5th floor levels. Creation of 28 car parking spaces at ground floor level”.

LPA reference: 082288/FO/2007/N1 – Planning application for “Erection of two seven storey linked detached buildings comprising fifty-six apartments, office and retail units at ground floor (A1 or A2 uses) (382 metre squared) office units at mezzanine and first floors (B1 use) (1662 metre squared) with associated car parking at ground floor level” was withdrawn on 23rd May 2007.

LPA reference: 083957/FO/2007/N1 – Planning permission was granted on 12th September 2007 for “Elevational alterations to previously approved building (073431/FO/2004/N1) in conjunction with creation of 56 apartments, 7 offices and ancillary car parking, within a maximum 7 storey building (retrospective application)”.

This permission acts as the host reserved matters application for the site. Condition 17 attached to this permission stated:

“The commercial units hereby approved at ground, mezzanine and first floors shall not be open outside the following hours, unless otherwise agreed in writing by the City Council as local planning authority:

0830-1800 Monday to Friday.

Deliveries, servicing and collections associated with the commercial units shall not take place outside the following hours, unless otherwise agreed in writing by the City Council as local planning authority:

0730-2000 Monday to Saturday

1000-1800 Sundays and bank holidays.”

This is the condition which this application seeks to vary. The application seeks to vary the opening hours, not the servicing hours.

LPA reference: 098142/FU/2011/N1 – Planning permission was granted on 1st March 2012 for “Provision of additional use class D1 (to a maximum floorspace of 350 sq. m) within Express Networks buildings 1, 2 or 3”.

LPA reference: 097959/FO/2011/N1 – Planning permission was granted on 25th January 2012 for “Installation of 6 no. new air louvres to northeast elevation of building”.

LPA reference: 107111/FU/2014/N1 – Planning permission was granted on 5th November 2015 for *“change of use of mezzanine from vacant B1 office to D1 place of worship and associated offices”*.

LPA reference: 118351/FO/2017 – Planning permission was granted on 13th September 2018 for *“Proposed change of use of existing commercial within part of the ground floor and mezzanine level above to create 12 no. self-contained apartments (Class C3a) with associated elevational alterations”*.

LPA reference: 128696/FO/2020 – Planning permission was granted on 9th April 2021 for *“Elevational alterations to form new shop front”*.

Application Proposals

As noted above, condition 17 of planning permission ref. 083957/FO/2007/N1 restricts the hours of operation of the Use Class E unit.

To facilitate Tesco’s occupation of the unit and enable them to operate, this application proposes to vary condition 17 to extend the store opening hours in the morning by two and a half hours, and in the evening by five hours, whilst also extending these hours to apply seven days a week.

To summarise, we propose that alternative wording for condition 17 be imposed as follows:

““The commercial units hereby approved at ground, mezzanine and first floors shall not be open outside the following hours, unless otherwise agreed in writing by the City Council as local planning authority:

0600-2300 Monday to Sunday.

Deliveries, servicing and collections associated with the commercial units shall not take place outside the following hours, unless otherwise agreed in writing by the City Council as local planning authority:

0730-2000 Monday to Saturday

1000-1800 Sundays and bank holidays.”

A justification for this variation is set out below.

Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, the development plan comprises Manchester’s Core Strategy 2012 - 2027 (Adopted 2012).

It should be noted that Paragraph 81 of the National Planning Policy Framework, which is a material consideration, states that *‘planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth.’*

Justification for the Proposed Variation

This Section 73 application seeks to amend condition 17 to allow for extended opening hours between 06:00 and 23:00 Monday to Sunday. The amended opening hours reflect the requirements of the proposed operator and the greater demand for round the clock availability of grocery goods. Across the entire Tesco Express portfolio, the preference is to trade from 06.00 to 11.00 hours Monday to Sunday in order to meet customer expectations and demand. It should be noted that condition 17 also restricts servicing hours to 07:30 and 20:00 Monday to Saturday and to 10:00 and 18:00 on Sundays and bank holidays. These hours are not proposed to be varied.

Increasing the permitted opening hours will significantly improve the customer experience and the overall operation of the existing convenience store. It will assist more generally in supporting the viability of the store, as well as providing local residents with easy access to grocery goods throughout the day in an area which is otherwise lacking in provision. Further to this point, the extended opening hours will facilitate the occupation of an otherwise vacant unit. This not only improves the provision of grocery goods, but also improves the overall vitality of the area. It should additionally be noted that extending store hours also enables customer demand to be spread throughout the day, especially in the early hours, thereby smoothing out any spikes in trading.

The site is located along a very busy A road (the A62) within the city centre, where there is significant transport activity during the early hours of the morning and late at night. The site is a short walk from numerous bus stops along Oldham Road, with the nearest (New Cross Bus Stop, Stop EF) located a mere 95m away from the site. Buses frequently travel along Oldham Road as early as 4am, with buses passing the site multiple times every hour. Overall, a high frequency of transport along Oldham Road in the early hours of the morning, generating significant noise, would suggest that the proposed opening hours are acceptable given the high rate of activity within the area. On this basis it is argued that local residential properties, including those above the ground floor retail unit, will not be adversely affected by extended opening hours.

Notwithstanding the fact that there is high transport activity within the area, consideration should be given to the fact that the unit is located in close proximity to numerous premises with late opening hours. These include The Crown & Kettle pub (open from 12pm to 11pm) located 46m from the site, Mecanica bar (open from 3pm to 12am) located 109m from the site, and the Frog and Bucket Comedy Club (open from 7pm to 10:30pm) located 96m from the site. Significant commercial activity is conducted within close proximity to the site until midnight and, on this basis, it is argued that local residential properties will not be adversely affected by extended opening hours.

Lastly, as noted above, the restricted servicing hours are not proposed to be varied. Servicing will therefore take place within these hours (07:30 and 20:00 Monday to Saturday and to 10:00 and 18:00 on Sundays and bank holidays) and thus there will be no additional noise or disturbance from servicing vehicles in the early or late hours.

Conclusion

Ultimately, the amended opening hours are required to enable the operation of the unit as a convenience store in line with the operational requirements and standards of the intended retailer. The extended hours will allow the occupation of an otherwise vacant unit, improving the viability of the local area. The retail unit is located along a busy A road with significant transport activity present in the area from as early as 4am. Many pubs and bars within close proximity to the site are open until nearing midnight, and thus it is not considered that the extended hours will cause any adverse harm to the local area or the amenity of local residents.

On the basis of the above, we respectfully request that planning permission be granted for this Section 73 application to vary Condition 17 (Opening Hours) attached to planning permission ref. 083957/FO/2007/N1.

Scope of Application Submission

The following supporting documents have been submitted via the planning portal in support of this application:

- This covering letter produced by ROK Planning;
- The relevant planning application fee of £234.00;
- The completed application forms and Certificates;
- Site Location Plan (1:1250); and
- Copy of original Decision Notice (ref. 083957/FO/2007/N1).

I trust that you have all the information you require to validate this application. If, in the interim, you have any queries please do not hesitate to contact either Matthew Roe (matthew.roe@rokplanning.co.uk) or myself at this office. I look forward to your formal acknowledgement of the application.

Yours faithfully,



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