Rep 3a/3

Development Control – Delegated Officer Report

Application Number: ADC/0043/09 **Recommendation - Temporary permission**

Site: **Marks & Spencer, Holmbush Centre, Upper Shoreham Road, Shoreham-by-Sea BN43 6TD**

Proposal: **Variation of trading hours approved under condition 8 of SU/4/91 to extend hours to 8am-10pm with 24 hour trading on 30 days per calendar year (not including Sundays) (renewal of (ADC/0724/07)**

The Application

The application is to renew the previous temporary permission granted on 17 January 2008 (until 31 January 2009) for extended opening until 10pm and also for 24 hour trading for up to 30 days per calendar year (ADC/0724/07 which itself was a renewal of the original application ADC/0044/06).

Condition 8 of the original permission SU/4/91 for the Holmbush Centre required trading hours to be approved. The hours approved at that time for both superstores were 8am-9pm Mon-Sat with Sunday trading controlled through separate legislation. Tesco subsequently gained approval for 24 hour opening in 2000 (following a one year trial period agreed in 1999).

M & S have opened beyond 9pm in the pre-Christmas period for several years and, after they had been reminded of the need to obtain approval, they made the application ADC/0044/06. This original application in 2006 was accompanied by a Noise Assessment report from Sharps Redmore Partnership.

Consultations and Representations

Environmental Health Officer: No adverse comments, having received no complaints and not disagreeing with the noise consultant's conclusions in the above Report.

Third Parties: A letter from the resident of No.15 Holmbush Close states that he does not agree with more opening hours and questions why the applicants need to open longer in the present economic gloom and why residents should suffer by putting up with all the noise. The hours should be shorter.

Relevant Planning Policies and Guidance

Adopted West Sussex Structure Plan 2001-16 (WSCC 2005) (saved policies): LOC1, NE10, DEV1
Adur District Local Plan 1993-2006 (ADC 1996) (saved policies): AG1, AS3
PPS1 "Delivering Sustainable Development" (ODPM 2005)

PPS6 "Planning for Town Centres" (ODPM 2005)
PPG24 "Planning and Noise" (DoE 1994)

Planning Assessment

In granting permission for 24 hour opening at the Tesco store, it was concluded, following the one year trial period, that it was acceptable given that neither the store, car park or access road adjoined any residential properties. There are clear advantages in extending trading hours as it not only increases customer convenience but more importantly enables a wider spread of vehicular traffic flow, helping to avoid concentrations within shorter time periods, and thus is in the interests of sustainability.

The M&S store differs in that the building is closer to dwellings and its car park is situated to the rear of dwellings in Hawkins Crescent and Holmbush Close, albeit on a lower level and now partially screened by trees and shrubs planted on the bank.

Owing to concern about potential noise disturbance at later hours, in 2006, at the time of the original application for these extended hours, the applicants commissioned a Noise Assessment from SRP. This stated that they had undertaken hundreds of such assessments of retail premises over the last 13 years demonstrating that the main source of noise is customer vehicle activity within car parks including manoeuvring into spaces, movements along access roads, closing car boots/doors and trolley movements. These surveys have shown that noise levels range from 43dB-48dB (LAeq 1hour) at 10m from car park boundaries with peaks arising from door/boot slams of 66dB (LAmax).

The closest properties in the present case are the bungalows at No's 1, 2 & 3 Holmbush Close which are separated from the site by a 3.5m high retaining wall with 1.8m close-boarded fence above. The car park boundary is 14m from the façade of No.3 which distance would reduce the predicted car park noise by 3dB with the screening giving a further reduction of 15dB. Deducting this from the typical maximum of 48dB gives a predicted level of 33dB LAeq 1hour, with a predicted peak level of 51dB LAmax. It is pointed out that noise further away from the car park boundary would not be so effectively screened by the wall/fence but, due to the distance, it would nevertheless be similar to the above figures. These figures are stated to comply with World Health Organisation guidelines for daytime and night time noise.

A noise survey was carried out at the site on 17 and 18 January 2006 and this provided a further indication that the predicted noise levels from car parking activity are unlikely to result in disturbance to the occupants of the nearest dwellings as both existing ambient and peak noise climates (dominated by road traffic noise from the A27T by-pass) are generally well above the predicted noise levels. The Council's EHO does not dispute this.

The consultants concluded that their findings show that the M&S store could trade without any restrictions on opening hours.

Nevertheless, it is considered with the proposed 24 hour opening that there is a risk of noise disturbance to residents when they would reasonably expect to be able to sleep undisturbed and when background noise is at its very lowest. Much depends upon the level of usage of the car park which it is difficult to gauge. It appears that M&S have still not taken full advantage of the previous permission granted in 2006 (renewed in 2008) and that they have still only opened to a limited extent beyond 9pm (till 11pm for the 2 weeks before Christmas) and not at all for 24 hours. Whilst it is improbable that the car park would be heavily used after 9pm, there is insufficient evidence from the previous trial period to be able to come to a conclusion. Given the risk that it might be and given that one of the exit roadways runs quite close to the site boundary with the dwellings, a further temporary trial period is considered essential.

Recommendation

APPROVE for reason that:-

Extended opening hours would be likely to help avoid concentrations of traffic as well as giving greater flexibility for customers but, because of the potential risk to the amenities of residents in the area through noise and disturbance at unsocial hours, it is necessary only to grant a further temporary permission in order to provide a sufficient trial period, retaining planning control and avoid conflict with the relevant policies of the Adur District Local Plan (AG1) and West Sussex Structure Plan (NE10, DEV1).

Subject to:-

1. C1Diii (Temporary approval expiring 31 January 2011) (amended)
   Reason: (as ADC/0724/07)

Case Officer:.....Kirk Morgan..... Date:...../2/09.....

Chairman of DC Committee:...Cllr. A. J. Mills..... Date:...24/02/09...