exp 24/1

Development Control – Delegated Officer Report

Application Number: ADC/0724/07 **Recommendation – Temporary permission**

Site: **Marks and Spencer Plc, Holmbush Centre Upper Shoreham Road, Shoreham-by-Sea**

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/0044/06)**

The Application

The application is to renew the previous temporary permission granted on 26 May 2006 (until 30 June 2007) for extended opening until 10pm and also for 24 hour trading for up to 30 days per calendar year (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 above application ADC/0044/06.

The previous application 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: 2 letters have been received from the residents of No.'s 3 and 15 Holmbush Close (NB. 22 neighbour notification letters were sent).
The resident of No.3 asks for M&S to continue to turn off the illuminated signs when the store is closed during the hours of darkness and to continue to discourage boy racers at times when the car park is empty or quarter full.

The resident of No.15 objects stating that there would be yet more noise disturbing their sleep which he cannot see why they should put up with. M&S and Tesco think they can ride roughshod over everyone; it would help if they paid £500 to the surrounding households to endure the noise. Actual noise level tests should be undertaken now.

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 (NB. only 4 letters of objection were received at the end of the trial period). There are clear advantages in extending trading hours as it increases customer convenience and helps to spread the vehicular traffic flow, avoiding peak concentrations, 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 previous application, 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 conclude 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 lowest. Much depends upon the level of usage of the car park which it is difficult to gauge. It appears that M&S have not taken full advantage of the previous permission granted in 2006 and that they have only opened to a limited extent beyond 9pm and possibly not at all for 24 hours (NB. the store claim to have opened 24 hours in the period pre-Christmas 2006 but a local resident disagrees). 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 2009) (amended)
   Reason: (as ADC/0044/06 but delete AP7)

Case Officer:..... Date:....4/1/08....

Chairman of Planning and Regulatory Committee:..... Vice Chairs

Date:...7-1-08