

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL COMMITTEE AGENDA 20 December 2005

Item No: 07
Address: J Sainsbury Plc Badger Farm Road Winchester Hampshire SO22 4QB

Parish/Ward Badger Farm

Proposal Description: Variation of condition 6 of appeal ref app/L/1765/A/01/1074870, 71, 72 and 73 in order to permit a maximum of two deliveries per night between the hours of 2200 and 0700 Monday to Friday and temp consent for a period of six months for a maximum of two deliveries per night between the hours of 2200 and 0700 on Saturday and Sunday nights.

Applicants Name Sainsburys Supermarkets Ltd

Case No: 05/02498/FUL

W No: W08991/50

Case Officer: Mr Neil Mackintosh

Date Valid: 17 October 2005

Delegated or Committee: Committee Decision

Reason for Committee: 4 or more representations contrary to the Officer's recommendations have been received

Site Factors: None

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Site Description

- Sainsburys Store and Petrol Filling Station are located in a natural bowl between Badger Farm Road and Meadow Way.
- There is residential development to the North, West and East, with public open space to the South.
- The closest housing is in Meadow Way, Parliament Place, Keats Close, Fallow Field and Harrow Down
- The delivery yard is located to the West of the store and the building shields views in the direction of the latter two streets.

Relevant Planning History

- Sainsburys Store has a long and complicated history, commencing with much controversy when it was first conceived.
- Its operating hours were, at first, limited to 0700-2100 Monday to Saturday and 1000-1600 on Sundays
- An additional hour, to allow closing at 2200 Monday to Saturday was permitted, at appeal, in 2002
- The same appeal allowed for 24 hour opening of the store on certain days at Christmas and Easter
- Hours of opening at the petrol filling station have also been extended over the years
- However, it important to note that , in 2002, the Appeal Inspector imposed the following condition;
- “Notwithstanding the terms of this permission, deliveries to the store and petrol filling station, and the collection of waste from the site, shall not take place between the hours of 2200 and 0700 the following day throughout the year”
- Sainsburys identified a need to make deliveries of fresh produce outside the permitted hours on Thursday and Friday nights, ready for their two busiest days, and were allowed to do so, on a trial basis, between June and November this year.

Proposal

- As per Proposal Description

Consultations

Engineers:Highways:

- No objections, this application contains no significant highway implications

Environmental Protection:

- No, objections, subject to vehicle refrigeration units and reversing beepers being switched off before arrival at the store.
- “I have examined the proposal in detail and, in the light of the fact that we have not had any complaints about overnight deliveries at all I do not believe that this application should create a problem”.

Representations:

Badger Farm Parish Council

- No objection to Monday to Friday deliveries becoming permanent, since there have been no complaints (to our knowledge) regarding the noise.
- “The temporary approval of the weekend deliveries is probably a precursor to a permanent application but, again, we have no objection, although the need to deliver during Saturday night, when the store does not open until 10am on Sunday is not evident”

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Letters of representations have been received from 5 Neighbours

- 2 - concerns - we already suffer from noise from the road and Sainsbury's, we would expect deliveries to take place during already long opening hours, if permission is granted there is a need to control movement of roll cages, reversing sounders and refrigeration units.
- 3 - objections - Badger Farm Road has little traffic at night and the noise of HGV's manoeuvring and climbing the steep access ramp would be clearly audible, we have been woken up by this in the past, we question the validity of the noise impact assessment and the need for night-time deliveries, Sainsbury's has been allowed to grow and adversely affect our amenities

Relevant Planning Policy:

Hampshire County Structure Plan Review:

- S3

Winchester District Local Plan

- EN5, EN15

Winchester District Local Plan Review Deposit and Revised Deposit:

- DP3, DP14

Supplementary Planning Guidance:

- Winchester Retail Study (Nathan Lichfield & Partners)
- Movement, Access, Streets and Spaces
- Parking Standards 2002

National Planning Policy Guidance/Statements:

- PPS 1- Delivering sustainable development
- PPG 24 - Planning and Noise

Planning Considerations

The main considerations in respect of this application are:

- Principle of development
- Residential amenities
- Comments on representations

Principle of development

- The operational hours of Sainsbury's store and petrol filling station are strictly controlled by planning conditions, in order to limit noise levels emanating from the site.
- It is open to the applicant to request changes to these conditions, provided that the Local Planning Authority can be satisfied that, in permitting them, the residential amenities of those that live in close proximity will not be adversely affected.

Residential amenities

- In support of their application Sainsbury's have submitted a noise impact assessment on night-time deliveries.
- This was first considered by the Environmental Protection Team earlier this year, when they were asked to advise Members concerning night-time deliveries for a trial period on Thursdays and Fridays.
- The trial period commenced in June and the applicant reports "The results of that trial have been most satisfactory, resulting in no objections being made to your environmental health team, despite this summer's weather being generally above average, when it is expected that local householders will have had bedroom windows open at night".
- The Environmental Protection Officer confirms that no complaints have been received about overnight deliveries and gives the go ahead for this application to be permitted, subject to conditions.
- Badger Farm Parish Council is not aware of any complaints either.

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Comments on representations

- 81 local households were notified of this application and only 5 residents have responded.
- They may well have genuine concerns about night time activities on the site, as Sainsbury's do not have a good record with regard to neighbour sensitivity.
- For instance, some years ago a shop re-fit was carried out at night.
- However, Members are being asked to consider only night-time deliveries at this stage ie. one or two on Mondays through to Fridays on a permanent basis and another trial period for Saturday and Sunday nights.
- In the light of an absence of complaint during the previous trial, and the lack of objection from the EPO and the Parish Council, it would be extremely difficult to defend a refusal at appeal.
- However, any consent must be the subject of further planning conditions to ensure that the terms of the application are complied with.

Recommendation

APPROVE – subject to the following condition(s):

Conditions/Reasons

01 The variation hereby permitted shall be begun before the expiration of three years from the date of this permission.

01 Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

02 A maximum of two deliveries per night shall be permitted between the hours of 2200 and 0700 on Monday to Friday nights inclusive, in accordance with the terms of the application. Vehicle refrigeration units and reversing sounders shall be turned off, and remain so, between arrival at, and departure from, the application site and no roll cages shall be used outside the store building.

02 Reason: To protect the amenities of the occupiers of nearby properties.

03 For a period of six months only, commencing from the date of this notice, a maximum of two deliveries per night shall be permitted between the hours of 2200 and 0700 on Saturday and Sunday nights, in accordance with the terms of the application.

03 Reason: To enable the Local Planning Authority to assess the impact of the proposed delivery hours.

Informatives

01. This permission is granted for the following reasons:
The development is in accordance with the Policies and Proposals of the Development Plan set out below, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

02. The Local Planning Authority has taken account of the following development plan policies and proposals:-

Hampshire County Structure Plan Review: S3

Winchester District Local Plan Proposals: EN5, EN15

Emerging Development Plan- WDLP Review Deposit and Revised Deposit: DP3, DP14