

Application Number: F/YR13/0819/F

Minor

Parish/Ward: March Town Council

Date Received: 29 October 2013

Expiry Date: 24 December 2013

Applicant: Mr J Peet, Anglia Regional Co-Operative Society Ltd

Agent: Mr B Hart, Paul Robinson Partnership (UK) LLP.

Proposal: Variation of Condition 08 of planning permission F/YR04/0157/F (Erection of food retail unit with associated car parking involving demolition of existing store) relating to shop operating hours.

Location: Co-Op Foodstore, 53 Badgeney Road, March.

Site Area: 0.15 ha

Reason before Committee: This proposal is before the Planning Committee due to the number of objections received.

1. EXECUTIVE SUMMARY/RECOMMENDATION

This application relates to the existing local Co-op supermarket located on the south side of Badgeney Road.

The existing store was built approximately 8 years ago. Planning Permission F/YR04/0157/F contained a number of conditions, including condition 8 which stated the following:

The use hereby permitted shall only operate between the hours of 08:00 and 2200 Mondays to Saturdays and 0900 to 1900 Sundays.

Reason – to safeguard the amenities currently enjoyed by the occupants of adjoining dwellings.

The current planning application seeks to vary condition 8 to permit shop opening hours from 0700 to 2200 every day including Bank Holidays. Delivery times would still be maintained as only between the hours of 0800 and 2000 Mondays to Saturdays and 0900 to 1900 Sundays and Bank Holidays.

The applicant has now set out a proposed Noise Management Plan, as requested by Fenland Environmental Protection:

If the delivery and operations parameters set out in the submitted noise management plan are adhered to, then the impact of unacceptable noise levels and disturbance to local residents would be minimised during early morning and later periods in the evening

Given the level of local concerns, it considered that the best approach would be to test the effectiveness of the noise management plan by allowing a temporary variation to condition 8 for a 1 year period, so that the Council could keep this matter under review

Consequently the proposal is considered to be acceptable and complies with guidance contained in Policies S8, and E8 of the Fenland District Wide Development Plan and Policies CS1, CS15 & CS16 of the Fenland Core Strategy – Submission Version (Sep 2013).

2. HISTORY

There has been a local foodstore on this site for many years. Planning permission for the current store was granted in May 2004 for the re-development of the site.

F/YR04/0157/F	Erection of food retail unit with associated car parking involving demolition of existing store	Approved 7/5/2004
---------------	---	-------------------

3. PLANNING POLICIES

3.1 National Planning Policy Framework:

Paragraph 2: Planning law requires that applications for planning permission must be determined in accordance with the development plan.

Paragraph 14: Presumption in favour of sustainable development.

Paragraph 17(4): Seek to ensure high quality design and a good standard of amenity for all existing and future occupants (repeated and expanded on in paragraphs 56 to 56).

Paragraph 32: Decisions should take account that a safe and suitable access to the site can be achieved for all people.

3.2 Draft Fenland Core Strategy – Submission Version Sept 2013:

CS1: Presumption in Favour of Sustainable Development.

CS15: Creation of a More Sustainable Transport Network in Fenland

CS16: Delivering High Quality Environments

3.3 Fenland District Wide Local Plan:

S8: Local Shopping

E8: Landscape and amenity protection

TR3: Car Parking

4. CONSULTATIONS

4.1 **Town Council** Recommend approval

4.2 **FDC Environmental Protection**

Initial Comments:

Environmental Health is in receipt of ongoing noise complaint issues from nearby residents concerning early morning deliveries being made to this store. The complainants have also complained, previously about noise from members of staff arriving on site to open the premises in the early morning and it is anticipated that this will continue to be an issue if extended opening hours are granted.

It would be helpful if the applicants could submit a noise management plan to cover all aspects of the operation of the store where noise levels might impact on nearby residents and indicating how these are to be controlled.

Subsequent Comments:

Environmental Health notes and accepts the submitted noise management plan, it would be beneficial to advise the applicants that a decision has been made on the basis that the plan is followed. The applicants will need to follow the plan to demonstrate that they are working towards best practice in minimising noise from the site.

4.3 **Cambs CC Highways**

No objections.

4.4 **Local Residents:**

6 letters received, raising the following concerns:

- FDC Environmental Health and Enforcement Officers have previously been involved - I understood that the Co-op stated that delivery times were to be after 8am and no later than 5pm – the changes now proposed would make a mockery of this
- Since FDC Environmental health enforced standard shop hours there has been far less disturbance
- Co-op has been trading for last 2 years with increased opening hours without planning permission
- very upset by level of stress as the convenience store causes lots of traffic, noise and disturbance to everyday life
- Currently suffering from noise and disturbance caused by deliveries

- We have noticed a vast increase in the noise, traffic and general disruption over the past few years
- Supermarkets have strict code of opening hours, but the Co-op store does not have any such consideration
- Disturbance resulting from lorries having to use part of residents driveways to then reverse into store. Lorry lights also shine into windows. Early morning and late night deliveries by HGV (particularly refrigeration lorries) also leading to problems
- Two articulated lorries (six days per week) and two bread lorries daily deliver to the store
- Staff waiting to enter store early in the morning – noise and laughter heard – often from 6.30am
- Noise and music resulting from cars in car park
- There are other supermarkets in March which can cater for longer opening hours without affecting local residents
- Overspill parking results in surrounding roads – private drives sometimes blocked with shoppers cars

5. **SITE DESCRIPTION**

- 5.1 The site is located on the south side of Badgeney Road within a predominantly residential area approximately 1.0 mile to the south east of March town centre. It comprises an existing local food supermarket, which is positioned towards the rear of the site, with a parking area at the front. Residential dwellings and their gardens adjoin each site boundary apart from the site frontage.

The existing store was granted permission in May 2004 and replaced a smaller foodstore on the same site, which was located on the southern part of the site.

The site area measures 0.15 hectares.

6. **PLANNING ASSESSMENT**

6.1 **Background**

6.2 ***Current Proposal***

The existing store was built approximately 8 years ago. Planning Permission F/YR04/0157/F contained a number of conditions, including condition 8 which stated the following:

The use hereby permitted shall only operate between the hours of 8000 and 2200 Mondays to Saturdays and 0900 to 1900 Sundays.

Reason – to safeguard the amenities currently enjoyed by the occupants of adjoining dwellings.

The current planning application seeks to vary condition 8 to permit shop opening hours from 0700 to 2200 every day including Bank Holidays. Delivery times are proposed by the applicant as being between the hours of 0800 and 2200 Mondays to Saturdays and 0900 to 1900 Sundays and Bank Holidays. This is discussed in more detail below.

In support of the current application to vary condition 08, the applicant has now set out a proposed Noise Management Plan, as requested by Fenland Environmental Protection:

NOISE MANAGEMENT PLAN

- Main deliveries will not be made before 8.00am or after 7.00pm Monday to Saturday and not before 9.00am or after 7.00pm Sundays and Bank Holidays, with the exception of newspapers. Deliveries will be targeted mainly between 9.00am and 5.00pm where possible.
- Chilled delivery which currently arrives in the evening between 7.00pm and 9.00pm will be changed to an am delivery. ARCS planning department are already working on this and the commencement will be confirmed as soon as it is known.
- Noise during deliveries will be minimised and store management will communicate any non compliance issues to ARCS head office. Instruction has already been given to depot management and delivery drivers.
- Main door shutters are not to be lifted before 7.00am. The store manager has already had instruction on this.
- Litter is to be managed along the fence and gate area by store management.
- The Allied bread delivery is scheduled for 8.30am but has been arriving approximately 7.00am. Instruction has been given to the supplier to ensure they meet the agreed delivery window.

6.3 Consideration of issues.

The operation of the foodstore, in particular early morning and late night deliveries, has been the subject of a number of complaints by local residents to the Council's Environmental Health and Enforcement Officers.

The main difficulty here is that the car park and servicing of the shops takes place on the site frontage. The side gable wall and rear garden of the adjoining house at No. 53 Badgeney Road, directly abut the site entrance and area where HGV's reverse to, to then unload via an adjoining service yard (which is partly enclosed by a marquee. The rear elevation and rear gardens of Nos. 47 and 49 Shepperson's Grove face this part of the store and could also be affected, particularly noise from the HGV tail-lift and goods trolleys.

The planning status of this marquee is currently under investigation by Fenland Enforcement Officers.

If the delivery and operations parameters set out in the submitted noise management plan are adhered to, then the impact of unacceptable noise levels and disturbance to local residents would be minimised during early morning and later periods in the evening. This has been confirmed by the Council's Environmental Protection Officers.

Given the level of local concerns, it considered that the best approach would be to test the effectiveness of the noise management plan by allowing a temporary variation to condition 8 for a 1 year period, so that the Council could keep this matter under review. If this is shown to be effective, then a permanent variation may be possible. This will involve a new application, which will again be brought before the Planning Committee for consideration.

It is also considered that the suggested 10.00 pm cut off time for deliveries is too late in the evening and this should be reduced to 8.00pm instead. This would still be within the delivery time parameters set out in the applicants submitted noise management plan and is therefore considered to be reasonable.

On this basis the proposal to vary condition is considered to be acceptable.

As this application is in fact a Section 73 application under the 1990 Town & Country Planning Act, the proposed decision will also reproduce all other conditions set out in the original planning permission F/YR04/0157/F.

7. CONCLUSION

- 7.1 The concerns of local residents about levels of noise and disturbance that have been experienced are noted, hence the proposal to allow the extended opening hours in conjunction with the noise management plan on a temporary basis to allow the situation to be monitored.

On this basis the proposal is considered to be acceptable and complies with guidance contained in Policies S8 and E8 of the Fenland District Wide Development Plan and Policies CS1, CS15 & CS16 of the Fenland Core Strategy – Submission Version (Sept 2013).

8. RECOMMENDATION

Grant for a temporary period of one year, and the following conditions

- **Conditions 1-7 of planning permission F/YR04/0157/F be reimposed on the current decision notice.**
- **Condition 8 of planning permission F/YR04/0157/F be varied to read as follows:**

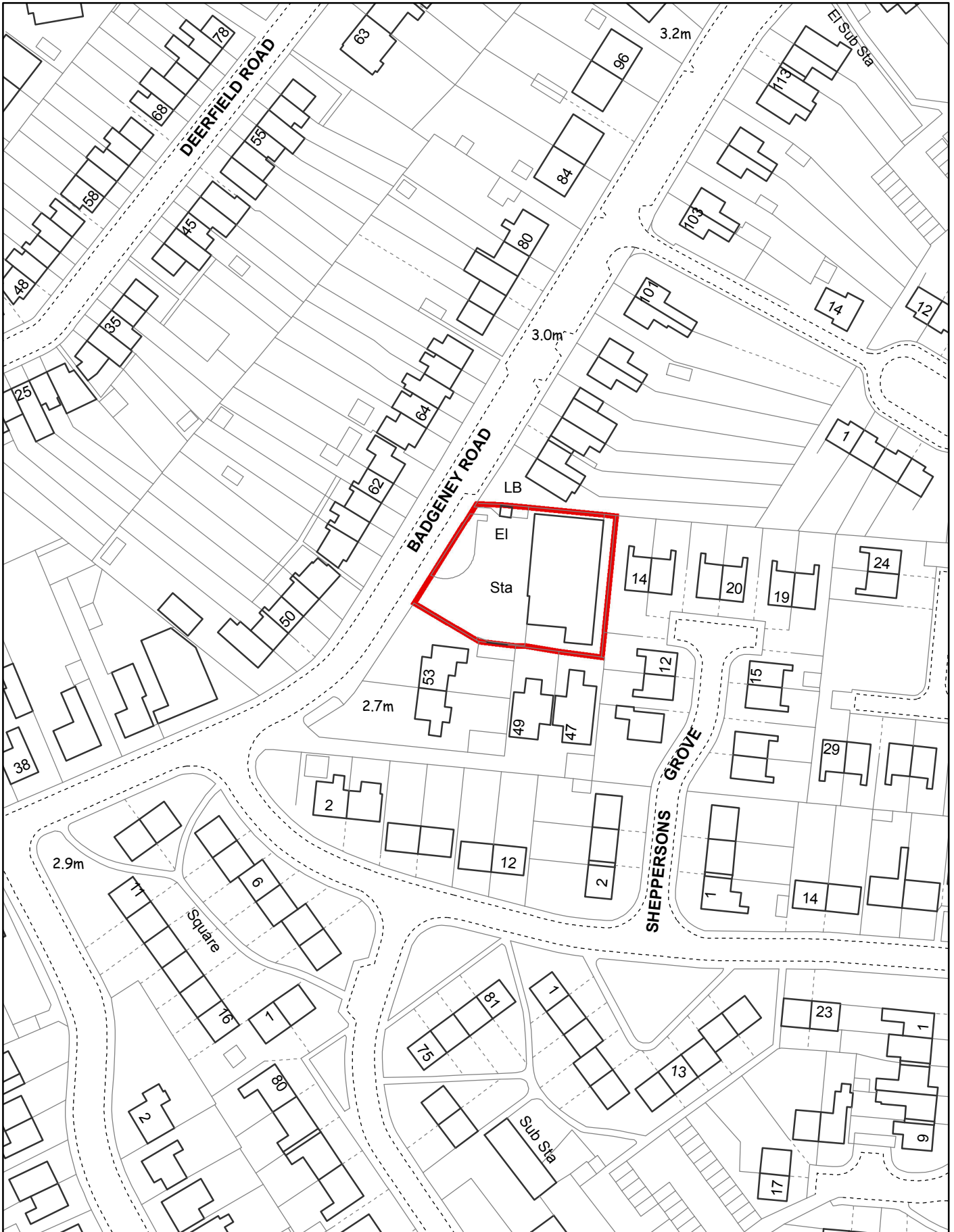
For a period of a maximum of 1 calendar year from the date of this permission the shop shall be permitted to be open between the hours of 07:00 and 2200 daily including Bank Holidays and shall be closed at all other times and no deliveries to the shop shall take place outside of the hours of 08:00 and 20:00 Monday to Saturday and 09:00 to 19:00 on Sundays and Bank Holidays. On expiry of the time frame specified the shop shall revert to the original opening hours and the use shall only operate between the hours of 8000 and 2200 Mondays to Saturdays and 0900 to 1900 Sundays, unless otherwise agreed in writing by the Local Planning Authority.

Reason – to safeguard the amenities currently enjoyed by the occupants of adjoining dwellings and to keep the extended opening hours under review.

- **Additional condition 9 to be included as follows:**

The use shall be operated strictly in accordance with the details contained within the submitted Noise Management Plan

Reason – to safeguard the amenities currently enjoyed by the occupants of adjoining dwellings



Created on: 07/11/2013

© Crown Copyright and database rights 2013 Ordnance Survey 10023778

F/YR13/0819/F

Scale = 1:1,250

N

Fenland
CAMBRIDGESHIRE

Fenland District Council