

Application Number:	2021/0417	Application Type:	Variation of Condition
Proposal:	Variation of Condition 3 (extending the trading hours from 20:00 to 22:00) pursuant to Planning Approval 2007/0665 (which sought permission for the demolition of existing bus depot building and erection of a neighbourhood food retail unit with associated car parking)	Location:	Lidl Bacup Road Rawtenstall BB4 7NG
Report of:	Head of Planning	Status:	For publication
Report to:	Development Control Committee	Date:	7 September 2021
Applicant:	Lidl Great Britain Limited	Determination Expiry Date:	7 October 2021
Agent:	Rapleys (Mr Joshua Ambrus)		

Contact Officer:	Lauren Ashworth	Telephone:	01706-238637
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REASON FOR REPORTING	
Outside Officer Scheme of Delegation	
Member Call-In Name of Member: Reason for Call-In:	
3 or more objections received	
Other (please state):	Major Application

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

1. RECOMMENDATION

That Members resolve that they would be minded to grant planning permission and that the determination of the application hereafter be delegated to the Head of Planning and Chair of Development Control Committee as follows:

- (1) To complete a suitable modification of the Section 106 Agreement attached to planning permission 2007/665, to link it to the new planning permission.
- (2) To carry out drafting amendments to any planning condition including adding any conditions as may be required.
- (3) To have discretion to refuse planning permission in the circumstance that the modification to the Section 106 Agreement is not completed within 8 weeks of the resolution to grant planning permission.
- (4) That upon satisfactory completion of the modification, planning permission be granted subject to the following conditions or as amended by (2) above.

2. SITE

The site comprises the existing Lidl foodstore off Bacup Road. The site is located to the south of Bacup Road, east of Longholme Road, and west of Markcross Street.

The surrounding area comprises a mix of uses with commercial uses to the north and west. There is an area of residential development to the east of the site beyond Markcross Street.

The site lies in the urban boundary of Rawtenstall and within its town centre. It is adjacent to, but not within its conservation area.

3. PLANNING HISTORY

2016/0382 - Erection of 1no freestanding illuminated pylon sign (7.5m high). Approved.

2011/0157 - Erection of 48 page colour billboard (6m x3m). Refused.

2007/665 - Demolition of existing Bus Depot Building and erection of a Neighbourhood Food Retail Unit with associated car parking. Approved with conditions and Section 106 Agreement on 27.04.2009

4. PROPOSAL

Opening hours are restricted at the Lidl store by Condition 3 attached to planning permission 2007/665, which states:

'The use of the retail sales area hereby approved shall only be permitted between the hours of 08:00 and 20:00 on any day.'

The proposed variation is sought:

'The use of the retail sales area hereby approved shall only be permitted between the hours of 08:00 and 22:00 on Monday to Saturday, and 08:00 and 20:00 on Sundays.'

5. POLICY CONTEXT

National

National Planning Policy Framework (2021)

Section 2	Achieving sustainable development
Section 4	Decision-making
Section 6	Building a strong, competitive economy
Section 7	Ensuring the vitality of town centres
Section 8	Promoting healthy and safe communities
Section 9	Promoting sustainable transport
Section 11	Making effective use of land
Section 12	Achieving well-designed places

Development Plan Policies

Rossendale Core Strategy DPD (2011)

AVP 4	Strategy for Rawtenstall
Policy 1	General Development Locations and Principles
Policy 11	Retail and Other Town Centre Uses
Policy 22	Planning contributions
Policy 23	Promoting High Quality Design and Spaces
Policy 24	Planning Application Requirements

Other material considerations

Emerging Local Plan
Planning Practice Guidance

6. CONSULTATION RESPONSES

Consultee	Summary of Comments received
RBC Environmental Health	No objection

7. NOTIFICATION RESPONSES

To accord with the General Development Procedure Order a press notice was published in Rossendale Free Press and site notices were posted on 23 July 2021. No responses have been received.

8. ASSESSMENT

As the sole issue for consideration is the increase in trading hours from 8pm to 10pm on Mondays to Saturdays, the main consideration is whether the change is acceptable in regards to the residential amenity of the neighbours.

Core Strategy Policy 24 requires new developments to be designed to protect the amenity of the area, including residential amenity in terms of light, outlook, landscaping, and mitigating noise and light pollution.

One of the 12 core planning principles within the NPPF states that planning should “*always seek to secure high quality design and a good standard of amenity for all existing and future occupants*”

of land and buildings.” Specific guidance in relation to assessing noise impact is provided in the PPG.

The application is accompanied by a Noise Impact Assessment, which has been assessed by the Council’s Environmental Health Officer (EHO). The assessment finds that the increase in opening hours will be unlikely to have a significant effect on the nearest residential properties (noise receptors) due to the presence of existing background noise from Bocholt Way and Bacup Road.

The Council’s Environmental Health Officer agrees with the findings of the report, and no objections have been received from any neighbours.

The proposal is compliant with the NPPF and Policy 24 of the Core Strategy with regards to neighbour amenity.

Modification of Section 106 Agreement

When planning permission was granted for the foodstore under application 2007/665, it was subject to a Section 106 Agreement. That agreement contains obligations that continue to be applicable, for example, the maintenance of a footpath link, and the provision of free public car parking.

The applicant is required to apply to the Council to modify the Section 106 Agreement to link it (make it applicable to) the new planning permission. This can be done as a modification under Section 106a of the Town and Country Planning Act.

9. RECOMMENDATION

See Section 1 of the report.

10. SUMMARY REASON FOR APPROVAL

The proposed amendments to the trading hours are acceptable with regards to neighbour amenity. Subject to the use of planning conditions, and an amendment to the original Section 106 Agreement, the proposal is acceptable and in accordance with Policies AVP4, 1 11, 22, 23 and 24 of the Adopted Core Strategy DPD and the National Planning Policy Framework.

11. CONDITIONS

1. The development hereby approved shall be carried out in accordance with the site operating statement submitted 5th September 2008 and drawing 0720 L(90) 101.

Reason: In order to safeguard highway safety.

2. The details and recommendations contained with the noise impact assessment undertaken by Cheshire Environmental Associates (issued 2nd September 2008) shall continue to be adopted so long as the foodstore is trading.

Reason: In the interests of visual and residential amenity.

3. The food store shall only open for use by customers between 08:00 and 22:00 hours on Mondays to Saturdays, and between 08:00 and 20:00 on Sundays.
Reason: To protect the residential amenity of neighbouring properties.
4. The deliveries associated to the development hereby approved shall take place in accordance with the submitted scheme for the delivery of goods dated 5th September 2008.
Reason: In order to safeguard highway safety.
5. The car parking provision shall be retained and kept available for use as such.
Reason: To ensure the provision of adequate off street parking/servicing
6. The development hereby approved shall be carried out in accordance with the submitted car park lighting plan dated 22nd September 2008 by Philips Lighting.
Reason: To safeguard the amenity of the area.
7. The development shall be carried out in accordance with the following plans:
0720 L(90) 301
0720 L(90) 302 A
0720 L(90) 303 A
0720 L(90) 304 A
0720 L(90) 304 A
- Reason: For the avoidance of doubt.