

Perth and Kinross Council
Development Management Committee – 19 March 2014
Report of Handling by Development Quality Manager

**Variation of Condition 5 of consent 03/00272/FUL at
The Co-operative, 17 Darnhall Drive, Perth, PH2 0HD**

Ref. No: 13/01592/FLL
Ward No: 10 – Perth City South

Summary

This report recommends approval of the application to change the delivery hours for the existing retail unit to 07.30 – 19.00 Monday to Saturday as the development is considered to comply with the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 This application was previously considered by this Committee at its meeting on 13 November 2013 (Report 13/533 refers). A copy of the previous Committee Report is appended to this report for information (**Appendix 2**).
- 2 The deferral was to enable further discussion to take place between the applicant, the local community and the local elected members to consider the proposals contained in the applicant's Management Plan for deliveries to the store.
- 3 All other issues in relation to the application remain the same.

CONSULTATIONS

- 4 No further consultations were required.

REPRESENTATIONS

- 5 As no re-notification has been carried out there have been no further valid notifications received as a result of the deferral. All representations associated with the original application are as detailed in the previous Committee Report.

APPRAISAL

- 6 Following the Committee Meeting at which the application was deferred, discussions were held between Councillor W O Wilson; the agent for the applicant; representatives of the local residents; and Development Management.
- 7 At a meeting held on 16 December 2013, attended by the above, local residents indicated that they would prefer that the morning deliveries commence from 08.00am onwards. The applicant's agent advised that his

client wished to continue to seek an earlier hour of 07.00am. Councillor Wilson suggested that a 07.30am compromise might be suitable and asked both sides to consider this. As far as the hours in the evening were concerned, there was a general consensus that deliveries up to 07.00pm on Mondays to Saturdays were reasonable. It was also agreed that the Management Plan should also be amended to cover deliveries during the rest of the day, not just at the start. The representatives of the local residents decided that they wished to consult with others living in the vicinity of the store about the points discussed at the meeting before reporting back in early January.

- 8 A revised Management Plan dated 6 January 2014 and containing the appropriate amendment was subsequently submitted by the applicant, who also confirmed that a 07.30am start would be acceptable. The revised Management Plan is appended to this report for information (**Appendix 1**).
- 9 Having consulted with the other local residents, the residents' representatives subsequently advised Councillor Wilson that they would not accept the suggested 07.30am start time discussed at the aforementioned meeting. The residents also decided to oppose the 07.00pm end time for deliveries unless the currently approved 08.00am start time was retained. They also considered that the later 07.00pm end time should not in any event be permitted on Saturdays.
- 10 The applicant was advised of the latest feedback from the local residents but declined to make any further amendments to the revised Management Plan and to the 07.30am compromise start time referred to above.

LEGAL AGREEMENTS

- 11 No legal agreement is required.

DIRECTION BY SCOTTISH MINISTERS

- 12 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in, or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

- 13 It is concluded that appropriate consideration has been taken of the Committee's reasons for deferral of the application as regards engagement with local residents concerning the Management Plan on deliveries. Although the Management Plan was widely accepted by residents the extended delivery hours, even with a compromise start time, were not.
- 14 In planning policy terms, the proposed development is in accordance with the Perth and Kinross Local Development Plan 2014. There are no material considerations that would justify refusing the application. On that basis the

application continues to be recommended for approval subject to conditions which incorporate the later delivery start time of 07.30am.

RECOMMENDATION

A Approve the application subject to the following conditions:

- 1 The delivery of bakery and newspaper goods may take place outwith the hours of 07.30hrs to 19.00hrs Mondays to Saturdays up to a maximum of two deliveries per day. These deliveries are limited to the entrance at Darnhall Drive and must be carried out in accordance with the attached Management Plan dated 6 January 2014.
- 2 The delivery of all other goods to the premises shall take place between 07.30hrs to 19.00hrs Mondays to Saturdays and at no other times, without the prior written consent of the local Planning Authority. These deliveries must be carried out in accordance with the attached Management Plan dated 6 January 2014.

Reasons:-

1-2 In the interests of amenity and to prevent undue noise from the deliveries.

B JUSTIFICATION

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

C PROCEDURAL NOTES

None

D INFORMATIVES

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under Section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town

and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.

- 4 The applicant should be aware that the display of any signage on the building will require a separate application for Display of Advertisement Consent.

Background Papers: No additional letters of representation

Contact Officer: Brian Stanford – Ext 75356

Date: 25 February 2014

Nick Brian
Development Quality Manager

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The co-operative Risk

Co-operative Store (010388)
17 Darnhall Drive
Perth
PH2 0HD
Tel: 01738 580716

6th January 2014

Management Agreement to reduce Noise Levels during early morning deliveries

Following a number of complaints from local residents directed at the above Co-operative store in relation to excessive noise levels during early morning store deliveries from **(1)** Stephens - Bakery and **(2)** Menzies - Newspapers and Magazines; the following points have been considered and agreed by all relevant parties to ensure that the Co-operative Store does not breach conditions set by Perth and Kinross Local Authority and therefore must ensure all necessary steps are taken to minimise any excess noise pollution as result of receiving early morning store deliveries.

The under-listed points have been discussed and agreed with the aforementioned stakeholders;

- Edward McNally (Co-operative Area Risk Manager)
- John Kelly (Co-operative Regional Operations Manager)
- Ivor Patterson (Operations Manager)
- Wendy Harding (Co-operative store Manager)
- Ewen Chisholm (Stephens Bakery).

Agreed actions; () = **Stakeholder**

1. 'Stephens' Bakery delivery driver to reverse the vehicle up to the main front door **(EC)**
2. Vehicle radio and engine to be switched off **(EC)**
3. Vehicle reverse bleeper alarm to be switched off **(EC)**
4. Delivery Trays to be carried by hand into store and then placed onto the trolley **(EC/SM)**
5. Wheeled trolley's **are not** to be used externally for any delivery before the agreed delivery time conditions set by Local Authority **(EC/SM/Menzies)**
6. Stevens driver to return to store and collect empty trays during second delivery after the agreed time condition **(EC)**
7. Store Manager to complete a CITRUS 'Pedestrian Marshall Operations Risk Assessment' **(Section 11. H&S / 13. Vehicles and Deliveries / 03. Pedestrian Marshalling Operations)** to ensure no members of the public or staff are at risk of being struck by the moving delivery vehicle **(SM)**
8. Store Manager to complete a CITRUS 'Manual Handling Risk Assessment' **(Section 11. H&S / 02. Site Specific Risk Assessments / Manual Handling)** This RA is mandatory anyhow but SM should complete in line with these task changes **(SM)**
9. Store Manager to obtain staff training sign-offs from all staff who may be required to support with these deliveries and retain on file **(SM)**

Perth and Kinross Council
 Development Management Committee – 13 November 2013
 Report of Handling by Development Quality Manager

**Variation of Condition 5 of consent 03/00272/FUL at
 The Co-operative, 17 Darnhall Drive, Perth, PH2 0HD**

Ref. No: 13/01592/FLL
 Ward No: 10 – Perth City South

Summary

This report recommends approval of the application to change the delivery hours for the retail unit to 07.00 – 19.00 Monday to Saturday as the development is considered to comply with the Development Plan.

BACKGROUND AND DESCRIPTION

1. Currently consent ref: 03/00272/FUL for the retail premises at 17 Darnhall Drive, Perth allow for deliveries to take place between the hours of 0800 - 1700 Monday to Saturday. It is now proposed to amend the hours to allow an extended delivery period of 0700 – 1900, Monday to Saturday. The application site is located on the corner of Darnhall Drive and Park Place in Craigie.

NATIONAL POLICY AND GUIDANCE

2. There is no relevant National Planning Policy guidance

DEVELOPMENT PLAN

3. The Development Plan for the area consists of the Approved TAYplan: Strategic Development Plan 2012-2032 and the Adopted Perth Area Local Plan *Incorporating Alteration No 1 Housing Land 2000*.

Tayplan Strategic Development Plan 2012

4. There are no issues of strategic relevance in the Strategic Development Plan

Perth Area Local Plan *Incorporating Alteration No 1 Housing Land 2000*

5. The application site is located in an area designated for residential purposes.

The principal relevant policies are in summary:-

6. **POLICY 41** Proposals Map B identifies areas of residential and compatible uses where existing residential amenity will be retained and where possible improved.
7. **POLICY 42** Ancillary developments such as corner shops...will be permitted in residential areas providing the character or amenity of the area is not damaged by the development.

PERTH AND KINROSS PROPOSED LOCAL DEVELOPMENT PLAN 2012

8. On 30 January 2012 the Proposed Plan was published. The Council's current adopted Local Plans will eventually be replaced by the Local Development Plan. The Council's Development Plan Scheme sets out the timescale and stages leading to adoption. The Proposed Local Development Plan has undergone an Examination following which a report was published on 11 October 2013 containing the Reporter's recommendations. The Council has a three month period to consider the Reporter's recommendations and the modified Plan will be published by 11 January 2014. This will be the Plan that the Council intends to adopt, subject to agreement by Scottish Ministers. Prior to adoption, the Proposed Local Development Plan 2012 is a material consideration in the determination of this application, reflecting a more up to date view of the Council than those contained in the relevant adopted Local Plan.
9. Under the PLDP the application site is located within area designated for residential areas.
10. The principal relevant policy is in summary:

Policy RD1: Residential Areas

11. The Plan identifies areas of residential and compatible uses where existing residential amenity will be protected and, where possible, improved.

Site History

12. 03/00272/FUL Planning permission was granted for the improved access and service area for David Sands, now The Co-operative at 17 Darnhall Drive. The Environmental Health Officer at that time expressed concerns over the potential for noise disturbance to nearby residential properties from deliveries and recommended delivery times of 07.00-19.00 Mon-Sat which may be varied by the Planning Authority.
13. 13/00825/FLL A further application was submitted in April 2013 requesting the consented delivery times be changed from 08.00 – 17.00 Mon to Sat to 06.00 – 22.00 Mon to Sun. Environmental Health could not support this application due to the potential loss of amenity to neighbouring residential properties.

Consultations

14. **Environmental Health** No objections subject to the implementation of conditions relating to hours of use and type of goods to be delivered

Representations

15. 8 letters of representation have been received, raising the following issues:-
1. Increased noise and disturbance to neighbouring dwelling houses;
 2. Lorries idling;
 3. Metal cages thrown around;
 4. Beeping of reversing lorries;
 5. Slamming of lorry doors;
 6. Excessive lorry manoeuvres;
 7. Regular breach of existing conditions;
 8. Bakery and newspaper deliveries prior to 6.00;
 9. Contrary to Local Plan policies;
 10. Contrary to proposed Local Development Plan policies.

These issues are addressed in the Appraisal section of the report.

ADDITIONAL STATEMENTS

16.

Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	None
Report on Impact or Potential Impact	None submitted.

APPRAISAL

Policy

17. Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a departure from policy. The most relevant policies of the Development Plan are listed above. The proposed Local Development Plan is also a material consideration.

Impact on Residential Amenity

18. Prior to application 13/00825/FLL, complaints from nearby residents of excessive noise from deliveries at 17 Darnhall Drive had been received by

Environmental Health with the subsequent involvement culminating in a meeting held with local householders and a representative from the Co-operative. The meeting was to address the primary causes of noise disturbance, which was from: the delivery vehicles diesel engines idling, stock delivery, customers' vehicles and their doors slamming and the bakery delivery.

19. In the majority of applications of this type a condition limiting deliveries to 07.00 –19.00 would be recommended however in this instance the delivery of bakery goods and newspapers are required to serve the local community out with these times (i.e. prior to 7am).
- 20 Environmental Health has recommended that the change of hours would be acceptable if conditions were imposed controlling the type and frequency of goods to be delivered. It is considered that this would then ensure that sufficient restrictions were still applicable to the operation to ensure that even though the hours of delivery were extended nevertheless, the impact on neighbouring residential amenity would not be significant. In addition, it would also enable the operators of the retail unit to meet their requirements.

Economic Impact

- 21 There may be some economic impact but this is likely to be minimal as the nature of the use of the premises will remain unchanged. However, the increased hours would have a benefit to the operation of the business.

LEGAL AGREEMENTS

22. None required.

DIRECTION BY SCOTTISH MINISTERS

23. Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

24. In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the Local Plan. I have taken account of material considerations, including the Proposed Local Development Plan 2012 and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for approval subject to conditions.

Recommendation

A Approve the application subject to the following conditions:-

- 1 The proposed development must be carried out in accordance with the approved plans herewith, unless otherwise provided for by conditions imposed on the planning consent.
- 2 The delivery of bakery and newspaper goods may take place out with the hours of 07.00hrs to 19.00hrs Mondays to Saturdays up to a maximum of two deliveries per day. These deliveries are limited to the entrance at Darnhall Drive and must be carried out in accordance with the attached Management Plan dated 3 October 2013.
- 3 The delivery of all other goods to the premises shall take place between 07.00hrs to 19.00hrs Mondays to Saturdays and at no other times, without the prior written consent of the Local Planning Authority.

Reasons:-

- 1 To ensure that the development is carried out in accordance with the plans approved.
- 2 In the interests of amenity and to prevent undue noise from the deliveries.
- 3 In the interests of amenity and to prevent undue noise from the deliveries.

B JUSTIFICATION

The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure there from.

C PROCEDURAL NOTES

None.

D INFORMATIVES

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See Section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
2. Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.

3. As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
4. The applicant should be aware that the display of any signage on the building will require a separate application for Display of Advertisement Consent.

Background Papers: 7 letters of representation

Contact Officer: Alasdair MacRae Beveridge – Ext 75375

Date: 16 October 2013

**NICK BRIAN
DEVELOPMENT QUALITY MANAGER**

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Perth & Kinross Council

13/01592/FLL

17 Darnhall Drive Perth

Variation of Condition 5



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↑ Scale
1:1000

Perth & Kinross Council

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