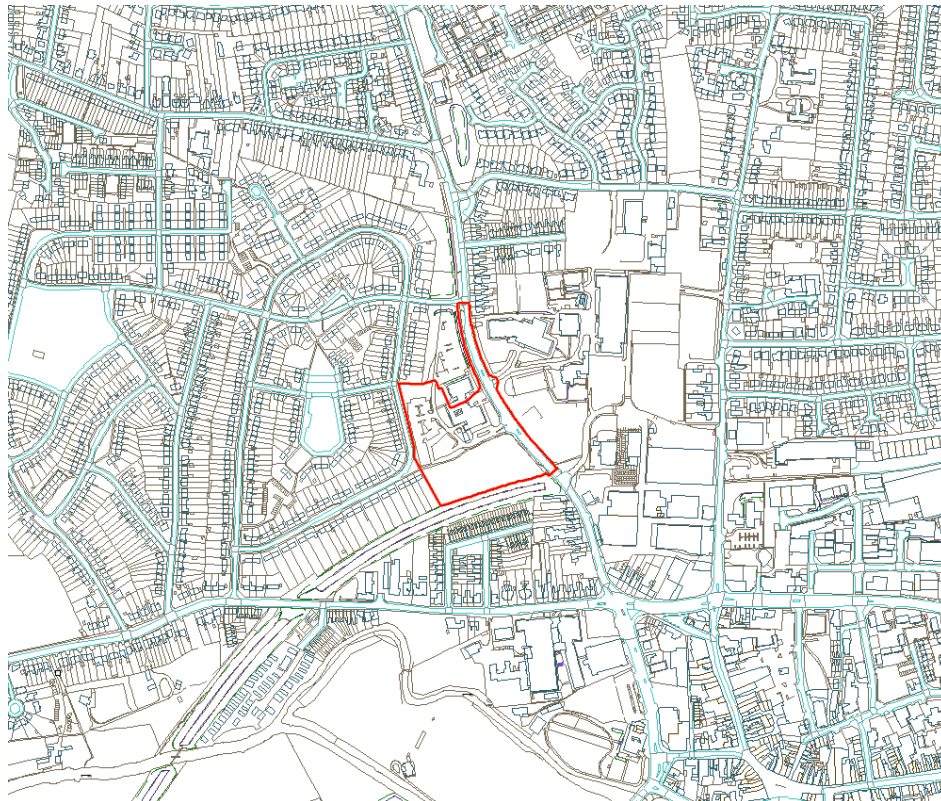


Reference: 13/00828/VAC
Date Submitted: 19.11.2013
Applicant: Sainsbury's Supermarket Limited
Location: Land for Sainsburys, Nottingham Road, Melton Mowbray
Proposal: Variation of Condition 35 relating to Planning Approval 13/00054/VAC
– hours of opening



Introduction:-

The application seeks to vary a condition on planning approval 13/00054/VAC in relation to the opening hours of the Sainsbury's foodstore on Nottingham Road, Melton Mowbray.

The application seeks to permanently extend the hours of opening of the store for 7 days per year leading up to Christmas Day, on 18 to 24 December, and 7 days per year leading up to Easter Sunday.

It is considered that the main issues relating to the proposal are:

- **Impact on adjoining properties**

The application is presented to Committee at the request of the ward Councillors.

Relevant History:-

10/00178/FUL Redevelopment of the site for a new foodstore (Class A1 Use) with associated car parking, access, highway works, landscaping and servicing, approved 13th May 2011.

Planning Policies:-

Melton Local Plan (Saved Polices)

Policies OS1 and BE1 allow for development within Town Envelopes providing that:-

- the form, character and appearance of the settlement is not adversely affected;
- the form, size, scale, mass, materials and architectural detailing of the development is in keeping with its locality;
- the development would not cause undue loss of residential privacy, outlook and amenities as enjoyed by occupants of existing dwellings in the vicinity; and,
- satisfactory access and parking provision can be made available.

National Planning Policy Framework (NPPF)

Introduces the ‘Presumption in favour of Sustainable Development’ and that development proposals should be approved if they accord with the Development Plan, or, if it is out of date or does not address the proposal, approve proposals unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits,
- specific policies in this Framework indicate development should be restricted.

The NPPF contains guidance directly relating to retail as a ‘town centre use’ requires Local Planning authorities to promote competitive town centre environments, increasing consumer choice and diversity.

Consultations:-

Consultation reply	Assessment of Head of Regulatory Services
Highway Authority: No objections	Noted. It is not considered that the variation in opening hours for a maximum of 14 days would have a detrimental impact on highway safety.

Representations:

A site notice has been posted and neighbouring properties consulted. As a result 2 letters have been received objecting on the following grounds:

Representations	Assessment of Head of Regulatory Services
<p>Melton Mowbray & District Civic Society – objects</p> <p>The store already has permission to open for 96 hours per week; a permanent extension to the opening hours of the store over the days prior to Christmas and Easter should not be necessary. It may well be that other stores in the East Midlands, e.g. Oadby and Arnold, have been given permission to extend their opening hours but these should not be taken as precedents for the application in Melton Mowbray. The Sainsbury's Melton store has only recently been opened and, therefore, until the company has trading figures for a year or two it cannot analyse whether the extra opening hours are in fact necessary for them and their customers. There is no substantial evidence given that customers need the additional</p>	<p>Noted</p> <p>The application seeks to extend the opening hours of the store for 7 days prior to Christmas and 7 days leading up to Easter Sunday.</p> <p>The opening hours of the store are currently restricted by Condition 35 of planning approval 13/00054/VAC which states;</p> <p><i>The hereby permitted development shall not be open for trading otherwise than between the hours of:</i></p> <ul style="list-style-type: none"> • 7am and 10pm on Mondays to Saturdays • 10am and 4pm on Sundays <p>The application requests the alteration to;</p>

<p>opening hours.</p> <p>Similarly, no evidence is produced to support the contention that the variation in the opening hours will produce no detrimental effect on the amenity of nearby residents. Have local residents been consulted about the application to extended opening hours?</p> <p>Christmas and Easter are religious festivals; some customers and staff may not appreciate an increase in opening hours before these festivals.</p>	<p><i>“The store hereby permitted development shall not be open for trading otherwise than between the hours of :</i></p> <ul style="list-style-type: none"> • <i>7am and 10pm on Mondays to Saturdays</i> • <i>10am and 4pm on Sundays,</i> <p><i>except for the 18 – 24 December and the 7 days before Easter Sunday when it shall not be open for trading otherwise than between the hours of :</i></p> <ul style="list-style-type: none"> • <i>6am and 12am on Mondays to Saturdays; and</i> • <i>for no more than 6 consecutive hours between 10am and 6pm on Sundays.”</i> <p>The applicants have requested the permanent extension to the store opening hours over the Christmas and Easter periods to enable flexibility for customers over the busiest shopping days of the year. They state that this will reduce congestion on the roads around the store and within the store and its car park. They also state that it will enable shopping patterns to be more dispersed around peak hours therefore not leading to an increase in traffic.</p> <p>In considering this request to extend the opening hours the main consideration is the impact on the adjoining properties, the reason for the imposition of the condition on the approval of the foodstore. Consultation with neighbouring properties has been undertaken and a site notice posted.</p> <p>The variation would allow the store to open for three hours extra per day for less than 14 days of the year. Therefore, considering that the restriction to opening hours will remain on the store for the rest of the year (351 days) it is not considered that this will have an unduly detrimental impact on the residential amenities of the adjoining properties and surrounding area.</p>
<p>Lighting</p> <p>Living opposite the car park furthest away from the store (not the Phoenix House Car Park), this area of the Car Park is lit during opening hours by 3 flood lights. These 3 flood lights are a cause of light pollution and light nuisance to the houses on Stirling Road, up to Weavers Green.</p> <p>Concerns have already been raised regarding the flood lighting, and excess artificial lighting that has been introduced by Sainsbury’s since it has been erected. For the fortnight prior to the store opening, when the lighting was not regulated by the terms, “to be switched off 30 minutes after</p>	<p>Noted, concern has been expressed in relation to the lighting level and steps have been taken to reduce the impact on adjoining properties. If the store is granted extension to the opening hours for these 14 days then this will obviously mean that the lighting will need to be extended too.</p> <p>Given the temporary nature of the extension and it being limited to 14 days in the year it is considered the impact of the lighting would not be sufficiently detrimental to lead to refusal of the application.</p> <p>The lighting condition restricts lighting to 30 minutes after closure with the exception of</p>

<p>store close”, it was a regular occurrence of the lighting not being switched off, and subsequently lighting my house up like the Blackpool illuminations.</p> <p>To further increment the issues we have had with lighting, Sainsbury’s have removed the trees and hedges that previously aligned the border between the Car Park and Stirling Road, this would have acted as a natural “break” to the extra/nuisance lighting that has been introduced since the building of the store.</p> <p>The nuisance of the lighting has been reported to both Sainsbury’s and the Planning Office previously with the enforcement of the condition be adhered to.</p> <p>I have therefore had to become accustomed to having the lighting up until 10:30 at night (30 minutes after the store closes), if they switch the lights off as agreed, however I am <u>STRONGLY OPPOSED</u> to have this light nuisance being extended into the night any further.</p>	<p>security lighting for the access/egress and this will apply to the extended opening hours as well.</p>
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Conclusion

The application requests the variation of Condition 35 in relation to opening hours to allow for the store to have extended opening hours for a maximum of 14 days per annum. The variation would allow the store to open for three hours extra per day for less than 14 days of the year. Therefore, considering that the restriction to opening hours will remain on the store for the rest of the year (351 days) it is not considered that this will have an unacceptable detrimental impact on the amenities of the surrounding area. Accordingly the application is recommended for approval.

RECOMMENDATION: Permit subject to the following conditions:

1. The store hereby permitted development shall not be open for trading otherwise than between the hours of :
 - 7am and 10pm on Mondays to Saturdays
 - 10am and 4pm on Sundays,

except for the 18 – 24 December and the 7 days before Easter Sunday when it shall not be open for trading otherwise than between the hours of :

- 6am and 12am on Mondays to Saturdays; and
- for no more than 6 consecutive hours between 10am and 6pm on Sundays.”

Reason

- 1 To ensure that the use remain compatible with the surrounding area and in the interest of residential amenities.

And all applicable conditions imposed on 13/00054/VAC.

Officer to contact: Mrs Jennifer Wallis

Date:13th January 2014

