

DELEGATED

**AGENDA NO
PLANNING COMMITTEE
5 FEBRUARY 2025
REPORT OF ASSISTANT DIRECTOR OF
INCLUSIVE GROWTH AND DEVELOPMENT**

**24/1555/VARY Land East Of Hanzard Drive, South Of Bloomfield Drive/Applecross And North Of Glenarm Drive, Wynyard,
Section 73 application to vary conditions no6 (Opening Hours) and no7 (Delivery hours) of planning approval 21/0345/FUL - Erection of local centre comprising of eight commercial units and associated infrastructure works.**

Expiry Date: 4 December 2024

Extension of Time Date: 7 February 2025

SUMMARY

The application site extends to approx. 0.7 ha between the existing Bloomfield Drive residential development to the north, various commercial units served from Glenarm Road lie to the east and south and Hanzard Drive spine road to the west. The site is within defined development limits and is identified as a local centre within the Wynyard Masterplan. The principle of development within this location has therefore been established.

Additionally, permission was granted for the erection of a local centre comprising of eight commercial units and associated infrastructure works by Planning Committee (Ref 21/0345/FUL), on 5 July 2023, works have since commenced on site. The permission was granted subject to a number of conditions which included restrictions over opening hours and deliveries. This application is seeking to vary these conditions to enable enhanced opening hours for Unit 1, the Co-op and to enable newspaper deliveries to Unit 1 to also be made outside of the approved hours.

The application has received 5 letters of objections following the public consultation and an objection from Wynyard Parish Council. There has been no objection from any of the statutory consultees.

Notwithstanding comments from interested parties, the principle of development has previously been established and remains acceptable. The application has been considered in full and it is not considered that the development would result in an adverse impact on the occupiers of the amenity of adjacent residents or the overall character of the area. There are no technical reasons why the proposed scheme is unacceptable in planning terms so as to justify a refusal of the application. The recommendation is therefore one of approval subject to the conditions set out below;

RECOMMENDATION

That planning application 24/1555/VARY be approved subject to the following conditions and informatives detailed below;

01 Scope of the Consent

This permission relates solely to the variation of conditions 06 and 07 of application ref. 21/0345/FUL and does not in any way discharge or remove any of the remaining conditions attached to application 21/0345/ FUL which shall still be complied with.

Reason: To define the consent

02 Revised Condition 06 - Opening Hours

The hereby approved unit 1 shall not be open for business outside of the hours 07:00 Hrs- 22:00Hrs Monday to Sunday. Units 2-8 shall not be open for business outside the hours 08:00Hrs - 22:00Hrs Monday to Saturday including Bank Holidays and 10:00 Hrs -18:00 Hrs on Sunday.

Reason: In the interests of the amenity of the neighbouring residential premises

03 Revised Condition 07 - Delivery hours

No deliveries to the commercial premises shall be taken at the site outside the hours of 07:00Hrs and 19:00Hrs, with the exception of 1 delivery per day to unit 1 between the hours of 06:00Hrs and 07:00Hrs for the purpose of newspaper delivery to be undertaken by a transit van and delivered to the front door of the unit, in line with the recommendations of the Noise Impact Assessment received by the Local Planning Authority on the 20 December 2024.

Reason: To protect the amenities of nearby residents

INFORMATIVE OF REASON FOR PLANNING APPROVAL

Informative: Working Practices

The Local Planning Authority has worked in a positive and proactive manner and sought solutions to problems arising in dealing with the planning application by gaining additional information required to assess the scheme and by the identification and imposition of appropriate planning conditions.

BACKGROUND

1. Permission was granted for the erection of local centre comprising of eight commercial units and associated infrastructure works by Planning Committee Ref 21/0345/FUL, on 5 July 2023, works have since commenced on site and the permission is therefore extant.

SITE AND SURROUNDINGS

2. The application site (hereby referred to as the Site). is located within Wynyard Park, approximately 300m north of the A689 and immediately east of Hanzard Drive.
3. The site occupies 0.7 hectares of undeveloped land, formerly in agricultural use, situated between the existing Bloomfield Drive residential development to the north, various commercial units served from Glenarm Road to the east and south and Hanzard Drive spine road to the west.
4. The site holds an elevated position to the residential properties to the north. A 6m drainage easement is located along the northern boundary between the proposed site and existing two storey residential dwellings at Applecross Grove and Bloomfield Drive.

PROPOSAL

5. Planning permission is sort under Section 73 of the Town and Country Planning Act 1990 vary conditions 6 and 7 of planning permission reference 21/0345/FUL.
6. The proposed variation to condition 6 is to enable Unit 1 to open in line with Co-op's typical opening hours for a convenience store. The opening hours for Units 2-8 are not proposed to be

amended. The applicant originally proposed 07:00 – 23:00 for the opening hours of Unit 1, however following discussions this has been reduced to 07:00 -22:00.

7. The proposed variation to condition 7 is to allow newspapers deliveries to be made by a small transit van to Unit 1 (Co-op convenience store) early in the morning before the store opens.

CONSULTATIONS

8. Consultees were notified and the following comments were received.

Parish Council

Wynyard Parish Council objects to this planning application.

This planning application seeks to change the opening hours of the Co-op store which will occupy Unit 1 of the eight commercial units within the Local Centre now under construction at Hanzard Drive following approval of 21/0345/FUL .

Two of the 30 conditions attached to the planning permission granted to 21/0345/FUL are conditions 6 and 7: condition 6 states that the units shall not be open for business outside the hours 08:00 - 22:00 Monday to Saturday including Bank Holidays and 10:00-18:00 on Sunday. Condition 7 requires no deliveries to the commercial premises at the Site outside the hours of 07:00 and 19:00.

One of the documents on the Planning Portal is a 'Cover Letter' sent by Stantec UK Ltd, on behalf of their clients, the Co-operative Group ('Co-op'). This document describes the changes that Co-op would like to make to conditions 6 and 7, i.e.:-

"Co-op is seeking to vary the wording of each condition as follows:

Unit 1 shall not be open for business outside the hours 07:00-23:00 and Units 2-8 shall not be open for business outside the hours 08:00-22:00 Monday to Saturday including Bank Holidays and 10:00-18:00 on Sunday."

The Stantec Cover Letter states that: "The proposed variation to condition 6 is to enable Unit 1 to open in line with Co-op's typical opening hours for a convenience store."

However, every single similar Co-op convenience store located in the Tees Valley and County Durham, including the nearest stores at The Granary, Wynyard; Sedgfield; Fishburn; and Trimdon - all close their doors at 10:00pm. Yet this application seeks permission to keep Unit 1 open for business until 11:00pm!

Therefore, the proposal (to allow the new Co-op store in Unit 1 of the Local Centre) to remain open until 11:00pm each day is obviously not "in line with Co-op's typical opening hours for a convenience store" as stated in the Stantec cover letter.

As stated in the Objections of residents who live nearby, this is highly likely to create noise and disturbance late at night. This would be particularly disruptive and disturbing for residents living nearby - particularly as the general nature of the Wynyard residential area is quiet and semi-rural.

Therefore Wynyard Parish Council objects to this planning application.

Highways Transport & Design Manager

General Comments

The Highways, Transport and Design Manager wishes to make no comments on the proposed changes to condition 6 and 7 as they are not highways conditions.

Environmental Health Unit

The above application relates to a variation of delivery times for in relation to the following:

"No deliveries to Unit 1 by Heavy Goods Vehicles (HGV's) shall be taken at the site outside the hours of 07:0 and 19:00 and no deliveries to Units 2-8 shall be taken outside the hours 07:00 and 19:00."

Subsequently the variation does not alter the time when HGVs will be undertaking deliveries and this application therefore only relates to deliveries from transit vans for newspaper deliveries.

I have reviewed the submitted noise impact assessment which has applied acoustic character corrections as part of the BS4142 assessment and the outcome of the assessment indicates that the delivery noise will not exceed existing background noise levels and therefore it is unlikely to cause an adverse impact to nearby residents.

In addition to this there has been a proposal from the applicant that deliveries associated with this variation can take place to the front of the Units which I support as the building will provide further acoustic screening to the residential properties. The anticipated impact is therefore predicated to be 1dB below background noise levels during the day (07:00- 23:00) and 7dB below the existing background noise levels for the specified time period when deliveries will take place (06:00- 07:00hrs).

Environmental Health therefore have no grounds to object to the above application and would recommend the noise report, the measures detailed within the noise report (i.e. no more than one delivery per day between 06:00- 07:00hrs via transit van for newspapers only) and the proposal for deliveries at the front of the building are to be conditioned by the Planning Department should the application be approved.

PUBLICITY

9. Neighbours were notified and the following comments were received.

1. Mrs Susanne Schofield 2 The Wynd Wynyard
2. Mr Robert Bussey 2 The Wynd Wynyard
3. Miss Gemma Pool 8 Bloomfield Drive Wynyard
4. Mrs Sue Finch 18 Applecross Grove Wynyard
5. Mr Matthew Turner 20 Applecross Grove Wynyard

Objections summarised;

- The Stables and Sedgefield Co-op are open 07 :00 - 22 :00
- Wynyard is a quiet semi-rural location and in the interests of the amenity of the neighbouring residential premises the closing time should remain, in line with the others stated, as 22.00 Monday to Saturday.
- No objection to a request to vary the opening hours from 08.00 to 07.00 Monday - Saturday
- No objection to the proposed change to condition 7.
- The proposed late night opening hours could encourage elements of anti-social behaviour.
- Impact on amenity of adjacent neighbours through noise and disturbance
- Would set a precedent
- All delivery vehicles have reversing sensors

PLANNING POLICY

10. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan is the Stockton on Tees Borough Council Local Plan 2019.
11. Section 143 of the Localism Act came into force on the 15 January 2012 and requires the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application the authority shall have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations.

National Planning Policy Framework

12. The purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic social and environmental objectives.
13. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11) which for decision making means;
 - approving development proposals that accord with an up-to-date development plan without delay; or
 - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Local Planning Policy

14. The following planning policies are considered to be relevant to the consideration of this application.

Strategic Development Strategy Policy 1 (SD1) - Presumption in favour of Sustainable Development

1. In accordance with the Government's National Planning Policy Framework (NPPF), when the Council considers development proposals it will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. It will always work proactively with applicants jointly to find solutions which mean that proposals for sustainable development can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

2. Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

Strategic Development Strategy Policy 8 (SD8) - Sustainable Design Principles

1. The Council will seek new development to be designed to the highest possible standard, taking into consideration the context of the surrounding area and the need to respond positively to the:
 - a. Quality, character and sensitivity of the surrounding public realm, heritage assets, and nearby buildings, in particular at prominent junctions, main roads and town centre gateways;
 - b. Landscape character of the area, including the contribution made by existing trees and landscaping;
 - c. Need to protect and enhance ecological and green infrastructure networks and assets;
 - d. Need to ensure that new development is appropriately laid out to ensure adequate separation between buildings and an attractive environment;
 - e. Privacy and amenity of all existing and future occupants of land and buildings;
 - f. Existing transport network and the need to provide safe and satisfactory access and parking for all modes of transport;
 - g. Need to reinforce local distinctiveness and provide high quality and inclusive design solutions, and
 - h. Need for all development to be designed inclusively to ensure that buildings and spaces are accessible for all, including people with disabilities.

2. New development should contribute positively to making places better for people. They should be inclusive and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.

3. All proposals will be designed with public safety and the desire to reduce crime in mind, incorporating, where appropriate, advice from the Health and Safety Executive, Secured by Design, or any other appropriate design standards.

4. New development will seek provision of adequate waste recycling, storage and collection facilities, which are appropriately sited and designed.

MATERIAL PLANNING CONSIDERATIONS

15. The main planning considerations of this application are the impacts on the amenity of the surrounding occupiers.

16. As with all commercial developments within close proximity to residential properties, consideration needs to be given to the day-to-day impacts with necessary controls placed on daily operations to safeguard an acceptable level of residential amenity.

17. As detailed within the previous committee report, a submitted noise report identifies the potential conflict with the delivery area and the closest residential receptors adjacent to the northern boundary of the site adjacent to unit 1 and identified delivery area. Part of the mitigation was the requirement for a 3m high fence of solid construction and no air gaps for a length of 20 metres to screen and mitigate noise implications.

18. To control the overall operations of the proposed local centre, a number of conditions were imposed these related to noise, odour, servicing, refuse management (both during construction and once the site is operational) and opening hours.

19. This application is seeking to vary the opening hours and delivery hours associated with Unit 1 (Co-op) only.

20. As noted by the letters of objections received, whilst other local stores elsewhere may extend their opening hours from 07:00- 23:00 the existing Co-op within The Stables Local Centre is

restricted to 07:00 – 22:00. 22:00hrs are also a consistent closing time within the wider retail centre (excluding Sunday's).

21. Following concerns raised due to the elevated position of the development, proximity to residential properties and the relatively quiet characteristics of the wider area it is considered that restricting the opening hours to 07:00 -22:00 would be more appropriate within this context. The applicant has agreed to the proposed restrictions.
22. With the exception of a Sunday, Unit 1 would not be open later than as has already been agreed, it is therefore not considered that the proposed variation of condition would give rise to a greater risk of antisocial behaviour or to have an adverse impact on the character of the area.
23. Environmental Health have confirmed, in line with the submitted Noise Impact Assessment that they have no objection to the proposed changes to the opening hours. Whilst concern has been raised by residents that this application may set a precedent, each application would still need to be considered on its own merits.
24. During the course of the application a revised Noise Impact Assessment was undertaken. Following review of this report and confirmation that the additional delivery would be limited to one delivery of newspapers to the front of the store via a transit van, the Environmental Health Officers have confirmed that they have no objection to the proposed variation of condition 07. Subject to the control recommended by the submitted Noise Impact Report being secured. It is therefore not considered that the proposed variation to condition 07 would have a significant adverse impact on the occupiers of the adjacent residential dwellings as to sustain a reason for refusal.
25. Whilst the concern of the residents and Parish Council are noted it is not considered that in line with the above that the proposed development would have a significant impact on the levels of amenity which could reasonably be expected, and the proposals would accord with national policy and local plan SD8 in respect to noise and levels of residential amenity.

CONCLUSION

26. Subject to the recommended conditions, it is considered that there would be no adverse impacts from the proposed development that would sustain a reason for refusal. For the reasons stated above and detailed in the report it is recommended that the application be approved with conditions

Director of Finance, Development and Business Services
Contact Officer Helen Boston Telephone No 01642 526080

WARD AND WARD COUNCILLORS

Ward	Northern Parishes
Ward Councillor	Councillor John Gardner
Ward Councillor	Councillor Vanessa Sewell

IMPLICATIONS

Financial Implications:

As per report

Environmental Implications:

As per report

Human Rights Implications:

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

Community Safety Implications:

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report

Background Papers

Stockton on Tees Local Plan Adopted 2019