
APPLICATION NO.	23/02440/VARN
APPLICATION TYPE	VARIATION OF CONDITIONS - NORTH
REGISTERED	27.09.2023
APPLICANT	Mrs Adefunke Owolabi
SITE	87 Weyhill Road, Andover, Hampshire, SP10 3NR, ANDOVER TOWN (MILLWAY)
PROPOSAL	Variation of Condition 8 of TVN.05858/1 (Erection of retail unit) to allow for the change in opening hours to 0800hrs to 2100hrs Monday to Saturday (Change of Description)
AMENDMENTS	Change of description 9.11.23
CASE OFFICER	Katie Nethersole

Background paper (Local Government Act 1972 Section 100D)

[Click here to view application](#)

1.0 INTRODUCTION

- 1.1 This application has been called to NAPC at the request of a ward member as there is an overriding public interest and concerns with the application which have been expressed to them.

2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The application site consists of a large detached single storey retail unit located on the southern side of Weyhill Road. It was previously used as a cycle repair shop and café until this summer. It is set back from the road with a low brick wall at the frontage and a small parking area to the front. An access to the side of the building leads to a larger hardstanding to the rear which is used for parking. Either side of the site are residential dwellings, 85 and 89 Weyhill Road and to the rear is St Michael and All Angels Church.

3.0 PROPOSAL

- 3.1 Planning permission was granted in 1997 for the erection of a retail unit under reference TVN.05858/1 and included the following condition:

*‘The use of the building for retail purposes shall be restricted to the following hours only: 0800 – 1900 Monday to Saturday, 1000 – 1600 Sundays, and 1000 – 1600 on Bank Holidays and recognised Public Holidays.
Reason: To protect the amenities of adjoining residents.’*

- 3.2 This application seeks to vary this condition to extend the opening hours until 2100 hours 6 days a week.
- 3.3 Following comments from the Environmental Protection Officer (see section 5.1), the applicant has agreed to change the description to retain the original opening hours for Sundays and Bank Holidays.

4.0 HISTORY

- 4.1 TVN.05858/1 Erection of Retail Unit. Permission subject to conditions and notes 23rd December 1997
- 4.2 23/01441/FULLN Installation of Kitchen Extraction Equipment. Permission subject to conditions and notes 20.11.2023 with the following condition added:

'The kitchen extraction system shall only be in operation during the approved opening hours of the premises.'

Reason: In the interests of protecting residential amenity in accordance with policies E8 and LHW4 of the Test Valley Borough Revised Local Plan 2016.'

5.0 CONSULTATIONS

- 5.1 **Environmental Protection** – No objection subject to conditions
This application should be viewed in combination with the below application 23/02441/FULLN.

The current hours of use are:

Monday – Saturday	08:00-19:00
Sunday and Public Holidays	10:00-16:00

The proposed extension of use is by 2 hours from 19:00-21:00 Monday to Saturday and by 5 hours on Sunday and Public Holidays. Comment has been made in section 8.2 of the noise impact assessment (submitted in support of application 23/02441/FULLN) concerning noise other than from the kitchen extraction system. It is concluded that the proposed extension of hours is not expected to cause a change in noise impact. Despite this assertion, I believe it unlikely that there will be no impact. The types of noise such as vehicles arriving and departing (more likely to be noticed by the house adjacent to the access drive to the rear carpark), car doors and boots closing and people talking will be audible in neighbouring premises as customers and staff go to and from the carpark. Besides noise, there is also potential impact from headlight glare shining into properties on the opposite side of Weyhill Road from vehicles leaving the premises.

This impact is most likely to be felt on Sundays. This is because, currently, the premises closes at 16:00 hours and so to permit an extension to 21:00 would mean an additional 5 hours of trading and associated noise. In addition, background noise levels and general disturbance on Sundays, and in particular Sunday evening, is lower than the rest of the week and so to permit the proposed use on Sundays will result in the biggest contrast in noise levels as compared to the current situation and consequently the biggest impact.

Therefore, if you are minded to grant permission for the proposal I recommend that the extension of hours on Sunday not be approved.
I would also recommend that the following conditions are applied should permission be granted:

Condition:

No incoming deliveries shall be received at the site nor waste collections made except between the hours of 08:00 – 18:00 Monday to Friday, and 08:00-13:00 on Saturdays and public holidays. No incoming deliveries to the site nor waste collections may be made at any time on Sundays.

5.2 **Highways** – No objection

Given the proposal is purely to extend the opening hours for a moderate length of time outside of the peak highway network hours, whilst there might be some minor inconvenience at intermittent times, there would be no defensible grounds for an objection.

6.0 **REPRESENTATIONS** Expired 10.11.2023

6.1 8 letters of objection from the occupiers of 85 Weyhill Road, 89 Weyhill Road, 91 Weyhill Road, 102 Weyhill Road (x2), 116 Weyhill Road, 120 Weyhill Road, 122 Weyhill Road for the following reasons:

- Loss of amenity to neighbouring residential dwellings through noise as a result of extended hours
- Lack of parking placing pressure on surrounding roads
- Air and light pollution as a result of increased traffic
- Increase in waste from the restaurant use
- Smell of food from restaurant
- Change of use to a restaurant is not supported

11 letters of support from the occupiers of 70 Fuller Way Andover, 87 Fleece Close Andover x 2, 6 Telegraph Road Andover, The Wickets Picket Piece, 6 Halter Way Andover, 199 Cashmere Drive Andover, 56 Saddle Way Andover, 34 Alder Way Andover, 10 Quicksilver Crescent Andover, 11 Manor Road Salisbury for the following reasons:

- Provision of African cuisine
- Would be a benefit to the community
- Diversity local dining options
- Benefit to the local economy
- Creation of jobs

6.2 **Andover Town Council** – No response received

7.0 **POLICY**

7.1 Government Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

7.2 Test Valley Borough Revised Local Plan (2016)(RLP)

LHW4: Amenity

E8: Pollution

T1: Managing Movement

T2: Parking Standards

8.0 **PLANNING CONSIDERATIONS**

8.1 The main planning considerations are:

- Impact on Residential Amenity
- Access and Parking
- Other Issues

8.2 The application seeks permission to vary condition 8 of planning permission TVN.05858/1 to allow the premises to open for longer hours Mondays to Saturdays. The current condition restricts the opening hours Monday to Saturday until 7pm and on Sundays and Bank Holidays till 4pm. The application seeks an extension until 9pm on Mondays to Saturdays with Sunday and Bank Holiday opening times remaining the same. Therefore this application is focussed on the increase in the amount of activity at the premises as a result of the proposed extension to the opening hours. Planning permission is not required for the use of the premises as a shop and restaurant as it already has permitted use under Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

8.3 **Impact on Residential Amenity**

As the retail unit is located within a residential area of Andover it is important to consider the proposed extension of opening hours on the amenity of these neighbouring properties.

8.4 The application has been supported by a Noise Impact Assessment which concludes that the extension of hours would unlikely have a harmful impact in terms of noise, which has been reviewed by the Environmental Protection Officer. It is considered that the proposed extension of hours would result in additional noise from vehicles arriving and departing, car doors and boots closing, people talking as staff and customers go to and from the car park. Besides noise, there is also potential impact from glare coming from car headlights shining into properties on the opposite side of Weyhill Road from vehicles leaving the premises. From a site visit carried out by the case officer during an evening, it was clear that there would be some glare possible from headlights of cars leaving the site but that this would be for a short period of time and intermittent so as not to result in any adverse impact on the neighbouring properties, 120 and 122 Weyhill Road opposite to the site. Furthermore there is already light spill from the street light outside of the property and from lights within the building, and it is not considered that additional glare from car lights would result in an adverse impact to neighbouring amenity.

8.5 With regards to the increase in hours Mondays to Saturdays, there would be a 2 hour increase in the opening times at the end of the day. The Noise Impact Assessment concludes that the increase in hours would not likely have an adverse impact in terms of noise to the adjacent dwellings. This is because of the location of the premises, being located on a busy road where there is background noise from general traffic using Weyhill Road. This background noise during the proposed extended hours is such that it would reduce the overall impact of any additional noise from the premises during this additional period of time. As a result of this and as the proposals represent a minimal

extension to the opening hours from those currently permitted, it is not considered that there would be any adverse impact in terms of noise disturbance. Added to this the restaurant would only have 30 covers which is a relatively small and would restrict the number of people visiting the restaurant at any one time.

- 8.6 It is therefore considered that as the opening hours would continue to be restricted to 10pm to 4pm on Sundays and Public Holidays, the proposal would not result in an adverse impact on the residential amenity of neighbouring properties, in accordance with policies LHW4 and E8 of the RLP. A condition has also been recommended to restrict the hours of deliveries and waste collection.

8.7 **Access and Parking**

The existing building is accessed from an access point off Weyhill Road and this would be retained with no alterations being proposed. This access leads to hardstanding areas to the front and rear of the building which would be used for parking by customers. The Highways Officer has reviewed the proposal and has confirmed that as the proposal is for the extension of opening hours for a moderate length of time outside of the peak highway network hours, whilst there might be some minor inconvenience at intermittent times, the proposal would not result in any harm to the safety and efficiency of the highway network.

- 8.8 Parking is provided to the front and rear of the site and a total of 11 spaces would be provided for customers to park on site. Whilst this number of spaces falls below the parking standards, because this application is not for a change of use of the premises and only for the extension to opening hours then this is considered acceptable. It is considered that the proposal to extend the opening hours would not result in any highway impact or additional pressure on parking and would accord with policies T1 and T2 of the RLP.

8.9 **Other Issues**

It is noted that third party correspondence has been received regarding the change of use to a restaurant. The building has permission to be used as retail which is within Use Class E of the GPDO and restaurants and shops fall within that same use meaning that there is no change of use taking place.

9.0 **CONCLUSION**

- 9.1 In conclusion it is considered that the variation to the opening hours condition is acceptable and would accord with the requirements of policies LHW4, E8, T1 and T2 of the RLP.

10.0 **RECOMMENDATION**

PERMISSION subject to:

1. **The use of the premises shall be restricted to the following hours only: 0800 - 2100 Mondays to Saturdays and 1000 - 1600 on Sundays and Public Bank Holidays.**
Reason: To protect the amenities of nearby residential dwellings and in accordance with policy LHW4 and E8 of the Test Valley Borough Revised Local Plan 2016.

2. **No incoming deliveries shall be received at the site nor waste collections made except between the hours of 08:00 – 18:00 Monday to Friday, and 08:00-13:00 on Saturdays and public holidays. No incoming deliveries to the site nor waste collections may be made at any time on Sundays.**

Reason: To protect the amenities of nearby residential dwellings and in accordance with policy LHW4 and E8 of the Test Valley Borough Revised Local Plan 2016.

Note to applicant:

1. **In reaching this decision Test Valley Borough Council (TVBC) has had regard to the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
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