

Application Number 18/00961/FUL

Proposal	Full planning permission for variation of condition 18 (hours of operation of the units) of planning permission 14/00903/OUT to units 1 (foodstore), 2-6 (larger A1-A5 units) and 7-10 (smaller A1-A5 units).
Site	Land Bounded By Ashworth Lane and Chain Bar Lane, Mottram
Applicant	Maple Grove Developments
Recommendation	Approve, subject to conditions
Reason for report	A Speakers Panel decision is required because the application is a major development.

REPORT**1. APPLICATION DESCRIPTION**

- 1.1 The applicant seeks full planning permission for variation of condition 18 (hours of operation of the units) of planning permission 14/00903/OUT to units 1 (foodstore), 2-6 (larger A1-A5 units) and 7-10 (smaller A1-A5 units).
- 1.2 Condition 18 of the planning permission (in respect of development for Foodstore (Class A1) & Retail Units (Class A1 - A5) states the following opening hours:

Monday to Friday 0700 - 2300
Saturday 0700 - 2300
Sundays and Bank Holidays 1100 – 1700

The reason given for the condition is stated as 'To protect the amenities of occupants of nearby properties/dwellinghouses.'

- 1.3 The applicant proposes to amend the above hours of the foodstore to allow 1 extra hour of opening in the morning on a Sundays and Bank Holidays (change from 11:00 in the extant permission to 10:00 on those days only).
- 1.4 Units 2 – 6 (larger retail units) are proposed to open at 06:00 Mon – Sat and 10:00 on Sundays and Bank Holidays (i.e. 1 hour earlier than is allowed under the extant planning permission.)
- 1.5 Units 7-10 (smaller units) are proposed to open between 06:00 – 2300. This would represent opening an hour earlier every day and an extension of 7 hours in total on Sundays and Bank Holidays.

2. SITE & SURROUNDINGS

- 2.1 The application site comprises land bounded by Stockport Road, Ashworth Lane and Chain Bar Lane, Mottram. The site is located at the junction of Stockport Road and Ashworth Lane and extends to 3.99 hectares. Land levels with the western part of the site are relatively flat before falling away considerably from west to east. The topography of the site is made more irregular by previous deposition of clearance material / spoil associated with re-development of other residential areas of the wider Hattersley estate.
- 2.2 The site was formerly a residential estate which is now predominantly cleared (demolition took place in c.2006) apart from one dwelling which fronts on to Stockport Road (A560)

close to the junction with Ashworth Lane. This dwelling is the subject of a Compulsory Purchase Order (CPO). The Inquiry into that matter concluded recently. Existing vehicular access is obtained via Chain Bar Lane to the rear. Chain Bar Lane forms a large loop running from its junction from Ashworth Lane (opposite the new Hub facility) through the application site and back to Ashworth Lane via a separate residential estate further to the east.

3. PLANNING HISTORY

The site history relevant to this application is as follows:

- 3.1 18/00015/REM - Approval of reserved matters (appearance, landscaping, layout and scale) for a retail development on the site following grant of outline planning permission 14/00903/OUT – approved
- 3.2 17/00668/MATCH - Non material amendment in relation to planning application no. 14/00903/OUT to increase the gross external area of the foodstore to 1,867 square metres – approved.
- 3.3 14/00903/OUT - Comprehensive redevelopment for a new district centre comprising class A1 foodstore, retail units (Class A1-A5), Drive-Through Cafe/Restaurant (Class A3/A5) with associated means of access (All other matters reserved), including the demolition of existing buildings and structures – approved

4. RELEVANT PLANNING POLICIES

4.1 Tameside Unitary Development Plan (UDP) Allocation

Unallocated

Part 1 Policies

- 1.3: Creating a Cleaner and Greener Environment.
- 1.5: Following the Principles of Sustainable Development.
- 1.6: Securing Urban Regeneration
- 1.7: Supporting the Role of Town Centres.
- 1.12: Ensuring an Accessible and Safe Environment.

Part 2 Policies

- S1: Town Centre Improvement
- S3 New Retail Developments Outside Town Centres.
- S9: Detailed Design of Retail and Leisure Developments.
- T1: Highway Improvement and Traffic Management.
- T10: Parking.
- MW11: Contaminated Land
- MW12: Control of Pollution
- MW14 Air Quality
- N3: Nature Conservation Factors
- N4 Trees and Woodland
- N5: Trees Within Development Sites
- U3: Water Services for Developments
- U4: Flood Prevention.
- U5: Energy Efficiency

Other policies

- Hattersley and Mottram Supplementary Planning Guidance (April 2004)
- Hattersley Development and Delivery Strategy (November 2005)

Tameside Retail Study (May 2010)

4.5 **National Planning Policy Framework (NPPF)**

Section 2: Achieving sustainable development
Section 6: Building a strong competitive economy
Section 7: Ensuring the vitality of town centres

4.6 **Planning Practice Guidance (PPG)**

This is intended to complement the NPPF and to provide a single resource for planning guidance, whilst rationalising and streamlining the material. Almost all previous planning Circulars and advice notes have been cancelled. Specific reference will be made to the PPG or other national advice in the Analysis section of the report, where appropriate.

5. PUBLICITY CARRIED OUT

5.1 A total of 250 neighbour notification letters were issued (to all addresses consulted on the original outline and the reserved matters applications), an advert was placed in the press and a notice was displayed on site, in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

6. RESPONSES FROM CONSULTEES

6.1 Borough Environmental Health Officer (EHO) – no objections raised to the proposed extended opening hours.

6.2 Local Highway Authority - no objections raised to the proposed extended opening hours.

7. SUMMARY OF THIRD PARTY RESPONSES RECEIVED

7.1 3 objections have been received from neighbouring properties, raising the following concerns (summarised):

- There are already so many stores in the vicinity that are resulting in traffic congestion. Extending the opening hours of the units would make this situation worse.
- Air pollution targets will not be met if retail developments that bring more traffic into the area continue to be approved and expanded.
- The proposed development will result in a reduction in the viability of existing small retailers in neighbouring towns.
- The area surrounding the site is residential in character and therefore this is not a suitable location for a retail development.
- Concerns regarding the extent of consultation on the application.

8. ANALYSIS

8.1 The issues to be assessed in the determination of this planning application is whether the additional opening hours proposed by the variation of condition application would result in a detrimental impact on the residential amenity of neighbouring properties or highway safety. An assessment of the potential impacts must be considered within the context of the extant planning permission.

8.2 The principle of development is not being revisited in this application, nor are the planning merits (including the principle of development in this location, the impact on the vitality and

viability of neighbouring town centres and the highway safety of the scheme as a whole) of the already approved scheme.

- 8.3 The effect of the proposals would be that the larger retail units (2-6) on the site would be open an hour earlier every day, with the foodstore only opening 1 additional hour on Sundays and Bank Holidays. It is considered that the additional traffic generated by allowing these units to open 1 hour earlier would not be significant when considered within the context of the extant permission, as the additional journeys would not occur during peak travel times.
- 8.4 Whilst the smaller units would be open longer on Sundays, this would affect evening hours which would also fall outside of peak times. The approved scheme makes adequate provision for parking to serve the development and therefore an extension to the opening hours of the units as a whole would not result in a severe impact on highway safety in relation to congestion on the site or the wider highway network, within the context of the extant permission. This assessment is corroborated by the lack of objection to the proposals from the Local Highway Authority to this variation of condition application.
- 8.5 Given the separation distances to be retained to the neighbouring properties to the west (on the opposite side of Stockport Road) and to the east of the site, it is considered that the noise generated by the proposed additional hours of the opening would not result in an adverse impact on the residential amenity of any of the neighbouring properties, within the context of the extant scheme. This assessment is corroborated by the lack of objection to the proposals from the Environmental Health Officer to this variation of condition application
- 8.6 If this variation of condition application is approved, it would in effect re-issue the original outline planning permission and as such all of the conditions on that original consent that remain relevant would be re-imposed. Case law from 2002 (*Reid v Secretary of State*) confirms that conditions can be imposed on variation of condition applications in 2 ways:

1. impose fresh conditions mirroring the original conditions save for the variation; or
2. impose only the varied condition(s) and incorporate the unaffected conditions by cross-reference to the original permission.

As a number of those conditions that remain relevant in this case need to be updated following the discharge of a number of the originally imposed conditions, it is considered expedient to re-impose all of those conditions originally imposed, modified where appropriate.

- 8.7 Conditions 4 and 5 of the original consent relate to drainage and details in this regards were submitted and approved under discharge of condition ref. 18/00086/PLCOND. Condition 12 of the outline planning permission required the submission and approval of a dilapidation survey of the highway. Such a survey was submitted and approved under the same discharge of condition application and therefore it is not necessary to attach that condition to any variation of condition permission issued. The information supplied to discharge conditions 23 (requiring further bat survey work) and 24 (requiring further badger sett survey work) was also considered to be acceptable and these conditions have been merged into one compliance condition (no. 22) on the recommendation. There was no Section 106 Agreement attached to the original outline planning permission.

9. CONCLUSION

- 9.1 Following the above assessment, it is considered that the proposed extension of the opening hours of the units would not result in an adverse impact on the residential amenity of neighbouring properties or highway safety. In all other respects, the proposed development would remain as previously approved.

10. RECOMMENDATION

Grant planning permission subject to the following conditions:

1. The development must be begun not later than the expiry of two years from 22.06.2018 i.e. the date that the final reserved matter was approved.

2. The development hereby approved shall be carried out in accordance with the following approved plans:

1:1250 Site location plan

Proposed site plan (drawing no. 003 Rev. H)

Proposed connectivity and access plan (drawing no. P9200)002)

North west gateway entrance plan (drawing no. MR17-112/105)

Soft landscaping proposals (north) plan (drawing no. MR17-112/103 Rev. B)

Soft landscaping proposals (south) plan (drawing no. MR17-112/104 Rev. A)

Hard landscaping proposals (north) plan (drawing no. MR17-112/101 Rev. B)

Hard landscaping proposals (south) plan (drawing no. MR17-112/102 Rev. A)

Proposed site boundary treatments plan (drawing no. 018 Rev. C)

Proposed Latitudinal Sections plan (drawing no. 017 Rev. C)

Proposed Longitudinal Sections plan (drawing no. 016 Rev. C)

Proposed Street Scenes plan (Stockport Road/Ashworth Lane) (drawing no. 014 Rev. C)

Proposed floor plans units 7-10 plan (drawing no. 008 Rev. B)

Proposed elevations - unit 1 plan (drawing no. 010)

Proposed first floor plans - unit 1 (drawing no. 004 Rev. A)

Proposed roof plans - unit 1 (drawing no. 005)

Proposed elevations - units 2-6 (drawing no. 011 Rev. A)

Proposed floor plans - units 2-6 (drawing no. 006)

Proposed roof plan - units 2-6 (drawing no. 007)

Proposed elevations - units 7-10 (drawing no. 012 Rev. B)

Proposed elevations - unit 11 (drawing no. 013 Rev. A)

Proposed floor/roof plans - unit 11 (drawing no. 009 Rev. A)

Proposed section through access ramp off Stockport Road (drawing no. 019)

3. The development hereby approved shall incorporate measures to minimise the risk of crime and to meet the specific security needs of the application site and the development. Any security measures to be implemented in compliance with this condition shall seek to secure the 'Secured by Design' accreditation awarded by the Greater Manchester Police. Written confirmation of those measures is to be provided to the Local Planning Authority prior to the occupation of any building.

4. The surface water drainage strategy to serve the development shall be implemented in accordance with the details shown on plan refs. GA-600-Rev. P1, GA-601-Rev. P1 and GA-602-Rev. P1 and the contents of the document entitled Surface Water Management Report (Rev. B) produced by icis design limited (dated December 2017) (which includes details of surface water run-off rates) submitted to discharge condition 4 of planning permission 14/00903/OUT. The approved measures shall be implemented in full prior to the first occupation of any part of the development hereby approved and shall be retained as such thereafter.

5. The foul and surface water drainage strategy to serve the development shall be implemented in accordance with the details shown on plan refs. GA-600-Rev. P1, GA-601-Rev. P1 and GA-602-Rev. P1 and the contents of the document entitled Surface Water Management Report (Rev. B) produced by icis design limited (dated December 2017) (which includes details of surface water run-off rates) submitted to discharge condition 5 of planning permission 14/00903/OUT. The approved measures shall be

implemented in full prior to the first occupation of any part of the development hereby approved and shall be retained as such thereafter.

6. The gross external area of the foodstore element of the application proposal shall not exceed 1,691 sqm, including, for the avoidance of doubt, any mezzanine floorspace.
7. The total sales area of the foodstore element of the application proposal shall not exceed 1,254 sqm (using the Competition Commission's definition of retail sales area), including, for the avoidance of doubt, any mezzanine floorspace.
8. The total convenience sales area of the foodstore element of the application proposal shall not exceed 1,100 sqm, and the comparison goods sales area shall not exceed 300 sqm, provided, at all times, that the total retail sales area does not exceed 1,254 sqm.
9. The gross external area of the Class A1 to A5 retail units element of the application proposal shall not exceed 5,068 sqm, including, for the avoidance of doubt, any mezzanine floorspace.
10. The total sales area of the Class A1 to A5 retail units element of the application proposal shall not exceed 4,561 sqm (using the Competition Commission's definition of sales area), including, for the avoidance of doubt, any mezzanine floorspace
11. The total convenience goods sales area of the Class A1 to A5 retail units element of the application proposal shall not exceed 2,100 sqm, and the comparison goods sales area shall not exceed 3,420 sqm, provided, at all times, that the total retail sales area, including any at mezzanine level, does not exceed 4,561 sqm
12. The development hereby approved shall not be brought in to use until the road works and traffic management measures necessary to secure satisfactory access to the site have been completed in accordance with details having been agreed in writing previously with the local planning authority and secured by s278 Agreement (Highways Act 1980).
13. The measures detailed in the Construction Methodology produced by Eric Wright dated 19 September 2018 submitted to discharge condition 14 of planning permission 14/00903/OUT (including wheel cleaning facilities, temporary access, vehicle parking and turning facilities) shall be implemented in accordance with the submitted details on the commencement of development and shall remain in place for the duration of the construction phase of the development.
14. Prior to bringing the development into use the car parking, servicing and turning facilities indicated on the approved plan shall be provided to the full satisfaction of the Local Planning Authority and thereafter kept unobstructed and available for their intended purposes. Vehicles must be able to enter and leave the site in forward gear at all times.
15. In respect of development for Drive-Through Cafe/Restaurant (Class A3/A5), no hot food preparation equipment shall be brought into use unless and until a scheme for the effective deodorising and degreasing and dispersal of emissions has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented to the satisfaction of the local planning authority and properly maintained and used thereafter.
16. During demolition/construction no work (including vehicle and plant movements, deliveries, loading and unloading) shall take place outside the hours of 07:30 and 18:00

Mondays to Fridays and 08:00 to 13:00 Saturdays. No work shall take place on Sundays and Bank Holidays.

17. The use hereby permitted shall be operated:

In respect of development for Drive-Through Cafe/Restaurant (Class A3/A5):

Monday to Friday 24Hrs

Saturday 24Hrs

Sundays and Bank Holidays 24Hrs

In respect of Units 2 – 6 (as identified on the proposed site plan (drawing no. 003 Rev. H) approved under planning application ref. 18/00015/REM):

Monday to Friday 0600 - 2300

Saturday 0600 - 2300

Sundays and Bank Holidays 1000 – 1700

In respect of Units 7-10 (as identified the proposed site plan (drawing no. 003 Rev. H) approved under planning application ref. 18/00015/REM):

Monday to Friday 0600 - 2300

Saturday 0600 - 2300

Sundays and Bank Holidays 1000 – 2300

18. Each retail unit hereby approved shall not be occupied unless and until adequate facilities for the storage and collection of refuse and recyclable materials have been physically provided for that unit, or group of units, in accordance with details having been previously submitted to and approved by the local planning authority.

19. The development hereby approved shall not be occupied unless and until the developer has complied with TMBC's noise condition of $LA90 \leq 5dB$ in relation to all plant as per Environmental Noise Assessment, New Hattersley District Centre, dated August 2014 and maintained thereafter.

20. The development hereby approved shall be carried out in accordance with the measures detailed in Sections 8 and 9 Geo-Environmental Assessment Report (ref. LC/C3247/6268 Rev. A) dated May 2018 submitted to discharge condition 21 of planning permission 14/00903/OUT.

21. The development hereby permitted shall be carried out in accordance with: the Existing Site Plan (location plan), ref. GVA/HAT/10C; the Parameters Plan, ref. GVA/HAT/sk15B; the Connectivity Access Plan, ref. GVA/HAT/sk16E; and, the design principles included in the Design and Access Statement.

22. The development shall be carried out in accordance with the mitigation measures detailed in Section 7 of the Ecological Appraisal produced by envirotech Ecological Consultants to discharge conditions 23 (relating to bats) and 24 (relating to badgers) of planning permission 14/00903/OUT.

23. The removal and control of Himalayan Balsam on the site shall be undertaken in accordance with the mitigation measures detailed in the Himalayan Balsam statement produced by Envirotech Ecological Consultants dated 27 November 2018 to discharge condition 25 of planning permission 14/00903/OUT.

24. No trees or shrubs will be removed or demolition of buildings commenced between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably

experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no bird nests are present which has then been agreed in writing by the local planning authority.