

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 26th August 2009**

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**APPLICATION REF. NO: 09/00140/FUL**

**STATUTORY DECISION DATE: 2nd June 2009**

**WARD/PARISH: HAUGHTON NORTH**

**LOCATION: Asda Supermarket, Whinbush Way, Darlington**

**DESCRIPTION: Erection of loading dock extension and enclosed external marshalling area within existing services yard**

**APPLICANT: ASDA STORES LIMITED**

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**APPLICATION AND SITE DESCRIPTION**

The application site consists of an existing retail store, currently trading as Asda, situated on the east side of Whinbush Way. The site is bounded by highway to the south and west, and residential properties to its north and east. The building was extended some years ago with a temporary marquee extension to accommodate additional storage at the time that the store was operating on a 24-hour basis. A planning application was submitted in late 2008 for the retention of the extension, which was now required on a permanent basis. Planning permission was refused on the grounds of the impact of the marquee on the visual amenities of the locality and on residential amenity.

Planning permission is sought for a permanent extension to the store, to facilitate an external logistics area, which essentially provides an enclosed area within the existing service yard, to retain delivered stock, until it is ready to be transferred to the main warehouse, directly adjoining it. The proposal comprises the following elements;

- It would be located in the place of the temporary marquee extension, to the southern elevation of the building within the enclosed external service yard;
- It would be constructed of a steel frame with insulated cladded walls in a colour to match the main building;
- It would utilise doors to match those on the existing building.

A Design and Access statement has been submitted as required by the Regulations. Also submitted, is a planning statement from the design company.

**PLANNING HISTORY**

00/00191/FUL – In June 2000 planning permission was granted for works to the main store entrance and alterations to car parking and landscaping.

00/00192/FUL – In June 2000 planning permission was granted for the installation of new plant equipment, replacements of one existing compactor with new wet and dry units and temporary stand-by generator.

00/00199/ADV – In June 2000 advertisement consent was granted for the display of new signage to the store and car park.

00/00339/FUL – In July 2000 planning permission was granted for the erection of an electrified security fence on the top of service yard boundary wall.

01/00364/FUL - In June 2001 planning permission was granted for the installation of 2 No. trolley shelters.

01/00408/FUL – In July 2001 planning permission was granted for the installation of new ATM Machines in former public toilets.

02/00020/ADV – In November 2003 advertisement consent was granted for the display of internally illuminated advertisements to ATM installation.

06/00833/ADV – In October 2006 advertisement consent was granted for the display of advertisements.

06/00380/FUL – In November 2006 planning permission was refused for the replacement and relocation of existing petrol filling station and car park alterations.

06/01085/ADV – In December 2006 advertisement consent was granted for the display of various signage to the car park and the building.

07/00860/FUL – In November 2007 planning permission was granted for the erection of fridge pack on concrete base, surrounded by acoustic walls at ground level to rear of building.

08/00539/FUL – In August 2008 planning permission was granted for the erection of a staircase from delivery yard to front canopy, with security gate.

08/00650/FUL – In November 2008 planning permission was refused for the retrospective erection of a temporary marquee.

## **PLANNING POLICY BACKGROUND**

The following policies of the Borough of Darlington Local Plan are relevant: -  
H15 (The Amenity of Residential Areas)  
E29 (The Setting of New Development)  
E38 (Alterations to Business Premises)

The following national policy guidance is relevant: -  
Planning Policy Statement 1: Delivering Sustainable Development (2005)

## **RESULTS OF CONSULTATION AND PUBLICITY**

Three letters of objection have been received [from two properties] from local residents at Chantilly Avenue, bounding the eastern edge of the site, raising the following concerns:

- *Noise and disturbance (warehouse doors open at 6am Monday to Saturday and 7am on Sundays); the proposal will increase work in the yard;*
- *Metal shutters will increase noise considerably;*
- *The extension covers most of the yard area and this means that deliveries will be unloaded near to the gates which is near to our property;*

One of the objectors has included comments within the objection to overcome issues of noise and disturbance, as follows;

- *May I respectfully suggest that if planning permission is given, that any metal doors operate as quietly as possible, and that any metal cladding will not create any further noise in inclement weather;*

The following issues were raised by objection, however these are not material planning considerations and therefore cannot be taken into account in the determination of this application.

- *Asda have not informed local residents;*

The Council's Environmental Health Officer has been consulted and has raised no objections to the proposed development.

The Council's Highways Officer has been consulted and has raised no objections to the proposed development.

## **PLANNING ISSUES**

The main planning issues to be considered in the determination of this application are: -

- Planning Policy
- Visual amenity
- Residential Amenity
- Highway Matters
- Nature and Conservation Issues
- Other Matters
- Section 17 of the Crime and Disorder Act 1998

### **Planning Policy**

Policy H15 (The Amenity of Residential Areas) deals with the general amenity of existing residential areas and presumes against the establishment or intensification of non-residential uses, which would conflict, with the amenities of residential areas having a predominantly residential character.

In turn, Policy E38 (Alterations to Business Premises) permits alterations to retail and business premises that do not have a material adverse effect on the character and appearance of the building, or of the street scene in which the building is located.

Planning Policy Statement 1: Delivering Sustainable Development (2005) sets out the key principles that should be applied in the determination of decisions on planning applications, in order to contribute to the delivery of sustainable development. The guidance places increased emphasis on the role of high quality and inclusive design in the achievement of the government's objectives.

The proposal is considered to be acceptable in principle. The remaining issues to be considered in the determination of this application are all detailed matters of development control and will be addressed in the following sections of this report.

### **Visual amenity**

The development would be enclosed within an existing service area and would be of a subservient scale to the existing building. To this extent, it is unlikely that there would be a significant impact on the visual amenities of the locality. The proposal replaces a temporary marquee structure and provides an opportunity to integrate more successfully with the existing building with careful choice of colour. The extension is a functional building to provide additional storage / delivery area and to enhance the safety of staff and provide a more efficient delivery system than that currently in place. Overall, it is considered that the proposal is acceptable in respect of its impact on the visual amenities of the locality.

It is recommended that a planning condition be attached to any approval to secure submission and agreement of a colour scheme for the proposed external cladding to the extension.

### **Residential Amenity**

The proposal is within an existing service yard, for which use of delivery vehicles and unloading, and noise generated from staff working in this area cannot be controlled at present. The new facility allows some of the activity to be enclosed and controlled to a greater extent. The proposal brings activity within the service yard no closer to residential properties than it is at present. It differs from the previous marquee, as it provides a direct link from the delivery function to the main warehouse, which was formerly an open area. The new extension does not extend beyond the main southern wall of the building, but instead, partially completes an indent in the southeastern corner.

Notwithstanding the above, and taking into account the issues raised by objection, it is considered that this present application presents an opportunity to establish some controls over the activity within the yard area, as it regularises an increase in storage space for a more effective delivery function.

The Council's Environmental Health Officer has been consulted and has raised no objections to the proposal, as it is unlikely to intensify the amount of noise and disturbance from this established retail operation. He has however agreed that it would be beneficial to have some form of control over delivery times, in order that the proposal does not result in *increased* deliveries during the late evening / early morning. It is therefore recommended that a planning condition be attached to any approval to restrict delivery times to between Monday to Saturday 07.30 to 20.00 and Sundays and Bank Holidays between 8.30 and 16.00. It has been noted that complaints have been received by the Council with regard to delivery vehicles arriving early on site and leaving their engines running, while stationary on the access road. As the access road is located within the boundary of the application it is considered appropriate to apply a condition restricting this activity should Members be minded to grant planning permission.

It is also recommended that a condition be attached to any approval, to secure submission, agreement and implementation of a Delivery Management Plan (DMP), to take account of matters such as the restriction of drivers having engines running whilst stationary, and restriction of delivery vehicles entering the service area during the restricted hours.

Subject to the above controls being in place, it is not considered that the proposal would have a significant impact on the amenity of existing residential properties to the extent that it would be justified to withhold planning permission on these grounds.

### **Highway Matters**

The Council's Highways Officer has been consulted and considers that the proposal should improve servicing provision for the supermarket and raises no highway objections.

### **Section 17 of the Crime and Disorder Act 1998**

The proposed development has been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. The proposed development does not give rise to crime and disorder issues.

### **Conclusion**

The proposed development is considered acceptable within this established commercial area; in particular the development will not result in any adverse impact in terms of the viability and attractiveness of the shopping area within which it is sited. The application does not raise any issues in respect of visual amenity, highway safety or crime prevention and complies with the relevant policies in the development plan set out below:

### **RECOMMENDATION**

That planning permission be GRANTED subject to the following conditions:

1. A3 Implementation Limit (3 years)
2. B4 Details of Materials (Samples)
3. B5 Detailed Drawings (Accordance with Plan)
4. There shall be no deliveries to the unit outside the hours of 7.30am – 20.00 Mondays – Saturdays and 8:30 – 16.00 on Sundays or Bank Holidays. Furthermore vehicles waiting to enter the site on the access road shall not have their engines or chiller units running outside of this time.  
REASON – In order to safeguard the amenities of neighbouring residents.
5. Prior to any use of the proposed facility, a Delivery Management Plan (DMP) shall be submitted to and agreed in writing by, the Local Planning Authority, to include full details of controls in place to minimise noise impact on adjoining residential properties. This shall include, but is not restricted to, matters such as restrictions in place on engines running whilst stationary, and restrictions on large vehicles entering the service yard outside the hours set out in Condition 4 (above).  
REASON – In the interests of residential amenity.
6. Prior to the commencement of the development, or within such extended time as may be agreed in writing with the Local Planning Authority, details of the external colours of the proposed extension shall be submitted to, and agreed in writing by, the Local Planning Authority. The development shall be implemented fully in accordance with the approved details and shall be retained as such thereafter.

7. Prior to the commencement of development full details of the proposed roller shutter doors including their operating mechanism, shall be submitted and approved by the LPA. The roller shutter doors shall be installed and operated in accordance with these agreed details.

REASON – In the interests of visual amenity.

**Suggested summary of reasons for granting planning permission**

The proposed development is considered acceptable within this established commercial area; in particular the development will not result in any adverse impact in terms of the viability and attractiveness of the shopping area within which it is sited. The application does not raise any issues in respect of visual amenity, highway safety or crime prevention and complies with the relevant polices in the development plan set out below:

**Borough of Darlington Local Plan 1997**

H15 (The Amenity of Residential Areas)

E29 (The Setting of New Development)

E38 (Alterations to Business Premises)

**National Policy Guidance**

Planning Policy Statement 1: Delivering Sustainable Development (2005)