

LOCATION:	Princess Royal Barracks , Brunswick Road, Deepcut, Camberley, Surrey, GU16 6RN
PROPOSAL:	Application for non material amendment to condition 45 attached to hybrid permission 12/0546 dated 04 April 2014 (as amended) to amend the opening hours for the foodstore to 07:00 and 23:00 Monday to Saturday and 07:00 and 23:00 on Sundays and Public Holidays (Phase 5i)
TYPE:	Non Material Amendment
APPLICANT:	Newfoundland Properties Ltd.
OFFICER:	Sarita Bishop

This application is being reported to the Planning Applications committee as it is associated with the reserved matters application, 23/1202/RRM, for the change of use of former museum building to provide a foodstore (Class E(a)) and flexible retail/community use (Use Classes E and F2) (Phase 5i) which is elsewhere on this agenda.

RECOMMENDATION: GRANT subject to condition

1.0 SUMMARY

- 1.1 The proposal is for a non material amendment to the approved opening hours for the proposed food store as set out in condition 45 attached to hybrid permission 12/0546 dated 04 April 2014 (as amended) to permit the food store to open between the hours of 07:00 and 23:00 Monday to Saturday and 07:00 and 23:00 on Sundays and Public Holidays.
- 1.2 The report concludes that the change in opening hours would not result in materially different impacts to future and existing residents in the area to those assessed and approved under the terms of the hybrid permission.
- 1.3 The application is therefore recommended for approval, subject to the imposition of a revised condition 45.

2.0 SITE DESCRIPTION

- 2.1 This application relates to Phase 5i. The site, of about 0.75 hectares, is located at the junction of Deepcut Bridge Road, Newfoundland Road and Mindenhurst Road. It adjoins a major roundabout with arms to Deepcut Bridge Road (north and south), Mindenhurst Road and Blackdown Road. The application site is irregular in shape and comprises the following:
 - A single storey brick built building with a pitched roof located to the north of the site;
 - Existing hardstanding and car parking to the west and south of the building;
 - An undeveloped green space to the south of the former Headquarters Building;
 - Two vehicle access points, one from Mindenhurst Road to the south and the other
 - Trees to the north, south and west boundaries

There is a difference in levels across the site with the most notable change in level being a difference of about 3 metres between the northern (highest) and southern (lowest) boundaries.

- 2.2 Alma House, a large detached two storey dwelling, with a substantial rear garden, lies to the north of the application site. The former Headquarters Building, which is in the process of being converted to flats, adjoins the site to the east and north. This is a two storey building and is defined as a Building of Merit in the Deepcut SPD. The Camberley Manor care home, a substantial three storey building, is located on Deepcut Bridge Road to the south of the roundabout and Mindenhurst Road. Semi-detached two storey dwellings on Deepcut Bridge Road lie to the west of the roundabout.

3.0 RELEVANT HISTORY

- 3.1 12/0546 Hybrid planning application for a major residential led development totalling 1200 new dwellings with associated public open space, community facilities, a primary school, retail and commercial uses, access and highways works. Approved 6 April 2014. The Section 106 agreement for this application was signed on 17 April 2014.

The outline element of the application included the approval of means of access and, amongst other matters, a food store:

Conditions 44 (size restriction) 45 (hours of use) and 58 (noise control) were specific to the food store. Conditions 45 and 58 are most applicable to this submission and are stated in full below

Condition 45

The food store hereby approved shall only be open to the public between the hours of 07:00 and 22:00 Monday to Saturday and between the hours of 08:00 and 21:00 on Sundays and Public Holidays. Servicing and deliveries to the retail unit shall only take place between the hours of 07:00 and 22:00 on Mondays to Saturdays and between 08:00 and 21:00 on Sundays, Bank and Public Holidays.

Reason: In the interests of residential amenities and to accord with the Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012.

Condition 58

Before the first and each subsequent occupation of the food store, a scheme shall be submitted to and agreed in writing with the Local Planning Authority detailing measures to minimise noise disturbance from the operation of the food store to residential properties. The scheme shall include details for minimising noise from delivery vehicles and for locating noise generating uses, plant or equipment within the envelope of the building where possible. Once agreed the measures included within scheme shall be implemented on the site.

Reason: In the interest of residential amenities and to accord with Policy CP4 and Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012 and the

objectives of the Deepcut SPD.

- 3.2 23/1202/RRM Reserved matters application pursuant to condition 4 for the change of use of former museum building to provide a foodstore (Class E(a)) and flexible retail/community use (Use Classes E and F2) (Phase 5i), with access, layout, scale, appearance and landscaping being considered and the submission of partial details in relation to phase 5i pursuant to conditions 16 (ecological mitigation and management), 23 (visibility splays), 25 (off-street parking), 29 (tree retention and protection plan), 32 (landscaping), 33 (landscape management plan), 34 (hedges and hedgerow), 40 (surface water drainage), 41 (wetland features) and 43 (foul water drainage) attached to 12/0546 (as amended by 18/0619 and 18/1002. This application is elsewhere on this agenda.

4.0 THE PROPOSAL

- 4.1 This is a non material amendment (NMA) application seeking a change to the approved opening hours for the proposed food store as set out in condition 45 attached to hybrid permission 12/0546 dated 04 April 2014 (as amended) and as set out in full at paragraph 3.1 above to permit the food store to open between the hours of:

- 07:00 and 23:00 Monday to Saturday (i.e. a one hour increase in the evening closing time); and,
- 07:00 and 23:00 on Sundays and Public Holidays (i.e. a one hour earlier opening time and two hours increase in the evening closing time)

No changes are proposed to the servicing hours restriction within this condition.

5.0 CONSULTATION RESPONSES

- 5.1 The following internal consultee was consulted and their comments are summarised in the table below:

Internal Consultation	Comments Received
Environmental Health	No objection. See Annex A for a copy of their response.

6.0 REPRESENTATION

- 6.1 Planning Policy Guidance advises that as a NMA is not an application for planning permission the provision of the Town and Country Planning (Development Management Procedure)(England) Order 2015 as amended relating to publicity do not apply. As such the local planning authority has discretion in whether and how they choose to seek the views of interested parties. In this case, a total of 125 individual letters of notification were sent out on 19 January 2024. The Mytchett, Deepcut and Frimley Green Society, the Deepcut Neighbourhood Forum and Aquinna Homes, the developer of the former Headquarters Building was also notified of this application. Three representations were received objecting to the proposal, one of which was subsequently withdrawn. The remaining objections raise the following matters:

Representation made	Officer Response
<p>Concern about detrimental increase in noise and pedestrian traffic associated with the food-store using Newfoundland Road.</p>	<p>The vehicular access to this site is only from Mindenhurst Road. Furthermore, a condition is proposed on the reserved matters application 23/1202/RRM which prevent vehicular access from Newfoundland Road. The footways in Newfoundland Road have been upgraded as part of the improved connectivity within the village so it was always envisaged that there would be increased use of Newfoundland Road by pedestrians.</p>
<p>Concern that such extensive proposed opening hours (including Sundays and PHs) threatens constant and permanent day and night noise nuisance and potential for activities such as servicing, deliveries and staff travel outside of the approved hours.</p>	<p>The servicing hours for the site remain unchanged. There is also a requirement to comply with the terms of condition 58 which secures measures to minimise noise disturbance from the operation of the food store to residential properties</p>
<p>The proposed opening hours are not commensurate with the residential character of the area and will disproportionately affect residents. Access to shopping in the late evening or early morning is not an essential service for the village, a better balance between development and nature should be sought.</p>	<p>The only vehicular access to this site is from Mindenhurst Road, which is the main arterial road serving the Mindenhurst redevelopment. The applicant is of the view that the extension of the opening hours is required for the successful operation and viability of the food store. The hybrid permission allowed for a supermarket of 2000 square metres with levels of activity, disturbance and vehicular movements commensurate with a building of that size. There is also a requirement to comply with the terms of condition 58 which secures measures to minimise noise disturbance from the operation of the food store to residential properties.</p>
<p>Adverse noise impact on future residents of the HQ Building particularly in the summer, in the early morning and late evening.</p>	<p>The hybrid permission approved this site for the provision of a food store with a permitted floor area of 2000 square metres and the conversion of the adjoining former Headquarters building into flats. This would have included an assessment of the levels of activity, disturbance and vehicular movement commensurate with a building required to accommodate this level of floorspace. Condition 58 is also relevant.</p>
<p>Traffic to/from the store beyond reasonable times is not appropriate in a rural village and challenges the current character of Deepcut</p>	<p>The provision of 1200 dwellings with the associated infrastructure required to support the expanded community, as set out in the hybrid permission, will result in a change of character and patterns of activity within the village. Conditions remain in place to ensure that an</p>

	appropriate
	balance is maintained between safeguarding the amenities of existing future/existing residents and the operational requirements of the food store.

6.0 PLANNING CONSIDERATION

6.1 The proposal is to be assessed as to whether changes to the approved development are material. Paragraph 002 [ID:17A-002-290140306] of the Planning Practice Guidance indicates that there is no statutory definition of “non material”. This is because it will be dependent on the context of the whole scheme – an amendment that is considered non material in one context may be material in another. The Local Planning Authority must be satisfied that the amendment sought is non material in order to grant an application under Section 96a of the Town and Country Planning Act 1990 as amended. The powers under this section include the power to impose new conditions or to alter or remove existing conditions. This is relevant to the current application.

6.2 ASSESSMENT

6.2.1 In granting the hybrid permission it was acknowledged that the operation of the food store could potentially have an impact on the amenities of future residents/occupiers adjoining, and in the vicinity of, the proposed food store. This resulted in the imposition of conditions which restricted hours of operation/servicing and controlled potential noise disturbance arising from the operation of the food store, please refer to paragraph 3.1 above.

6.2.2 The hybrid permission approved the provision of a food store on this site of up to a maximum floor area of 2000 square metres in floor area. A food store of this size in a purpose built building with the requisite level of car parking required to serve the use with the associated activity and disturbance would arguably have had a greater impact on future residents/occupiers than the current reserved matters proposal, 23/1202/RRM which is significantly smaller in floor area (416 square metres).

6.2.3 The agent has advised that the proposed amendment is required to meet expectations and market demands for food stores of this size. The approved hours set out in condition 45 are overly restrictive for food stores of the proposed size and market demands have moved more towards convenience shopping within local communities. In support of the application, the agent has provided details of existing convenience food stores in the local area which set out their proximity to existing residential properties and their advertised opening hours as below:

Existing foodstore	Address	Closest residential	Distance from site	Current opening hours
Tesco Express	1-3 Beaumaris Parade Frimley	Above store	3 miles	Mon-Sun 06:00-23:00
Sainsburys Local	7 Heather Ridge Arcade Camberley	Above store	2 miles	Mon- Sat 07:00-22:00 Sun 10:00-16:00 <i>[Officer comment: permitted licensed hours allow for 24 hour opening]</i>
One Stop Stores	9-10 The Green Frimley	Adjacent to site	1.9 miles	Mon- Sat 06:00-22:00

	Green			Sun 7:00-22:00
Spar Express	257 Frimley Green Road Frimley Green	Directly adjacent to site	1.9 miles	Mon-Fri 06:00-22:00 Sat-Sun 07:00-22:00

6.2.4 The following stores are also within the local area:

Existing foodstore	Address	Closest residential	Distance from site	Current opening hours
Morrisons Daily	8 Heather Ridge Arcade Camberley	Above store	2 miles	Mon-Sat 06:00-20:00 Sun 07:00-20:00 <i>[Officer comment: permitted licensed hours allow opening up to 23:00]</i>
Kays Mini Mart	59 Deepcut Bridge Road Deepcut	Above store and adjacent to site	2 miles	Mon-Sun 08:00-20:00
Premier Stores	2-4 Wharf Road Frimley Green	Above store and adjacent to site	1.9 miles	Mon-Sun 07:00-21:00

6.2.5 In this case, the closest residents to the proposed food store would be the future occupiers of the former Headquarters Building adjoining the site to the east. There is a separation distance of approximately 9 metres between the two buildings with proposed Units 1 and 2 being the closest at ground floor level with Units 11 and 12 above. The approved doors and windows in the side elevation serve kitchen/dining living rooms, bedrooms and bathroom/ensuites. Patios and grassed areas are also provided for Units 1 and 2.

6.2.6 The proposal seeks to extend the evening hours by one hour on Monday-Saturday and by one hour in the morning and two hours in the evening on Sundays and Public Holidays. Given that the site has been approved for the provision of a larger food store, the servicing times for the food store remain unchanged, the terms of condition 58 which secures measures to minimise noise disturbance from the operation of the food store to residential properties, the location of the car parking which is predominantly to the west of the building and the boundary fencing proposed and approved on the application site and the former Headquarters Building site, it is not considered that the change in opening hours would result in materially different impacts to future and existing residents in the area to those assessed and approved under the terms of the hybrid permission.

6.2.7 For information, the application site has a licence under the Licensing Act 2003 for the provision of late night refreshment between 11pm and midnight and the sale of alcohol between the hours of 6am and midnight. Please note these hours cannot be operated if there are controls in place under other legislation e.g. a condition restricting hours on a planning permission. It is also noted that this site would also be subject to the statutory nuisance provisions of the Environmental Protection Act 1990.

7.0 PUBLIC SECTOR EQUALITY DUTY

7.1 Under the Equalities Act 2010 the Council must have due regard to the need to eliminate discrimination, harassment or victimisation of persons by reason of age, disability, pregnancy, race, religion, sex and sexual orientation. This planning application has been processed and assessed with due regard to the Public Sector Equality Duty. The proposal is not considered to conflict with this duty.

8.0 CONCLUSION

- 8.1 Having regard to the terms of the hybrid permission as amended, the proposal is not considered to be result in materially different form of development or different impacts and is considered to be in accordance with the Deepcut SPD and the hybrid permission.

9.0 RECOMMENDATION

- 9.1 GRANT subject to the following condition:

1. Condition 45 on 12/0546 as amended by 18/0619 and 18/1002 is amended as follows:

The food store hereby approved shall only be open to the public between the hours of 07:00 and 23:00 Monday to Saturday and between the hours of 07:00 and 23:00 on Sundays and Public Holidays. Servicing and deliveries to the retail unit shall only take place between the hours of 07:00 and 22:00 on Mondays to Saturdays and between 08:00 and 21:00 on Sundays, Bank and Public Holidays.

Reason: In the interests of residential amenities and to accord with the Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012.

Informative(s)

1. The applicant is reminded of the need to comply with the conditions on the hybrid permission 12/0546 as amended relevant to this site prior to the commencement of works or the site becoming operational.