

**Report to** Planning applications committee  
**Date** 7 November 2013  
**Report of** Head of planning services  
**Subject** 13/01341/VC Sainsbury's 1 Brazen Gate Norwich NR1  
3RB

**Item**  
**5(1)**

## SUMMARY

<b>Description:</b>	Amendment to permitted delivery hours to allow for two deliveries between the hours of 2200 and 0700 on any day, through variation of condition 4 of planning permission 10/01630/VC (a variation of permission 4870466/F: 'Erection of retail store together with ancillary facilities including roads, service yard, car parking and landscaping').
<b>Reason for consideration at Committee:</b>	Objections
<b>Recommendation:</b>	Approve
<b>Ward:</b>	Town Close
<b>Contact Officer:</b>	Kian Saedi Planner 01603 212524
<b>Valid Date:</b>	20 August 2013
<b>Applicant:</b>	J Sainsbury
<b>Agent:</b>	Peter Dowling

## INTRODUCTION

### The Site

#### Location and Context

1. The application site comprises an established supermarket and its attached surface car park and delivery yard. The store, opened in 1989, is located on the south side of Queens Road (A147 Inner Ring Road) at its junction with Brazen Gate, on the southern edge of the City centre. Vehicular access into the site is from its south end, with separate access points into the customer car park and an adjoining servicing and delivery yard taken from the east side of Brazen Gate. The exit from the car park is located further along Brazen Gate via a slip road passing beneath the Southwell Road bridge. The car park is arranged in an L-shape along the north and east sides of the building
2. The areas to the southwest and southeast of the site are residential in character and immediately east are terraced houses along Ashby Street, which are buffered by a row of trees along the site boundary. To the south and south-west of the site are Grove Road, Langham Place and Southwell Road.
3. The site is located within a Secondary Retail Area of the city centre.

## Planning History

**4870466/F** - Erection of retail store together with ancillary facilities including roads, service yard, car parking and landscaping. Approved 6th May 1988.

**4/1998/0940** - Alterations to supermarket including relocation of customer entrance, erection of customer restaurant, relocation of loading bay and amended car park layout. (Revised proposal) (WDA - 07/05/2002)

**10/01630/VC** - Removal of Condition 2: 'Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order, 1987 and any subsequent amendment thereof the premises the subject of this permission shall be used only for the sale of convenience goods as sold by the outlets detailed in Sections 101 and 311 inclusive of the 1971 Census of Distribution list of Kinds of Business and that no more than 10% of the retail floorspace shall be used for the sale of non convenience items and for no other purpose' of previous planning permission (App. No. 4870466/F) ' Erection of retail store together with ancillary facilities including roads, service yard, car parking and landscaping at coal Depot, Queens Road'. (APPR - 16/11/2010)

**10/01637/F** - Extension to existing retail store (Class A1) to provide additional retail floorspace and reconfiguration of car park. (APPR - 05/11/2010)

## Equality and Diversity Issues

There are no significant equality or diversity issues.

## The Proposal

4. The application seeks an amendment to permitted delivery hours to allow for two deliveries between the hours of 2200 and 0700 hours on any day, through variation of Condition 4 of previous permission 10/01630/VC.

## Representations Received

5. Adjacent and neighbouring properties have been notified in writing. Four letters of representation have been received objecting to the proposal. A survey of local residents has also been undertaken by the Town Close Labour Community Team. Of the 40 residents included in the survey 25 have objected to the scheme. Four residents expressed support for the proposal and eleven were neither in favour or opposed to the possibility of amended delivery hours.

Issues Raised	Response
Increased noise/disturbance	Paras 13-19
Traffic	Paras 6 and 21
Light pollution	Para 21
Stepping stone to store being open on a 24 hour basis	This would be the subject of a separate planning application if proposed.

## Consultation Responses

6. The Council's Highways Officer has pointed to the fact that condition 4 of previous permission 10/01630/VC was imposed to address matters of residential amenity and not in response to issues of transportation.

7. The Council's Environmental Protection Officer has not raised any objection to the scheme subject to the measures recommended by the applicant being properly conditioned. It is not considered that the access/egress of vehicles will cause any excessive noise and the unloading area is at a sufficient distance from any sensitive noise receptors.

## **ASSESSMENT OF PLANNING CONSIDERATIONS**

### **Relevant Planning Policies**

Application ref. 10/01630/VC has previously been granted as a variation of original permission 4870466/F. Since the approval of 10/01630/VC both the JCS and NPPF have been adopted and are material in the assessment of this proposal.

#### **National Planning Policy Framework (NPPF):**

Section 1 – Building a strong, competitive economy

Section 7 – Requiring good design

Section 11 – Conserving and enhancing the natural environment

#### **Relevant policies of the adopted Joint Core Strategy (JCS) for Broadland, Norwich and South Norfolk 2011**

Policy 3 – Energy and water

Policy 5 – The economy

Policy 11 – Norwich City Centre

#### **Relevant saved policies of the adopted City of Norwich Replacement Local Plan 2004**

EP22 - High standard of amenity for residential occupiers

### **Other Material Considerations**

#### **Emerging DM Policies (submitted for examination):**

The Joint Core Strategy and Replacement Local Plan (RLP) have been adopted since the introduction of the Planning and Compulsory Purchase Act in 2004. With regard to paragraphs 211 and 215-216 of the National Planning Policy Framework (NPPF), both sets of policies have been subjected to a test of compliance with the NPPF. Both the 2011 JCS policies and the 2004 RLP policies above are considered to be compliant with the NPPF. The Council has now submitted the emerging Local Plan policies for examination and considers most of these to be wholly consistent with the NPPF. Weight must be given to the emerging Local Plan and relevant policies are listed below for context although none change the thrust of the current Local Plan policies discussed in the main body of this report:

#### **DM2\* Ensuring satisfactory living and working conditions**

\* These policies are currently subject to objections or issues being raised at pre-submission stage and so only minimal weight can be applied in particular instances. However, the main thrust of ensuring adequate design and amenity is held in place through the relevant Local Plan policies listed above.

## **Principle of Development**

### **Policy Considerations**

8. Since the determination of application ref.10/01630/VC, both the NPPF and JCS have been adopted and carry additional policy considerations relevant to the proposal being assessed under this application.
9. The application seeks to vary condition 4 of previous planning permission 10/01630/VC and which stipulated that no deliveries or servicing be undertaken before 0700 hours or after 2200 hours on any day in order to prevent unreasonable noise and disturbance from delivery vehicles outside these hours. This condition was imposed to protect the amenity and living conditions of adjacent and neighbouring residential occupiers and to accord with saved policy EP22 of the adopted local plan.
10. The applicant wishes to vary condition 4 to allow for no more than two deliveries between 2200 hours and 0700 hours on any day to enable fresh produce delivery overnight and the store to properly stock and display these goods before opening to the public. Enabling the store to be fully stocked before opening to the public will benefit both the operation of the business and the experience of the customer in terms of reducing aisle congestion and increasing product availability. Granting consent for the scheme would therefore be in line with NPPF guidance for building a strong economy and supporting development needs of business. However, the economic benefits of the proposal need to be carefully balanced against the potential impact upon the amenity and living conditions of adjacent and nearby residential properties and this is assessed in the following section of this report.
11. The site was previously designated as part of the Primary Retail Area, but the Brazen Gate retail area has now been redesignated as a secondary part of the city centre. In this context, the servicing and delivery requirements of the retail business should be expected in this particular area.
12. Policy 3 of the JCS requires that development proposals of a more than 1000 sq.m of non-residential floorspace to include sources of decentralised and renewable or low carbon energy providing at least 10% of the scheme's expected energy requirements. The development of the supermarket has long been completed and it is not considered reasonable or appropriate to impose requirements that have recently emerged through changes to the development plan related to energy efficiency, especially as this proposal does not involve the expansion of any supermarket floorspace.

## **Impact on Living Conditions**

### **Noise and Disturbance**

13. The supermarket site is located between the inner ring road to the north (Queens Road), Victoria House to the west and the residential streets of Grove Road and Langham Place to the south-west and Ashby Street to the east. The store service/delivery yard is located to the south of the store and is access from a dedicated and separate vehicular access from Brazen Gate.
14. It is proposed that the additional two deliveries be received away from the north-east entrance to the supermarket adjacent to the site boundary with Queens Road.

This location has been selected as being furthest away from the nearest residential property in order to minimise any potential for disturbance to residential properties. It is not proposed that the total number of deliveries to the site increase, only that two deliveries be permitted between the hours of 10pm and 7am.

15. The proposed late night/early morning delivery point is located approximately 85 metres from the nearest residential property (1 Ashby Street) and is largely shielded by the main supermarket building, which will effectively act as both a visual and acoustic buffer. It is therefore considered that of all the possible delivery points on site, this location is most appropriate. The existing delivery yard is located 35 metres from the nearest residential property (flats on Langham Place) and does not benefit from the same degree of buffering from the built environment.
16. Late night deliveries are more problematic in terms of taking place at sensitive hours where people would normally be expected to be sleeping, but also due to the fact that noise-making activities are made more apparent by ambient noise levels being much lower in the late evening/early morning.
17. The applicant has submitted a noise impact assessment based upon a 'worst-case scenario' calculation of using refrigerated and articulated vehicles for deliveries, even though the applicant has stated that smaller, fixed-axle vehicles will be used for late night deliveries and that refrigeration units will be switched off upon entering the site. Noise intrusion assessments of goods deliveries have shown that noise levels from the proposed deliveries are predicted to be around or within the BS 8233 'good' criteria at nearby sensitive receptor locations. A night time assessment has also shown that two deliveries could occur between 10pm and 7am whilst remaining well within the World Health Organisation (WHO) criteria of 40 dB at all sensitive receptors. Even so, a number of measures are proposed to help mitigate against potential noise disturbance from the late night deliveries and these are discussed in the following paragraphs.
18. The applicant is committed to a Development Management Plan (DMP), which is attached as appendix C in the noise assessment report. The DMP sets out the following measures that will be implemented in order to reduce noise levels from deliveries:
  - Before entering Norwich the driver will contact/page the store to ensure the store is ready for the arrival;
  - Refrigeration units and alarms are to be switched off before the vehicles enter Queens Road;
  - If a delivery vehicle needs to stop for any reason before entering the car park, all engines, radios and headlights must be turned off and store staff contacted;
  - Vehicle headlights and radios to be turned off in car park;
  - Lights to be used for vehicle manoeuvring only;
  - Vehicle reversing beepers to be switched off for late night deliveries;
  - Better driving practice to ensure minimal noise disturbance;
  - No salvage to be returned on delivery vehicles between 22:00 and 07:00 hours;
  - Improved signage to guide drivers once within the site;
  - General improvement to loading and unloading practices to reduce associated noise levels.

A condition will be added to any permission requiring compliance with the submitted DMP.

19. In addition to the measures and practices included within the DMP and supporting information submitted with the application, planning permission will be conditioned with the requirement for delivery vehicles to comply with a tracking diagram to first be submitted to and approved by the local planning authority. An indicative tracking diagram showing the route to be taken by the delivery vehicles has been submitted and will be shown in the presentation, but is considered unsatisfactory. The objective will be to agree a route for vehicles to enter and exit the site that minimises the potential for disturbance to neighbouring residents along Ashby Street. The tracking diagram should maximise the separating distance between the route taken by delivery vehicles and the surrounding residential properties.
20. Several letters of representation have been received objecting to the use of alarms when gates are opening/closing to admit vehicles into the site as well as the noise made by the gates opening and closing. The gates and alarms referenced in the representation are likely to pertain to the existing service yard on Brazen Gate, which features large automated security gates that are closed when the service yard is not in use
21. Other concerns raised by neighbours relate to lighting at the site and the route that vehicles will take once they leave the site. It is important to note that no lighting installations are proposed as part of this application. The DMP does state that vehicle lights will be used for manoeuvring only and headlights will be turned off before entering the site. The Council cannot control the route vehicles take upon leaving the site, but given that the proposal will only involve a maximum of two delivery vehicles operating each day between the hours of 10pm and 7am and given that smaller, non-articulated vehicles are to be used for the late night deliveries, traffic disturbance to the surrounding area is likely to be minimal.
22. The survey conducted by the Town Close Labour Community Team also polled what measures local residents regarded as being likely to reduce noise. With the exception of preventing the use of cages for carrying goods from the vehicles to the store, every other suggestion is already recommended by the applicant within the DMP and compliance will be required by condition..

## **Conclusions**

23. It is considered that two deliveries operated between 22:00 hours and 07:00 hours on any day are acceptable subject to conditions seeking to minimise noise disturbance to the surrounding area. The proposal will enable the store to ready stock before opening to the public and this improvement in operational standards will benefit the development needs of the business in accordance with the NPPF.
24. The retained conditions listed reflect those attached to the previous permission ref. 10/01630/VC F dated 16 November 2010. Conditions 1, 2 and 3 of that permission are considered to remain relevant to ensure the proper planning of the area and equivalent conditions are thus reimposed by this permission quoting the original and new condition numbers. The decision to reimpose these conditions has been taken having regard to the policies listed above and (in addition) saved policies HBE12, TRA8, TRA14 and EP22 of the City of Norwich Replacement Local Plan (adopted November 2004).

## RECOMMENDATIONS

To approve application no 13/01341/VC Sainsbury's 1 Brazen Gate Norwich NR1 3RB and grant planning permission subject to the following conditions:

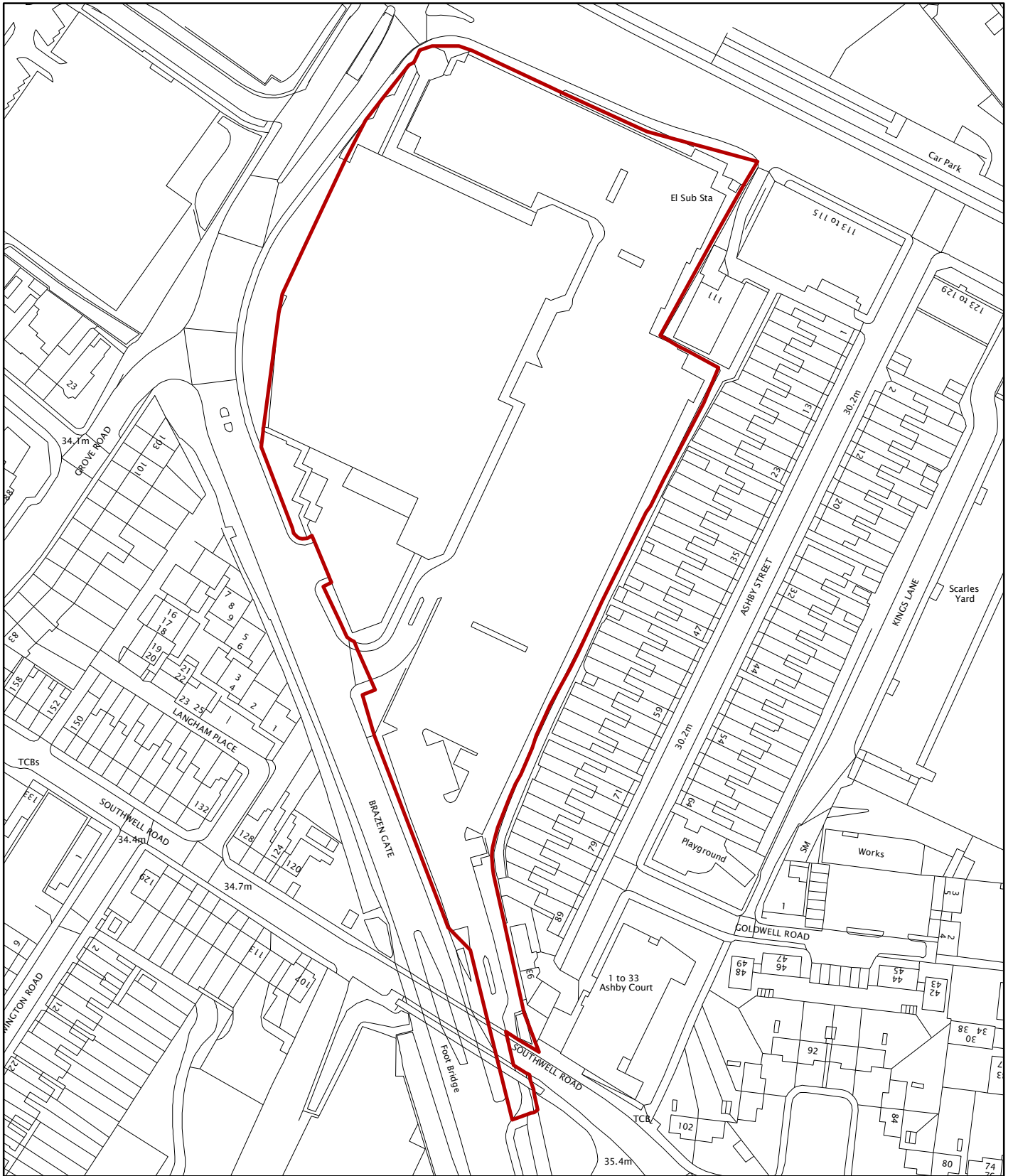
1. No goods of any description shall be sold or offered or displayed for sale outside the buildings the subject of this permission unless otherwise agreed in writing by the Council as local planning authority.
2. The pedestrian access ways within the site (which for the avoidance of doubt shall include any new or re-routed pedestrian access ways approved under permission reference 10/01637/F granted on 5th November 2010 and shown on drawing no. CHQ.10.9230-PL06 Revision A referred to in that permission) shall be kept free of all goods, articles, structures and vehicles of any description, other than those expressly approved under planning permission reference 4870466/F granted on 6th May 1988 or authorised by virtue of subsequently approved details or subsequent planning permissions pertaining to the site and premises the subject of this permission.
3. No materials, goods or refuse shall be kept, deposited or stored in the open on the site the subject of this permission other than (a) within the designated areas set aside for the storage and compaction of commercial waste within the service and delivery yard accessed from Brazen Gate and; (b) within the designated and signed customer waste recycling banks within the store car park (which for the avoidance of doubt shall include the relocated recycling banks approved by virtue of permission ref. 10/01637/F granted on 5th November 2010 and shown on drawing no. CHQ.10.9230-PL06 Revision A referred to in that permission).
4. There shall be no deliveries or servicing to the premises the subject of this permission before 7am (0700 hours) or after 10pm (2200 hours) on any day save for up to two deliveries at the north-east entrance point to the store.
5. Any deliveries between the hours of 22:00 hours and 07:00 hours as allowed by condition 4 shall be subject to the following restrictions:
  - i) Compliance with a tracking diagram that shows detail of the route delivery vehicles will take when entering and leaving the site as well as the area where goods will be delivered shall be submitted to and agreed by the local planning authority and operated in accordance with the approved details
  - ii) Audible reversing alarms shall be turned off on any delivery vehicles upon entering the site the subject of this permission and shall not be switched on again until delivery vehicles have departed.
  - iii) Only fixed axle vehicles shall be used for deliveries.
  - iv) Refrigeration units on delivery vehicles shall be switched off upon entering the site and shall not be switched on again until delivery vehicles have departed.

- v) There shall be no return of salvage or assets to delivery vehicles
- 6. Deliveries between 22:00 hours and 07:00 hours shall take place in full accordance with the Delivery Management Plan as included as Appendix C of the approved Noise Assessment (received 19.08.2013).

#### Article 31(1) (cc) Statement

The local planning authority in making its decision has had due regard to paragraph 187 of the National Planning Policy Framework as well as the development plan, national planning policy and other material considerations, following negotiations with the applicant and subsequent amendments at the earlier application and pre-application stages the application has been approved subject to appropriate conditions and for the reasons outlined within the committee report for the application.





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Planning Application No 12/01341/VC  
 Site Address Sainsburys  
 1 Brazen Gate

Scale 1:1,500



**NORWICH**  
 City Council

PLANNING SERVICES

