

## List No.

<b>Didsbury West Ward</b>	<b>Application Number</b> 085564/JO/2008/S2	<b>Date of Appln</b> 16 <sup>th</sup> Jan 2008	<b>Committee Date</b> 13 <sup>th</sup> March 2008
<b>Proposal</b>	Removal of planning condition number 14 (reference 079255/JO/2008/S2) to facilitate 24 hour trading (excluding car washing and vacuuming facilities)		
<b>Location</b>	Star Mersey Lights, 849 Princess Road, West Didsbury, Manchester, M20 2ZF,		
<b>Applicant</b>	Somerfield Stores Ltd, C/o Agent		
<b>Agent</b>	Rapeleys LLP 6Th Floor Pall Mall Court, 61/67 King Street, Manchester, M2 4PD		

## Description

The application relates to the removal of planning condition no. 14 on planning application 079255/JO/2008/S2 to facilitate 24 hour trading of the shop and petrol filling. The proposal is located on Princess Road that is a busy classified road. To the north of the site is a McDonald's restaurant and no. 847 Princess Road beyond, to the west is Princess Road itself and residential properties on Mersey Bank Avenue beyond, to the east are the rear of properties on Mersey Crescent and to the south is no. 881 Princess Road.

The shop, which is operated by Somerfield Store Limited is currently open between the hours of 06.30hrs and 23.30hrs Monday to Sunday. The shop operates in co-operation with Texaco petrol filling station.

## Consultations

Local Residents – Occupiers of properties surrounding the application were consulted on the application and 1 representation has been received. The comments made are summarised as follows:

- i) Increase in disturbance
- ii) Increase in parking problems
- iii) Increase in litter
- iv) Increase risk of crime

Environmental health – No objections subject to conditions

Neighbourhood Policing Team – There are some concerns given the history of crime that was attracted to the site. However, a recommendation for approval would require strict conditions being imposed on the scheme for security fencing, CCTV etc.

## Issues

Unitary Development Plan (UDP) for the City of Manchester (Adopted 1995)

Policy DC23.3 (Petrol Filling Stations) states: Developments of this kind will not be permitted where there would be significant detriment to the amenity of

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occupiers of nearby residential premises, either from the operation of the filling station itself, or associated facilities such as car-wash equipment.

Policy DC23.4 states: If the Council considers the proposed development to be acceptable in principle, conditions may be imposed in order to protect the amenity of uses and nearby occupiers. These conditions may cover:

- a. details of vehicular movements to and within the site;
- b. hours of operation of the development as a whole or in part;
- c. details to ensure pedestrian safety within and adjoining the scheme;
- d. the overall appearance of the proposed development.

Policy DC26.1 (Development & Noise) states that the Council intends to use the Development Control process to reduce the impact of noise on people living and working in, or visiting, the City. In giving effect to this intention, the Council will consider the effect of new development proposals, which are likely to be generators of noise.

Policy DC26.3 states that development likely to result in unacceptably high levels of noise will not be permitted in residential, near schools, hospitals, nursing homes and similar institutions and near open land used frequently for recreational purposes.

Other Relevant Policies and Guidance-In considering development proposals, reference is not only made to the UDP, but also other policies and supplementary planning guidance. In this case, these include Planning Policy Statement 1 (PPS1), Regional Spatial Strategy for the North West (Formerly RPG13, The North West Plan (draft Regional Spatial Strategy) and Draft Supplementary Planning Document (SPD) "A Guide to Development in Manchester 2".

RSS for the North West (RPG13) provides planning guidance for the North West region. Since 2004, the RSS has formed part of the statutory development plan, as such, the weight to be attached to its policies has increased.

Policy DP2 (Enhancing the Quality of Life) seeks to ensure that developments provide a high quality of life for this and future generations.

Planning Policy Guidance Note 24 – 'Planning and Noise' (March 2001) is relevant to this appeal. Paragraph 2 advises that 'the impact of noise can be a material consideration in the determination of planning applications'.

Residential Amenity- The site is located off the southbound side of Princess Road that is a primary arterial route into the city centre. However, the site is located in close proximity to neighbouring residential properties. Although Environmental Health has raised no objections to the scheme, but this is based on the data that was provided in the acoustic report for the original application. This data is primarily concerned with the noise levels involved in the operation of associated machinery.

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The report provided does not however cover other issues that may arise from the premises being open 24 hours a day. Such issues will include noise associated directly with the people and vehicles that are attracted to the site. Such potential issues would be the revving of car engines, the banging of car doors, music from car stereo's, raised voices from passengers etc. The occupiers of neighbouring properties would be likely to experience significant general disturbance from customers visiting the premises at times when residents ought to be able to enjoy a quiet environment. This problem would be exacerbated during the summer months when residents would reasonably be entitled to open their windows. If permission were granted, it would be difficult for statutory nuisance powers to be used to control the disturbance that would be generated by customers talking / shouting and by late night vehicle movements and noise. Furthermore, if the application was to be approved it may encourage other business' in the area to apply to extend their own permitted hours, which would be hard to resist and may result in a negative cumulative effect on the area.

**Human Rights Act 1998 considerations** – This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have the right to a fair hearing and to this end the Committee must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Unitary Development Plan, the Head of Planning has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. He believes that any restriction on these rights posed by the of the application is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and country Planning Acts.

**Recommendation** Refuse

## **Conditions and/or Reasons**

1) The proposed extension of the operating hours of the site to facilitate 24 hour trading would generate noise and general disturbance, particularly during unsociable hours when ambient noise levels are less, which would adversely affect the amenity of occupiers of nearby residential properties. Approval of the proposal would therefore be contrary to policy DC23, DC26 and H2.2 of the Manchester Unitary Development Plan and PPG24 – 'Planning and Noise' (1994).

## **Local Government (Access to Information) Act 1985**

The documents referred to in the course of this report are either contained in the file(s) relating to application ref: 085564/JO/2008/S2 held by planning or are City Council planning policies, the Unitary Development Plan for the City of Manchester, national planning guidance documents, or relevant decisions on other applications or appeals, copies of which are held by the Planning Division.

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**The following residents, businesses and other third parties in the area were consulted/notified on the application:**

Engineering Services

Environmental Health

Greater Manchester Police

Steve Hobson, Crime Reduction Officer

2 to 56 (even) Mersey Crescent, Manchester, M20 2YJ

829 to 847 (odd) Princess Road, Manchester, M20 2ZF

881 to 895 (odd) Princess Road, Manchester, M20 2ZF

556 to 578 (even) Princess Road, Manchester, M21 7PX

1 to 12 Glynn Gardens, Manchester, M20 2YP

McDonalds Restaurants Ltd, 849a, Princess Road, Manchester, M20 2ZF

97 to 119 (odd) Mersey Bank Avenue, Manchester, M21 7WP

106 to 124 (even) Mersey Bank Avenue, Manchester, M21 7NP

49 to 67 (odd) Waincliffe Avenue, Manchester, M21 7NW

**Representations were received from the following third parties:**

C Hurst, 556 Princess Road, Manchester, M21 7QA

**Relevant Contact Officer :** Wayne Johnson  
**Telephone number :** 0161 234 4544  
**Email :** w.johnson@manchester.gov.uk