DEVELOPMENT CONTROL COMMITTEE - Date: 7 July 2010

Report of the Executive Head of Planning and Transportation.

Ref: B2010/62770/FUL	WARD: B07 / SUTTON CENTRAL	Time Taken: 8 weeks, 0 days

Site: ASDA 229 HIGH STREET Sutton Surrey SM1 1LD

Proposal: Extend trading hours to 2300 hours on Mondays to Saturdays as a variation of condition 12 of previously approved App. No. B2001/48409FUL which states that 'The hours of trading for the proposed development shall be between 0700 and 2200 hours and at no other time whatsoever'.

Applicant: Miss C Tetlow

Agent:

Recommendation:

GRANT PLANNING PERMISSION

Reason for Report to Committee: Major application recommended for approval.

Summary of why application proposals are acceptable

The application, to increase the opening hours to 07.00 – 23.00 hours on Monday to Saturday, is considered acceptable noting that trading is restricted on Sundays under the Sunday Trading Act and it is now proposed that the hours of operation remain unchanged in relation to Sundays. The proposal would not cause significant harm to neighbouring occupiers and would offer enhancements to the vitality and viability of Sutton Town Centre.

1.0 **BACKGROUND**

1.1 **Site and surroundings:**

1.2 The application site relates to a large four storey building situated on the west side of Sutton High Street. The building was granted planning permission in 2002 and comprises an 'Asda' supermarket at ground floor level with three levels of car parking above. The building extends the full width and length of the site and has a frontage to the High Street and St Nicholas Way.

1.3 The site is situated within the Market Street (Lower High Street Area) section of the town centre. The part of the High Street directly outside the shop frontage is fully pedestrianised with access to the site from St Nicholas Way for deliveries.

1.4 **Site specific UDP designation:**

1.5 The site is located within a Tall Building Zone, a Secondary Shopping Frontage and a Archaeology Priority Area.

1.2 **Relevant Planning History:**

1.3 The site has been subject to a number of applications for planning permission and advert consent. The most relevant of which are listed below:

- B2001/48409/FUL – Redevelopment comprising a building for uses falling within Classes A1 at ground floor level with ancillary accommodation at mezzanine level and three floors of car parking above, together with delivery and loading area, service area and yard and vehicular access from St Nicholas Way. Permission granted 28.05.2002.

- B2005/53869/ADV – Display of two non-illuminated and two internally illuminated disc signs and two non-illuminated vinyl signs. Permission granted 24.05.05.

- B2010/62303/ADV – Display of three non-illuminated wall mounted banner signs (two within car park) – Granted 19/04/10

1.4 In particular, application numbered B2001/48409/FUL contained a condition that states "The hours of trading for the proposed development shall be between 0700 and 2200 hours and at no other time whatsoever".

2.0 **APPLICATION PROPOSALS**

2.1 **Details of Proposal:**

2.2 This application is for the variation of condition 12 of the approved application numbered B2010/62770/FUL. Condition 12 is referred to within the above section and this current application originally sought to vary the opening hours from 0700 – 2200 daily to 0700 – 2300 daily. However, since the application was received the applicant has agreed to amend the application so that the proposed increased hours of trading only relate to Monday to Saturdays, as current Sunday Trading Laws do not permit trading in large stores outside the hours of 10.00 to 16.00. As such, the hours of trading on Sundays will remain as set out in the current condition between 07.00 – 22.00.

2.3 This current application does not propose to vary condition 11 of the approved application and, therefore, hours which service vehicles can be on the site would remain between to 0600 – 2300 daily. The applicant has stated that the increase in hours is required so that the store can open over 100 hours a week to satisfy the requirements of the stores NHS pharmacy licence.

2.4 **Significant amendments to application since submitted:** None

3.0 **PUBLICITY**

3.1 **Adjoining Occupiers Notified:**

3.2 **Method of Notification:** 178 individual letters were delivered to addresses in High Street, Haddon Road, St Nicholas Way and Crown Road.

3.3 **Number of Letters Received:** None

3.4 **Official Consultation**

3.5 **Environmental Health:** No objection.

4.0 **MATERIAL PLANNING POLICIES**

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that when determining a planning application, regard is to be had to the development plan, and the determination shall be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan for the London Borough of Sutton comprises the following documents:

(1A) The London Plan (originally adopted 2004, amended version, consolidated with alterations, adopted February 2008).

(1B) The London Plan: Consultation draft replacement plan, October 2009.
This document, which will eventually replace the existing consolidated version of the London Plan, has been published for public consultation until 12 January 2010. A public Examination is likely to be held in Summer/Autumn 2010. Although the draft replacement plan will not supersede the existing London Plan until after it has been formally adopted, the draft plan will be a material consideration that should be taken into account in deciding planning applications and will gather increasing weight the further into the replacement process.

In the event that there are discrepancies between the adopted CPS, SDP and Replacement London Plan, legal guidance indicates that the latest adopted document prevails.

(2) The Sutton Unitary Development Plan (UDP) (adopted April 2003). Some of the UDP Policies have now been replaced by the Core Planning Strategy Policies.

(3) The Local Development Framework (LDF) which is to replace the UDP in due course as the official Development Plan for the Borough. At present it comprises two main documents (additional ones for specific areas such as Sutton Town Centre will be produced):
-(a) The Core Planning Strategy (CPS) which sets out the Council's long term vision, spatial strategy and core policies for shaping the future development in the Borough and managing change over the next 15 years in line with the principles of sustainable development. Following public consultation and a formal public examination by Government Inspectors the final version of the CPS was adopted by the Full Council on 7.12.09. The adopted CPS replaced a number of the UDP policies and is a material consideration in the determination of planning applications.

-(b) The Site Development Policies Development Plan Document (DPD) which identifies sites for future development (outside Sutton Town Centre) and sets out detailed development management policies to be used to help decide planning applications. The DPD has been through two stages of public consultation and was approved by the Full Council on 7.12.09 for submission to the Secretary of State. A further public consultation is being carried out in January - March 2010. The DPD is likely to be the subject of a formal public examination by Government Inspectors in October 2010. The DPD is now accorded material weight by the Council in determining planning applications (and is a material planning consideration.)

4.2 Also a material consideration in determining planning applications are:

(a) National Planning Guidance in the form of Planning Policy Statements and Planning Policy Guidance documents.

(b) Adopted London Borough of Sutton Supplementary Planning Guidance documents.

4.3 National Planning Guidance

- PPS1 – Delivering Sustainable Development
- PPG 24 – Planning and Noise

4.4 The London Plan

- 2A.8 – Town Centres
- 3B.1 – Developing London's economy
- 3D.1 – Supporting town centres
- 3D.2 – Town Centre development
- 3D.3 – Maintaining and improving retail facilities
- 4A.20 - Reducing noise and enhancing soundscapes

4.5 Sutton Unitary Development Plan

- TCS1 - Principle for development in town centres
- TCS5 - Secondary Shopping Frontages
- TCS8 - Mixed Use Development
- TCS11 - Quarters in Sutton Town Centre
- TCS14 - Leisure, Recreation and the Evening Economy

4.6 The Core Planning Strategy

- PMP6 – Sutton Town Centre

4.7 Site Development Policies DPD– Proposed Submission

- DM2 – Protecting Amenity
- DM12 – Noise and vibration

4.8 Supplementary Planning Guidance

- SPD14 – Creating Locally Distinctive Places

5.0 **PLANNING CONSIDERATIONS**

5.1 The principal considerations (including whether any material planning objections have been reasonably addressed) in relation to this application are:

- **Use**
- **Impact on Neighbours**

5.2 **Use**:

5.3 The principle of operating an 'Asda' supermarket (A1 use) from this site has long been established. The matter under consideration within this current application is the proposed increase in operating hours as discussed within the 'Detail of Proposal' section above. In this case, it is considered that the proposal could benefit the vitality and viability of the Town Centre, enhancing the night time economy. It is considered that the principle of the proposal is acceptable in land use terms, subject to the consideration of all other relevant Central Government Policy Guidance, Development Plan Policy and other material considerations.

5.4 **Impact on Neighbours:**

5.5 Policy DM2 of the Site Development Policies DPD Proposed Submission states that the Council will not grant planning permission for any development that adversely affects the amenities of those currently occupying adjoining or adjacent to the site or has an unacceptable impact on the surrounding area. The policy continues that the Council will have regard to the noise and vibration levels and times when such disturbances are likely to occur as well as the potential for fumes, litter and the impact of any exterior lighting.

5.6 The nearest residential properties are located above the shops opposite and to the north and south of the site. It is considered that the increase in opening times on Mondays to Saturdays by an additional hour in the evening is not considered to have a significantly greater impact on neighbours than the current situation. The Environmental Health Officer has raised no objection to the proposal and, therefore, the proposal would not adversely affect the amenity of neighbouring occupiers by virtue of any increased noise and disturbance. During the course of considering this application the applicant has agreed to amend the application by removing the request to extend hours of trading on Sundays, given the current provisions of the Sunday Trading Act 1994.

5.7 On this basis, it is considered that the proposal would not result in an unacceptable impact on the amenities of nearby residential occupiers.

6.0 **CONCLUSION AND RECOMMENDATION**

6.1 The application, to increase the opening hours to 07.00 – 23.00 hours on Monday to Saturdays, is considered acceptable. The proposal would not cause significant harm to neighbouring occupiers and would offer enhancements to the vitality and viability of Sutton Town Centre.

6.2 For the above reasons, it is considered that the proposal is in accordance with relevant development plan policies and it is recommended that the revised opening hours be approved.

Background Papers: B2010/62770/FUL

Drawings and other documents can be viewed on line –

1) Go to page: http://82.43.4.135/FASTWEB/welcome.asp
2) Enter Planning Application Number: **B2010/62770**
3) Click on Search and View Current Applications
4) Click on View Plans & Documents

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WARNING: It is in your interests to ensure you obtain the approval of the Local Planning Authority, where the conditions require that to occur. Failure to comply with the following conditions may lead to enforcement action to secure compliance.

FIRST SCHEDULE

ASDA 229 HIGH STREET Sutton Surrey SM1 1LD

Extend trading hours to 2300 hours variation of condition 12 of previously approved App. No. B2001/48409FUL which states that 'The hours of trading for the proposed development shall be between 0700 and 2200 hours and at no other time whatsoever'.

SECOND SCHEDULE

(1) The hours of trading of the proposed development shall be between 0700 and 2300 on Mondays and Saturdays and between 0700 and 2200 on Sundays and at no other time whatsoever.

Reason: To safeguard the amenities of adjoining residential properties.

INFORMATIVES.

(1) The drawing no(s). relating to this decision is/are MAC-5809-SP-001 Rev A.

(2) Should you require details of the consideration of the application that has led to this decision, the file may be inspected under the provisions of the Local Government (Access to Information) Act 1985. An appointment can be made for this purpose by telephoning 020 8770-6200.

(3) This application has been assessed against the relevant policies of the Sutton Unitary Development Plan. The proposal is generally in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) and for this reason planning permission is granted.

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