

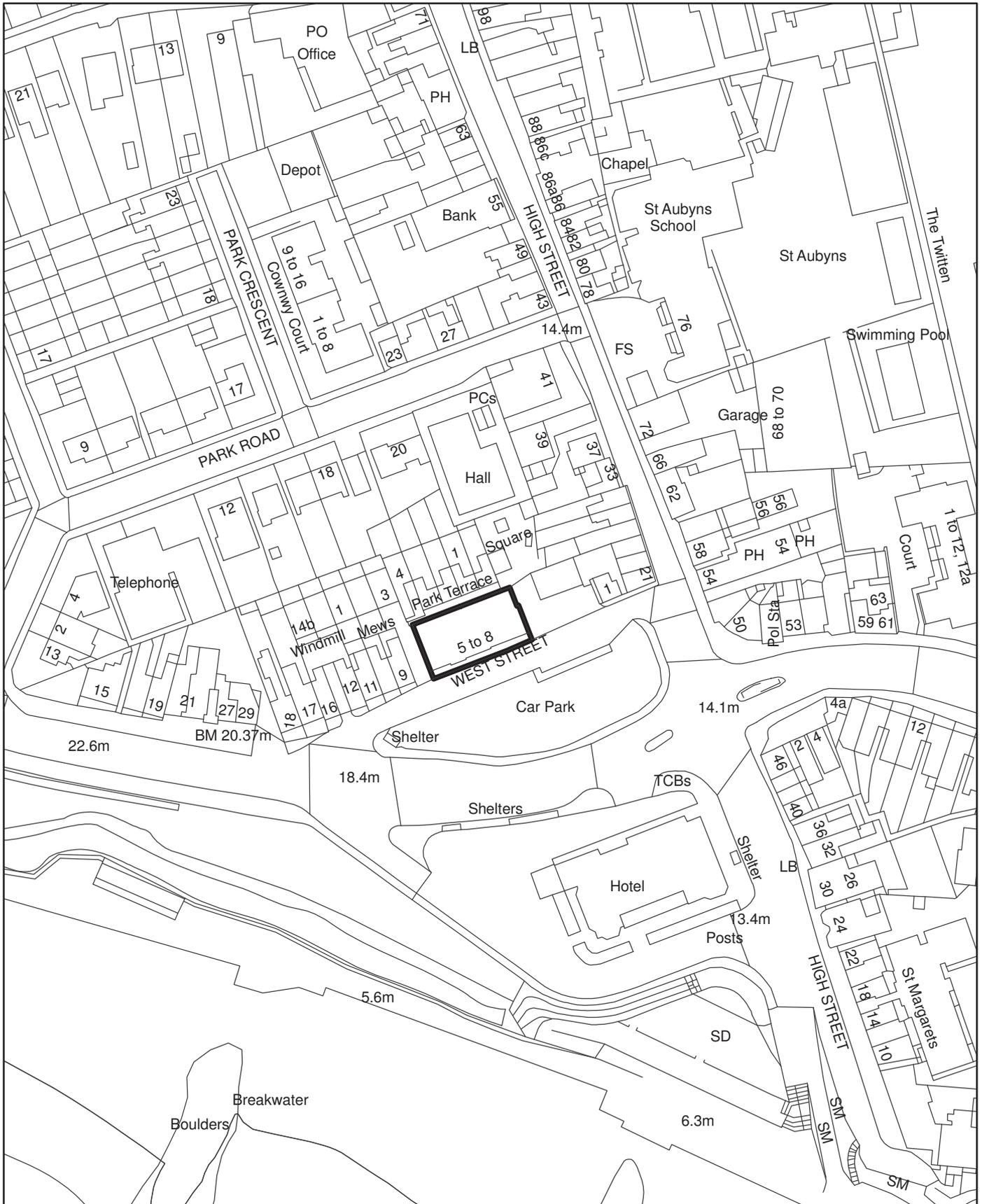
ITEM C

5-8 West Street, Rottingdean

BH2015/00169
Removal or variation of condition

1 APRIL 2015

BH2015/00169 5-8 West Street, Rottingdean, Brighton.



N



Scale: 1:1,250

<u>No:</u>	BH2015/00169	<u>Ward:</u>	ROTTINGDEAN COASTAL
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	5-8 West Street Rottingdean Brighton		
<u>Proposal:</u>	Application for variation of condition 5 of application BH2005/06332 (Amendment to approved permission BH2004/02617/FP (reduction in floor area). Part single storey, part two storey retail unit) to state that the premises shall not be open for customers or in use except between the hours of 06:00 and 23:00.		
<u>Officer:</u>	Chris Swain Tel 292178	<u>Valid Date:</u>	22 January 2015
<u>Con Area:</u>	Adjoining Rottingdean	<u>Expiry Date:</u>	19 March 2015
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	GL Hearn, 280 High Holborn London W1CV 7EE		
<u>Applicant:</u>	Tesco Stores Ltd, c/o GL Hearn 280 High Holborn London W1CV 7EE		

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application relates to a part one, part two storey retail unit (A1) on the northern side of West Street, Rottingdean. The site lies opposite an existing public car park and some 40m to the west of Rottingdean High Street, which is a local shopping centre as defined in the Brighton & Hove Local Plan. The site adjoins the Rottingdean Conservation Area via a short section of the rear boundary with the majority of the Conservation Area sited to the north east of the site. The prevailing character of the area is mixed with both residential and commercial properties within the immediate vicinity. The site backs onto residential properties in Park Terrace and adjoins Victoria Mews which has access from West Street via a private road immediately to the west of the site. There is a row of terraced properties to the west of the supermarket on West Street.

3 RELEVANT HISTORY

BH2014/02901 - Application for variation of condition 5 of application BH2004/02617/FP (Demolition of existing buildings. Erection of single storey building for class A1 retail use) to state that the premises shall not be open for

customers or in use except between the hours of 06:00 and 23:00. Withdrawn 1 December 2014.

BH2007/01658 - Retention of existing open plant well and air conditioning equipment recessed within the roof structure (Retrospective). Approved 13 July 2007.

BH2005/06332 - Amendment to approved permission BH2004/02617/FP (reduction in floor area). Part single storey, part two storey retail unit. Approved 18 January 2006.

BH2004/02617/FP - Demolition of existing buildings. Erection of single storey buildings for A1 (retail) use. Approved 8 December 2004.

BH2003/02748/FP - Demolition of existing buildings and erection of single storey building for class A1 (retail) use. Revised application. Refused 16 October 2003 on grounds that the design and materials would be out of character and context with surrounding development and detract from the setting of Rottingdean conservation area. Appeal dismissed 16 March 2004.

BH2002/01890/FP - Demolition of existing garage showroom and erection of single storey building for retail (class A1) use. Provision of 1.4m wide footway along part of the north side of West Street. Refused 22 May 2003.

4 THE APPLICATION

- 4.1 Planning permission is sought for the variation of condition 5 of application BH2005/06332 (Amendment to approved permission BH2004/02617/FP (reduction in floor area). Part single storey, part two storey retail unit) to state that the premises shall not be open for customers or in use except between the hours of 06:00 and 23:00. This increases the opening hours by one hour in the morning. The premises are proposed to be open 06:00-23:00. Current conditions restrict opening hours 07:00-23:00.

5 PUBLICITY & CONSULTATIONS

External

- 5.1 **Neighbours: Two (2)** letters of representation have been received from **No.1** and **No.3 Victoria Mews** objecting to the application for the following reasons:

- There is constant traffic at 7am, increasing the opening hours to 6am would increase this harm,
- The loading bay is always full of cars,
- The loading bay needs to be repainted.

- 5.2 The **Rottingdean Parish Council** objects to the proposal for the following reasons;

- Impact upon adjoining residential from additional noise from deliveries and customer vehicles,
- The two examples cited in the Planning Statement relating to other Tesco stores are not considered to be valid comparisons,
- Local residents have stated that Tesco's is already opening outside their existing lawful opening hours,
- Issues should be settled by planning conditions.

5.3 **Councillor Mary Mears** objects to the application. Letter attached.

Internal:

5.4 **Environmental Health:** No objection

The acoustic report submitted does not address the issue of noise from customers. This shop fronts a main road with a car park opposite. There are no activities at the rear, adjacent to residential houses. In any event, it is unlikely that nuisance will arise from an extra hour in the morning.

5.5 **Sustainable Transport:** No objection

The proposal to vary to opening hours from 0700-2300 to 0600-2300 is not considered to have a significant transport impact above those already permitted.

6 MATERIAL CONSIDERATIONS

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

6.2 The development plan is:

- Brighton & Hove Local Plan 2005 (saved policies post 2007);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (Adopted February 2013);
- East Sussex and Brighton & Hove Minerals Local Plan (November 1999); Saved policies 3,4,32 and 36 – all outside of Brighton & Hove;
- East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

6.3 The National Planning Policy Framework (NPPF) is a material consideration.

6.4 Due weight should be given to relevant policies in the development plan according to their degree of consistency with the NPPF.

6.5 The Brighton & Hove City Plan Part One (submission document) is an emerging development plan. The NPPF advises that weight may be given to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies to the policies in the NPPF.

6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
QD27	Protection of Amenity
SU9	Pollution and noise control
SU10	Noise nuisance

Brighton & Hove City Plan Part One (submission document)

SS1	Presumption in Favour of Sustainable Development
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8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main consideration in the determination of this application relates to how the proposed variation in condition 5 of planning approval **BH2005/06332** would impact upon the amenity of neighbouring occupiers.

Impact on Amenity:

- 8.2 The original application granted permission for a part one, part two storey retail unit. Condition 5 of the original application stated;
- 8.3 *The premises shall not be open for customers or in use except between the hours of 0700 and 2300. Reason: To safeguard the amenities of the locality and to comply with policy QD27 of the Brighton & Hove Local Plan-Second Deposit Draft 2001.*
- 8.4 Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.5 The application proposes an increase in opening hours by an hour in the morning, from 7am to 6am. The hours of operation in the evening would be unchanged.
- 8.6 It is not considered that the proposed hours would result in any significant detrimental impact to the residential amenity of adjoining occupiers. Whilst it is likely that there would be an increase in both pedestrian and vehicular movements between the hours of 06.00 and 07.00 the front entrance of the supermarket is sited at the far eastern end of the front elevation, more than 25m from the residential properties to the west on West Street and there is not considered to be a significantly harmful impact as regards to noise disturbance to these properties. Victoria Mews and Park Terrace are sited behind the store, accessed to the west of the store and similarly it is not considered that additional pedestrian and vehicular movements between 06.00 and 07.00 are likely to result in any significant harm to amenity.
- 8.7 The conditions relating to deliveries and the movement of roll cages, trolleys and other wheel based equipment will remain unchanged and as such the existing

controls on these activities which have a greater potential for noise disturbance will remain in place to protect residential amenity.

- 8.8 The applicant has submitted figures outlining average customer numbers from 06.00-07.00 at two other stores at East Wittering and Bognor Regis. These retail units are outside the Brighton and Hove City Council boundary and as such outside the control of the Local Planning Authority. Notwithstanding this, there is also insufficient information to adequately assess these sites and they are not considered to set a precedent to grant planning permission for the proposed hours at the application site and the current application will be determined on its own merits.
- 8.9 The submitted acoustic report does not address the noise from customers, focusing on refrigeration and air conditioning noise within the plant area. Notwithstanding the deficiencies within the report there is not considered to be any significantly increased noise disturbance to adjoining properties.
- 8.10 The Environmental Health Team has assessed the application and has no objection to the proposal.
- 8.11 It is considered that the proposed hours strike an acceptable balance between protecting the amenity of nearby residential occupiers and supporting the local economy within this mixed residential and commercial area and it is not considered that the proposed extension of opening hours from 06.00 to 23.00 would result in any significant increased noise disturbance to the detriment of the amenity of neighbouring residential occupiers.
- 8.12 The Sustainable Transport Team has no objection to the proposal.

Conditions:

- 8.13 It has not been deemed necessary to attach all the conditions from the original consent. Conditions relating to drainage, land contamination, construction of the western footpath and materials have all been discharged and the development implemented. A subsequent application relating to the plant was approved in 2007 and as such the conditions relating to the plant in the original application have also been omitted.

9 CONCLUSION

- 9.1 To conclude, it is not considered that the proposed extension of opening hours by one hour from 06.00 to 23.00 would result in any significant increased noise disturbance to the detriment of the amenity of neighbouring residential occupiers.

10 EQUALITIES

- 10.1 None identified.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

11.1 Regulatory Conditions:

- 1) The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Site location plan			28 January 2015
Existing permitted roof plan	P05	A	23 November 2005
Existing permitted site plan	P06	A	23 November 2005
Existing plan & elevations	P07		23 November 2005
Existing permitted elevations	P08	A	23 November 2005
Proposed site plan	P14		23 November 2005
Proposed elevations	P15		23 November 2005
Proposed roof plan	P16		23 November 2005

- 2) The two existing cycle stands sited to the front elevation of the building shall be retained for use at all times. **Reason:** To ensure the provision of on-site bicycle parking facilities and to comply with policy TR14 of the Brighton & Hove Local Plan.
- 3) The premises shall not be open for customers or in use except between the hours of 0600 and 2300. **Reason:** To safeguard the amenities of the locality and to comply with policy QD27 of the Brighton & Hove Local Plan.
- 4) No deliveries associated with the development hereby permitted shall take place between the hours of 20.00 – 07.15 Mondays to Saturdays and between the hours of 16.00 – 08.00 on Sundays and Bank Holidays. **Reason:** To safeguard the amenities of the locality and to comply with policy QD27 of the Brighton & Hove Local Plan.
- 5) The existing refuse and recycling storage facilities shall be retained for use at all times. **Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan.
- 6) The threshold to the main customer entrance to the premises shall be flush and retained thereafter. **Reason:** In order to provide satisfactory access for people with disabilities and people with prams and pushchairs to comply with policy QD10 of the Brighton & Hove Local Plan.
- 7) Movement of roll cages, trolleys and other wheel based equipment in the external yard and service area shall not take place other than between the hours of 0700 and 2200. **Reason:** To safeguard the amenities of the

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occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

11.2 Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One (submission document) the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. This decision to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:-
The proposed extension to the opening hours will not result in any significantly increased harm to the amenity of neighbouring occupiers.

Dear Chris Swain.

Re Application for Variation of Condition 5 BH2015/00169.
Tesco Stores West Street Rottingdean.

As a councillor for Rottingdean Coastal Ward I wish to object to the above application for a variation of condition 5 for the following reasons

Currently Condition 5 of the original planning permission BH2004/02617/FP Restricts the hours that the store can trade to between 07.00 and 23.00 hours. These hours were imposed as a result of very considerable widespread concerns over the impact of the store on residential property in West Street, and other addresses in close proximity, particularly in the morning and late at night.

Tesco Stores Ltd has now lodged an application for Variation of Condition 5 to permit opening an hour earlier 7days a week from 06.00 to 23.00 daily.

Condition 5 was attached to the planning permission for the reasons stated. The situation in West Street and surrounding area has not changed.

I was concerned that Tesco Stores Ltd had decided to pre-empt their application and commenced opening at 06.00 from the 22/09/14 in contravention of their current planning permission.

Should the decision be minded to grant this application under delegated powers.

I wish the application to go to the planning committee and reserve my right to speak.

Kind regards.

Mary.