

Reference:	20/02012/AMDT
Application Type:	Minor Amendment
Ward:	Milton
Proposal:	Vary condition 18 of planning application 11/00790/BC3M dated 17/08/2011 to extend opening times to central ground floor and first floor areas to be used as a safe haven hub (Minor material amendment to Planning Permission 11/00790/BC3M dated 17/08/2011)
Address:	The Forum, Elmer Approach, Southend-On-Sea
Applicant:	Mr Mark Murphy
Agent:	Mr Neil Pointer of Southend on Sea Borough Council
Consultation Expiry:	25th December 2020
Expiry Date:	9th April 2021
Case Officer:	Spyros Mouratidis
Plan Nos:	D 301 Rev A
Recommendation:	GRANT PLANNING PERMISSION subject to conditions



1 Site and Surroundings

- 1.1 The application site is at the junction of Elmer Approach and Elmer Avenue and it is occupied by a public library building. The surrounding area comprises academic and cultural institutions as well as residential properties over commercial ground floors which face onto the High Street. The area is covered by the Southend Central Area Action Plan. No other designations affect the site or the immediate vicinity.

2 The Proposal

- 2.1 Planning permission is sought for the variation of condition 18 (hours of operation) of planning permission 11/00790/BC3M (the “2011 Permission”). The application has been submitted under the provisions of Section 73 of the Town and County Planning Act 1990 as amended. Condition 18 of the 2011 Permission states:

“18 The building shall be open for use in accordance with the hours set out on submitted plan “hours of operation” drawing number 301 D rev A, except for areas marked “TBC” the hours of operation of which shall be agreed in writing with the Local Planning Authority prior to first occupation of the building, unless otherwise agreed in writing with the Local Planning Authority.”

- 2.2 The proposal seeks to alter the hours of operation for part of the ground floor as follows:

Monday to Friday 9am to midnight.
Saturday 8am to midnight.
Sunday 10am to 4pm

- 2.3 It also seeks to alter the hours of operation of the first floor as follows:

Monday to Friday 9am to 7pm
Saturday 8am to 5pm
Sunday 10am to 4pm

- 2.4 The proposed hours of operations would allow the library to offer extended services to users in order to meet identified demand during the weekends and late evenings. These extended hours would also accommodate the use of the library area as a safe haven hub on Friday and Saturday evenings. No other changes are proposed.

- 2.5 The application is considered to be an amendment to a major scheme and as the applicant is the Council, it has to be determined by the Development Control Committee.

3 Relevant Planning History

- 3.1 The relevant planning history of the site is shown on Table 1 below:

Table 1: Relevant Planning History

Reference	Description	Outcome
11/00790/BC3M	Erect part 3/ part 4 storey building, incorporating LED display screen, to use as library and for education purposes (Sui Generis) lay out landscaping and amenity	Permission granted [31.08.2011]

	area	
11/01668/AD	Application for approval of details pursuant to condition 7 (Material Samples) of planning permission 11/00790/BC3M granted on 17th August 2011	Details Approved [28.02.2012]
11/01705/AD	Application for approval of details pursuant to condition 04 (Site Investigation) of planning permission 11/00790/BC3M dated 31.8.11	Details Approved [02.04.2012]
11/01679/AD	Application for approval of details pursuant to conditions 6,(Scheme of works)8,(Landscape details) 9,(Landscape) and 10 (Landscape Management) of planning permission 11/00790/BC3M dated 31.8.11	Details Approved [15.08.2012]
12/01614/BC3M	Extend hours of construction on Saturday to 8:00am hours to 18:00 hours (variation of condition 22 of planning consent 11/00790/BC3M granted on 17th August 2011 stating demolition or construction works shall not take place outside 7:30am hours to 6pm hours Mondays to Fridays and 8am hours to 1pm hours on Saturdays and at no time on Sundays or Bank Holidays)	Permission granted [19.02.2013]
12/01522/AD	Application for Approval of Details pursuant to condition 20 (details of Screen Management Strategy) of planning application 11/00790/BC3M dated 17/08/11	Details Approved [10.04.2013]
13/00921/AD	Application for approval of details pursuant to conditions 16 (details of bicycle spaces), condition 27 (details of acoustic barrier) and condition 28 (details of proposed speaker location of planning permission 11/00790/BC3M dated 17/08/2011	Details Approved [02.10.2013]
13/01014/AD	Application for approval of details pursuant to condition 13 (External Lighting) of planning permission 11/00790/BC3M dated 17.8.11	Details Approved [23.07.2019]

4 Representation Summary

Public Consultation

- 4.1 Seventy-three (73) neighbouring properties were consulted and a site notice was displayed. No representations have been received.

Highways

- 4.2 No objection.

Environmental Health

- 4.3 No comment.

Parks

- 4.4 No comment.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2019)
- 5.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2019)
- 5.3 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP1 (Employment Generating Development), CP2 (Town Centre and Retail Development), CP3 (Transport and Accessibility), CP4 (The Environment and Urban Renaissance), CP6 (Community Infrastructure), CP7 (Sport, Recreation and Green Space).
- 5.4 Development Management Document (2015): DM1(Design Quality), DM2 (Low Carbon Development and Efficient Use of Resources), DM3 (Efficient and Effective Use of Land), DM4: (Tall and Large Buildings), DM5 (Historic Environment); DM10 (Employment Sectors), DM14 (Environmental Protection), DM15 (Sustainable Transport Management).
- 5.5 Southend Central Area Action Plan (2018): Policies DS3 (Landmarks and Landmark Buildings), DS4 (Flood Risk Management and Sustainable Drainage), DS5 (Transport, Access and Public Realm), PA3 (Elmer Square Policy Area Development Principles), Opportunity Site (PA3.1): Elmer Square Phase 2.

6 Planning Considerations

- 6.1 The main considerations in relation to this application are whether the proposed amendments are within the scope of Section 73 and the impact on residential amenity, particularly in relation to the proposed changes to the hours of operation. The proposed changes to the hours of operation would not result in any change to the development in other regards, including impact on the character and appearance of the area, the principle of the development, impact on highways. As there has been no change in circumstances since the grant of the original consent which would result in a different conclusion being reached in these regards the proposal continues to be acceptable in these ways.

7 Appraisal

Scope of Section 73

- 7.1 The proposed alterations to the hours of operation of the development approved under the 2011 Permission can be described as material amendments and fall within the description of the development allowed under the 2011 Permission. The development description is unaltered, and the proposed development site is no different. The wording of all conditions needs to be updated and where relevant to include reference to approved details. The proposal can be considered under the scope of Section 73.

Impact on Residential Amenity

- 7.2 Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities and also: “having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight.”
- 7.3 The proposal would not alter the built form on site. Hence there would be no material change in the impact of the development on the residential amenity of neighbours in terms of privacy, overlooking, outlook, sense of enclosure/overbearing relationship, daylight and sunlight.
- 7.4 The proposed changes to the hours of operations and the activities they would serve, including the safe haven hub for town centre users as an initiative to support the night-time economy, would not result in a significant impact on the residential amenity of neighbouring occupiers. It is noted that certain areas of building currently operate twenty-four hours every day. The nature of the use on site and its degree of separation from the nearest residential premises is unlikely to create undue noise and disturbance substantially harmful to the residential amenity of neighbours as proposed. The Council’s Environmental Health team raised no objections. The proposal is acceptable and in line with policy in the above regards.

Conclusion

- 7.5 Having taken all material planning considerations into account, including the 2011 Permission and the relevant planning history of the site, it is found that the proposed development would be acceptable and compliant with the objectives of the relevant local and national planning policies and guidance. The proposal, subject to conditions, would have an acceptable impact on the residential amenity of neighbouring occupiers. This application is recommended for approval subject to conditions.

8 Recommendation

8.1 GRANT PLANNING PERMISSION subject to the following conditions:

- 01 The development hereby permitted shall be retained in complete accordance with the plans approved under planning application 11/00790/BC3M: Location Plan 010A, Proposed Layout and Elevations of Substation and Bin Store 115, Proposed Sections C-C/D-D 111G, Proposed Sections A-A/B-B 110J, Roof Plan D102K, Proposed First, Second and Third Floor 101Q, Proposed Lower Ground and Ground Floor 100P, Existing Site Section C-C/D-D 021A, Existing Site Section A-A/B-B 020 A, Landscaping Plan 013, Proposed Site Plan 012, Existing Site Plan 011 A, Proposed Elevations G-G/H-H 114B, Proposed Elevation E-E/F-F 113N.**

Reason: To ensure the development is carried out in accordance with the development plan.

- 02 Waste management at the site shall be carried out in accordance with the strategy submitted and approved under application 13/01233/FUL.**

Reason: To protect the environment and ensure adequate and appropriate storage, recycling and collection of waste resulting from the development in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2, CP3 and CP4, Development Management Document (2015) Policies DM1, DM3, DM8 and DM15, and the advice contained within the National Design Guide (2019), the Design and Townscape Guide (2009) and the Waste Storage, Collection and Management Guide for New Developments (2019).

- 03 Servicing shall take place in accordance with the strategy submitted and approved under application 13/01233/FUL.**

Reason: To ensure that the development does not have a detrimental impact on the surrounding highway network in accordance with the National Planning Policy Framework, Policy CP3 of the Core Strategy (2007) and Policies DM3 and DM15 of Development Management Document (2015).

- 04 The scheme of public art installed on site must be permanently retained on this site and not moved or removed.**

Reason: To secure the provision of public art and in the interests of visual amenity in accordance with Policies KP2 and CP4 of the Core Strategy (2007), and the advice contained in the Design and Townscape Guide (2009).

- 05 The environmental sustainability measures as installed on site must be permanently retained.**

Reason: To minimise the environmental impact of the development through efficient use of resources and better use of sustainable and renewable resources in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policy DM2, and the advice contained within the National Design Guide (2019) and the Design and Townscape Guide (2009).

- 06 Other than the external lighting approved under application 13/01014/AD, no additional external lighting shall be installed within any part of the site without express planning permission having first been obtained from the Local Planning Authority.**

Reason: In the interest of the residential amenity of nearby occupiers in accordance with the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015).

- 07 All equipment installed as part of the scheme to control the emission of fumes and smell from the premises shall be operated and maintained in accordance with the manufacturer's instructions in perpetuity.**

Reason: In the interest of the residential amenity of nearby occupiers in accordance with the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015).

- 08 The ventilation system installed on site shall not be altered without express planning permission having first been obtained from the Local Planning Authority.**

Reason: In the interest of the residential amenity of nearby occupiers in accordance with the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015).

- 09 The space laid out within the site for 78 bicycles to be parked shall be permanently retained for cycle parking for the lifetime of the development.**

Reason: To ensure the provision of adequate cycle parking in accordance with Policy CP3 of the Core Strategy (2007) and Policies DM3, DM8 and DM15 of Development Management Document (2015).

- 10 The building subject of this permission shall be open for use only in accordance with the hours set out on the approved plan 'Hours of Operation' drawing number D 301 rev A.**

Reason: In the interest of the residential amenity of nearby occupiers in accordance with the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015).

- 11 No signs(s) or advertisements(s) shall be displayed on the building subject of this permission or within the public square without the express consent of the local planning authority, notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) Regulations 2007 or any equivalent provision in any statutory revoking and re-enacting those Regulations.**

Reason: In the interest of visual amenity in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3, and the advice contained within the National Design Guide (2019) and the Design and Townscape Guide (2009).

- 12 Following the first ten Category C and E events and the first Category A, B and D events held within the public square the management plan for the screen and the public square shall be reviewed taking into account any necessary mitigation measures identified during the assessment monitoring. No further events shall take place until this plan has been submitted to and approved in writing by the LPA and mitigation measures implemented.**

Reason: In the interest of the residential amenity of nearby occupiers in accordance with the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015).

- 13 During each of the first 10 Category C and E events held within the public square noise monitoring and assessment shall be carried out per the recommendations of the acoustic assessment produced by Hoare LEA, dated 15/8/11. The results of the monitoring and assessment together with details of any necessary noise mitigation measures, including where necessary restrictions on hours of operation, or limits on the number of events, shall be subsequently submitted to the LPA for approval and any identified mitigation measures shall be implemented prior to any further events taking place.**

Reason: In the interest of the residential amenity of nearby occupiers in accordance with the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015).

- 14 During each of the first Category A, B and D events held within the public square, noise monitoring and assessment shall be carried out per the recommendations of the acoustic assessment produced by Hoare LEA, dated 15/8/11. The results of the monitoring and assessment together with details of any necessary noise mitigation measures, including where necessary restrictions on hours of operation, or limits on the number of events, shall be subsequently submitted to the LPA for approval and any identified mitigation measures shall be implemented prior to any further events taking place.**

Reason: In the interest of the residential amenity of nearby occupiers in accordance with the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015).

- 15 Amplified music and speech from the approved screen shall be limited to background noise levels during hours of operation unless prior written approval from the Local Planning Authority has been given for a specific event.**

Reason: In the interest of the residential amenity of nearby occupiers in accordance with the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015).

- 16 The acoustic barrier shall be permanently retained in perpetuity in accordance with the details approved with application 13/00921/AD.**

Reason: To protect the amenities of people in neighbouring properties and general environmental quality, and in the interests of visual amenity, in accordance DPD1 (Core Strategy) 2007 policy KP2 and CP4, and Borough Local Plan 1994 policy H5, U2; and C11, and SPD1 (Design and Townscape Guide).

Informatives:

- 1 **No additional floorspace is proposed to be created with this application and as such the development is not liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).***