

Planning Committee

24 June 2015

Reference:
APP/15/00578

Area Team:
North Team

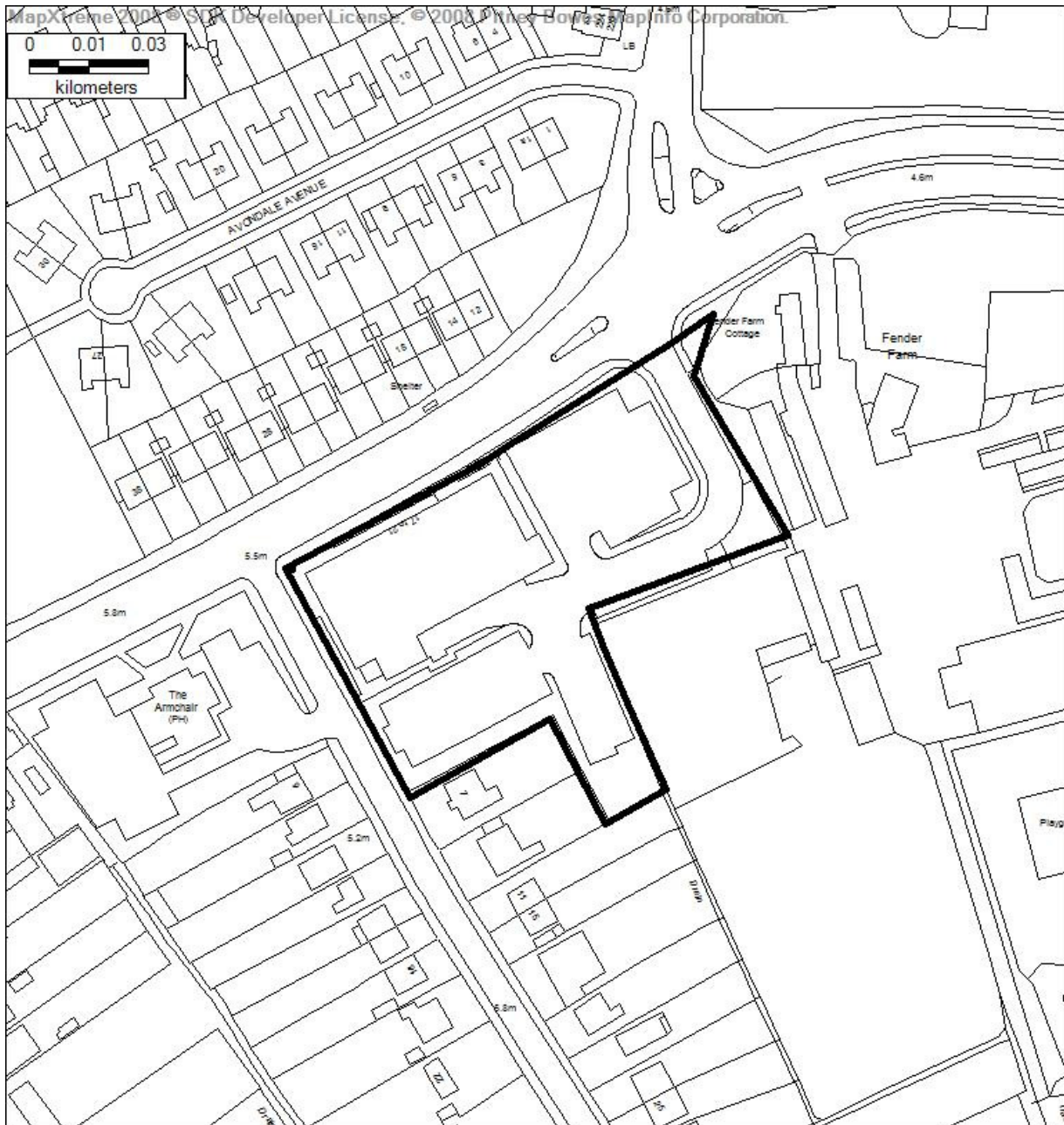
Case Officer:
Mr K Spilsbury

Ward:
**Leasowe and
Moreton East**

Location: Aldi Foodstore, 17-21 HOYLAKE ROAD, MORETON, CH46 9PD
Proposal: Variation of condition to permit all deliveries and servicing of the premises to take place between the hours of 07.00 and 23.00 Monday to Sunday and Bank Holidays

Applicant: Aldi Stores UK Ltd
Agent : JLL

Site Plan:



© Crown copyright and database rights 2014 Ordnance Survey 100019803 You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.

Development Plan allocation and policies:

Recreation Development Site
Primarily Residential Area
Area Requiring Landscape Renewal
Road Corridor subject to Environmental Improvement

Planning History:

Location: Aldi Foodstore, 17-21 HOYLAKES ROAD, MORETON, CH46 9PD
Application Type: Full Planning Permission
Proposal: Variation of condition 11 on APP/12/00711 - to enable the store to open from 0800 to 2300 Monday to Saturday and between 1000 and 1700 on Sundays and bank holidays

Application No: APP/14/01123
Decision Date: 02/12/2014
Decision Type: Approve

Summary Of Representations and Consultations Received:**REPRESENTATIONS:**

Having regard to the Council Guidance on Publicity for Applications, 26 notifications were sent to adjoining properties. A site notice was also displayed. At the time of writing this report one letter of objection has been received from the occupier of 7 Stavordale Road. The objections are summarised below:

1. We have had enough of Aldi due to cars parking outside their house
2. Delivery vans park outside their house with noise from their lorries.

CONSULTATIONS:

Head of Environment & Regulation (Traffic & Transportation Division) - No Objections

Head of Environment & Regulation (Pollution Control Division) - No Objections

Director's Comments:**REASON FOR REFERRAL TO PLANNING COMMITTEE**

The report has been taken out of delegation by Councillor Ron Abbey. Under the current scheme of delegation this application must therefore be reported to planning committee.

INTRODUCTION

The proposal is for the variation of condition 4 on APP/14/01123 - to allow delivery hours of between 0700 to 2300 seven days a week.

PRINCIPLE OF DEVELOPMENT

The proposed variation of condition is for an established retail unit on Hoylake Road in Moreton. As the proposal is for the variation of a condition to an established retail unit it is acceptable in principle subject to the policies outlined below.

SITE AND SURROUNDINGS

The Aldi store is situated on the corner of Stavordale Road and Hoylake Road. There is a public house to the west with a small parade of shops beyond. A riding school lies to the east of the site and residential dwellings opposite on Hoylake Road and to the south along Stavordale Road.

POLICY CONTEXT

The proposal site is located within a Primarily Residential Area as such is subject to Policy HS15 of Wirral's Unitary Development Plan and the National Planning Policy Framework (NPPF).

The applicant states the store had, until November 2014 received deliveries until 22.00 hours with no complaints. As a result of a planning application (APP/14/01123) to extend opening hours, which was

approved, the Council decided to reduce the delivery hours to 21.00 hours. No justification for this decision was provided. The consequence is that the store now struggles to receive all stock required to replenish shelves in the store throughout the week. Delivery hours are further restricted on Sundays and Bank Holidays to between the hours of 09.00 and 17.00. Again, the store struggles to replenish stock on Sundays and bank holidays due to the limited hours which is having an adverse impact on the store's operation by limiting the stock available for customers. In practice, Bank Holidays are now considered to be commercial days and should not have any separate restrictions.

As the site is located with a primarily residential area UDP policy HS15 Non-Residential Uses in Primarily Residential Areas is directly relevant. The policy states that within the Primarily Residential Areas as defined on the Proposals Map, proposals for small-scale built development and changes of use for non-residential uses will only be permitted where the proposal will not: (i) be of such scale as to be inappropriate to surrounding development; (ii) result in a detrimental change in the character of the area; and, (iii) cause nuisance to neighbouring uses, particularly in respect of noise and disturbance, on-street parking and deliveries by vehicle.

Condition 4 attached to the approved application; APP/14/001123 states; All deliveries and servicing of the premises shall only take place between the hours of 08.00 and 21.00 Monday to Saturday. On Sundays and Bank Holidays, deliveries and servicing of the premises shall only take place between the hours of 09.00 and 17.00. *Reason:* In the interests of residential amenity, having regard to UDP Policy HS15.

This application is requesting to extend the delivery hours to 0700 to 2300 seven days a week.

APPEARANCE AND AMENITY ISSUES

Policy HS15 states that non-residential uses will only be permitted where the proposal will not cause nuisance to neighbouring uses, especially in respect of noise and disturbance (criterion iii).

The original planning consent stated that all deliveries and servicing of the premises shall only take place between the hours of 07.00 and 22.00 Monday to Saturday. On Sundays and Bank Holidays, deliveries and servicing of the premises shall only take place between the hours of 09.00 and 17.00. The proposal will extend these servicing hours to between 0700 hours and 2300 hours seven days a week.

The store is located within a primarily residential area however the immediate street scene is mixed and the use of the site is established. Whilst there are a number of houses opposite the site these properties are located over 25m from the premises. The site has a private car park and the delivery entrance to the store faces towards the car park.

At the time of writing this report one letter of objection has been received from the occupier of 7 Stavordale Road. The objections are summarised as follows:

1. We have had enough of Aldi due to cars parking outside their house
2. Delivery vans park outside their house looking into their property with noise from their lorries.

The highway/parking issues highlighted above have been taken into consideration. The Head of Environment and Regulation (Traffic and Transportation) has been consulted and have not objected to the scheme. A refusal on this basis could therefore not be sustained. Noise from lorries servicing the store is dealt with below.

The Head of Environment & Regulation (Pollution Control Division) has been consulted with regards to the potential impact on residential amenity having regards to noise and disturbance. The noise impact assessment submitted with the scheme and has been reviewed and no objections have been received.

The assessment carried out by Spectrum Acoustic Consultants has been completed to consider the impact of noise associated with the proposal to extend delivery hours from 08:00-21:00 Monday to Saturday and 08:00 to 17:00 on Sundays and bank holidays, to 06:00-23:00 seven days a week, at an existing Aldi food store in Moreton. It states that a background noise measurement survey has been undertaken at locations representative of the nearest residential properties to the store. The survey concentrated on the sensitive 21:00 to 23:00 period when delivery noise would potentially have the

highest impact. Noise limits for deliveries have been established during the proposed extension hours, based on measured background noise levels and taking account of BS4142, as well as the WHO guidelines relating to reasonable standards of noise. The results and observations taken from the noise assessment indicate that the noise impact associated with extending the store's delivery hours to 23:00 would be low, providing no significant effect. Therefore, no mitigation measures are considered necessary in relation to the proposals.

The applicant states that Aldi's delivery vehicles reverse into the loading bay and lock onto a dock sleeve which is then opened to allow products to be transferred directly from the vehicle into the store's warehouse. There is no external delivery activity. This approach provides both an efficient method of transferring stock from the vehicle into the store but also reduces any external noise impact.

Having regards to the above the extension of hours is not deemed to have a detrimental impact on the character of the area and would not cause an unacceptable level of nuisance to the existing neighbouring residential properties. The proposal is therefore deemed acceptable having regards to policy HS15 of the Wirral UDP and the NPPF and as such is recommended for approval subject to conditions.

SEPARATION DISTANCES

Separation distances do not apply in this instance.

HIGHWAY/TRAFFIC IMPLICATIONS

The Head of Environment & Regulation (Traffic & Transportation) has been consulted as part of the application and has raised no objection to the scheme with regards to highway safety or parking. As such a refusal of the application on these grounds could not be sustained.

ENVIRONMENTAL/SUSTAINABILITY ISSUES

There are no Environmental/Sustainability issues relating to these proposals.

CONCLUSION

It is considered that the variation of condition 4 of APP/14/01123 to allow delivery hours to 0700 hours to 2300 hours seven days a week is acceptable and will not result in nuisance to neighbouring uses, especially in respect of noise and disturbance. The proposal is therefore acceptable having regards to policy HS15 of the Wirral UDP and the NPPF and as such is recommended for approval subject to conditions.

Summary of Decision:

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following:-

It is considered that the variation of condition 4 of APP/14/01123 to allow delivery hours to 0700 hours to 2300 hours seven days a week is acceptable and will not result in nuisance to neighbouring uses, especially in respect of noise and disturbance. The proposal is therefore acceptable having regards to policy HS15 of the Wirral UDP and the NPPF and as such is recommended for approval subject to conditions.

Recommended Approve
Decision:

Recommended Conditions and Reasons:

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 (as amended) of the Town and Country Planning Act 1990.

2. The development hereby permitted shall not be commenced until such time as a scheme to

improve the existing surface water disposal system has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved detail

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

3. The premises shall be closed between 23.00 hours and 08.00 hours Monday to Saturday, and between 17.00 hours and 10.00 hours on Sundays and Bank Holidays.

Reason: In the interests of residential amenity, having regard to UDP Policy HS15.

4. All deliveries and servicing of the premises shall only take place between the hours of 07.00 and 23.00 Monday to Sunday.

Reason: In the interests of residential amenity, having regard to UDP Policy HS15.

5. Commercial waste collection shall only take place between the hours of 08.00 and 21.00, and shall be carried out within the service area south of the store as indicated in approved drawing 0180NES100 Rev K, dated 18th February 2010.

Reason: In the interests of residential amenity, having regard to UDP Policy HS15.

6. Deliveries to the store shall be carried out in strict accordance with the Aldi Stores Ltd. letter submitted 23rd March 2010 and Servicing Regime Statement received by the Local Planning Authority 7th April 2010. For the avoidance of doubt servicing shall be undertaken in accordance with the following unless otherwise agreed in writing by the Local Planning Authority:

- All loading and unloading shall take place internally within a delivery vehicle 'docked' within the enclosed service bay canopy;
- No waste, products or pallets shall be stored externally;
- Prior to entering the store site or car park, all refrigeration plant and reverse sounder units shall be switched off and deactivated.

Reason: In the interests of residential amenity, having regard to UDP Policy HS15.

7. A scheme of works to be submitted to and agreed in writing by the Local Planning Authority showing details of all mechanical extraction/ventilation units, air conditioning units, chillers and cooler systems. The scheme should include the sound power levels for each piece of equipment. All works to be completed in accordance with the approved scheme prior to the commencement of business.

Reason: In the interests of residential amenity, having regard to UDP Policy HS15.

8. Notwithstanding the submitted details, and having regard to the submitted Design Out Crime Advice, the development authorised by this permission shall not begin until the Local Planning Authority has approved in writing the details of measures to be incorporated for the prevention of crime. The detail shall include the following measures:

- ANPR and CCTV cameras to be installed to the building and car park;
- Roller shuttering to be installed to glazed areas;
- A grade 2/3 European Standard alarm with grade 4 signalling system (Duel Comm).

The development shall be implemented in accordance with the approved details, and retained as such thereafter.

Reason: In the interests of crime prevention

9. The remainder of the undeveloped land within the curtilage of the site shall be suitably landscaped in accordance with a scheme to be submitted to and approved by the Local Planning Authority prior to commencement of any demolition/construction work on the site. Such landscaping work shall be completed prior to the first use of the building hereby permitted and thereafter maintained to the satisfaction of the Local Planning Authority. Any trees and shrubs planted in accordance with the landscaping scheme which, within 5 years of planting are removed, dying, seriously damaged or become diseased shall be replaced to the satisfaction of the Local Planning Authority, by trees and shrubs of similar species.

Reason: To ensure a satisfactory standard of appearance and to ensure that the proposed development enhances the visual amenity of the locality.

10. Details of all fencing, walls, gateways and means of enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is completed and the work shall be carried out prior to first use in accordance with the details so approved, and subsequently maintained to the satisfaction of the Local Planning Authority.

Reason: To ensure a proper standard of separation from, and standard of amenity to neighbouring properties with respect to UDP Policy HS15.

11. All existing trees which are not directly affected by the building(s) and works hereby approved shall be clearly located and described in the required landscaping scheme. Such trees shall be retained and shall not be lopped, topped, felled, pruned, have their roots severed or be uprooted without prior approval of the Local Planning Authority. Any such tree which subsequently dies, becomes seriously diseased or has to be removed as a result of carrying out this development shall be replaced with a tree of a species and size and in such position, as the Local Planning Authority may require, in conjunction with the general landscaping required herein.

Prior to the commencement of demolition/construction the trees to be retained on the site shall be protected by chestnut paling fences 1.5 metres high erected to the full extent of their canopies or such lesser extent as may be approved by the Local Planning Authority, the fencing to be removed only when the development (including pipelines and other underground works) has been completed; the enclosed areas shall at all times be kept clear of excavated soil, materials, contractors' plant and machinery.

Reason: To ensure that the trees are not damaged during the period of construction, as they represent an important visual amenity which the Local Planning Authority considers should be substantially maintained and kept in good condition.

12. Prior to the commencement of development approved by this planning permission the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing by the Local Planning Authority:

- 1) A preliminary risk assessment which has identified:
 - All previous uses
 - Potential contaminants associated with those uses
 - A conceptual model of the site indicating sources, pathways and receptors
 - Potentially unacceptable risk arising from contamination at the site
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site
- 3) The site investigation results and the detailed risk assessment (2) and, based on remediation measures required and how they are to be undertaken
- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for long-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning

Authority. The scheme shall be implemented as approved.

Reason: To ensure a safe form of development that poses no unacceptable risk of pollution in accordance with UDP Policy PO5.

13. No development shall commence until details of the proposed measures to be incorporated within the building to achieve 10% of the predicted energy requirements of the site from renewable sources have been submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and operated as such thereafter.

Reason: In the interests of minimising the demand for energy from non-renewable sources.

14. Notwithstanding the provisions of the Town and Country Planning (General Development Procedure) Order 1995 (or any subsequent re-enactment) there shall be no creation of additional floor space, including any mezzanine floor space, within the building hereby permitted as shown on the approved plans. The retail unit shall have gross internal floor space no greater than 1,342m² with a net trading area no greater than 900m², as shown in the approved drawings. Sub division of the unit to form smaller retail outlets is not permitted.

Reason: For the avoidance of doubt and because an alternative format could have the potential to harm the vitality and viability of existing town centres. This enables the local planning authority to consider the implications of other formats as and when they may be put forward having regard to Wirral Unitary Development Plan Policy SH9.

15. Notwithstanding the provisions of Class A1 of the schedule to the Town and Country Planning (Use Classes Order) 1987 (or any subsequent re-enactment), only convenience goods (other than those ancillary to the principal use of the premise) shall be sold from the premises hereby approved.

Reason: For the avoidance of doubt and because an alternative format could have the potential to harm the vitality and viability of existing town centres. This enables the local planning authority to consider the implications of other formats as and when they may be put forward having regard to Wirral Unitary Development Plan Policy SH9.

16. The development shall be implemented in accordance with the approved plans, drawing numbers: 180NES 100K; 180NES 102C; 180NES 103G; 180NES 105E; 180NES 106E; 180NES 110B; VLO180 L01D, and; 2240/G/102.

Reason: For the avoidance of doubt

Last Comments By: 27/05/2015 09:54:12

Expiry Date: 12/06/2015