

Application Number	14/0505/S73	Agenda Item	
Date Received	4th April 2014	Officer	Ms Lorna Gilbert
Target Date	4th July 2014		
Ward	Arbury		
Site	ALDI Unit 1 157 Histon Road Cambridge Cambridgeshire CB4 3JD		
Proposal	S73 application to vary condition 14 of planning permission C/95/0110 to allow delivery hours to between 07:00hrs and 21:00hrs Monday to Saturday and 09:00hrs and 17:00hrs on Sundays and Bank Holidays (Amended description).		
Applicant	ALDI Stores Ltd C/O Agent United Kingdom		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <p>The additional 30 minute period for deliveries in the morning Monday to Saturdays will not result in a significant increase in noise and disturbance.</p> <p>The proposed alteration in delivery hours will not adversely affect residential amenity.</p>
RECOMMENDATION	APPROVAL

1.0 SITE DESCRIPTION/AREA CONTEXT

1.1 The site is located within a Local Centre, as identified in the Cambridge Local Plan 2006 and occupied by retailer 'Aldi'. Between the site and Histon Road to the east is a petrol filling station. Immediately adjacent to the north is another supermarket currently occupied by retailer 'Iceland'. There is an existing access to the south of the site from Histon Road which leads to the customer parking area and the service depot to the rear of the store (west). Further customer car parking is located to the front of the store, immediately behind the petrol station.

- 1.2 To the north of the site there are 2-storey semi-detached properties with their gardens facing due south (Windsor Road). To the west are a small group of large detached 2-storey dwellings, with relatively small gardens arranged in an informal manner (Nursery Walk). No. 8 Nursery Walk is closest to the boundary with the Aldi store. To the south is a three storey block of flats.
- 1.3 The site does not fall within a City of Cambridge Conservation Area and is located outside of the controlled parking zone (CPZ).

2.0 THE PROPOSAL

- 2.1 Planning application reference C/0110/95 granted permission on 26 April 1995 for the erection of an A1 retail building and associated car parking and landscaping to be occupied by operator 'Aldi'.

- 2.2 Condition 14 of this approval reads;

Deliveries to the development hereby approved shall only take place between 0730 hours and 2100 hours Monday to Saturday and deliveries by articulated vehicles shall be restricted to a maximum of two for each retail unit per day.

Reason: To protect the amenities of adjoining properties.

- 2.3 This condition was varied under subsequent application 11/0384/S73. Permission was granted to also allow deliveries to also take place between 0900 hours and 1700hours on Sundays and Bank Holidays.
- 2.4 Application 12/0996/S73 sought to vary condition 14 of planning permission reference C/95/0110 to permit deliveries between 06:30 and 23:00 hours Monday - Saturday, and 08:30 - 18:30 hours Sundays and bank holidays). This was refused on 1st November 2012.
- 2.5 In 2013 permission was sought to allow extended delivery hours to between 7.00 and 22.00 Monday to Saturday (13/0209/s73). Permission was granted at Planning Committee on 5 June 2013 to vary the delivery times for a temporary period of one year

- 2.6 The current application proposes amending condition 14 of planning permission C/95/0110 to extend the permitted delivery hours to between 7.00 and 21.00 Monday to Saturday. Originally permission was sought to extend the delivery hours until 22.00 but this has subsequently been revised. Therefore the current proposal is for an additional half an hour in the mornings Monday to Saturday.
- 2.7 The following table sets out the permitted and proposed delivery hours

Application reference	Monday to Saturday	Sunday
C/0110/95	0730 to 2100	n/a
11/0384/S73	0730 to 2100	0900 to 1700hours
13/0209/s73 Temporary 1 year	7.00 to 22.00	0900 to 1700hours
14/0505/s73 Current application	7.00 to 21.00	900 1700hours

- 2.8 The application is accompanied by the following supporting information:

1. A supporting letter dated 3rd April 2014.

- 2.9 The application is brought before Planning Committee because the neighbourhood consultation zone crosses the boundary between two wards that are covered by different Area Committees and third party representations have been received.

3.0 SITE HISTORY

Reference	Description	Outcome
C/95/0110	Erection of retail premises (1811.4sqm gross) class a1 with formation of access, car parking and landscaping (includes demolition of 1no dwelling)	Approved with conditions

07/1337/FUL	Proposed extension to retail foodstore to provide additional storage area.	Approved with conditions
11/0384/S73	S73 application to vary condition 14 of planning permission reference C/95/0110 to permit deliveries between 09:00 and 17:00 hours on Sundays and Bank Holidays.	Approved with conditions
12/0996/S73	S73 application to vary condition 14 of planning permission reference C/95/0110 to permit deliveries between 06:30 and 23:00 hours Monday - Saturday, and 08:30 - 18:30 hours Sundays and bank holidays).	Refused 1.11.2012
13/0209/S73	S73 application to vary condition 14 of planning permission reference C/95/0110 to permit deliveries between 07:00 and 22:00 hours Monday to Saturday.	Approved 11.6.2013 (for a temporary period of 1 year)

4.0 PUBLICITY

4.1 Advertisement:	Yes
Adjoining Owners:	Yes
Site Notice Displayed:	Yes

5.0 POLICY

5.1 See Appendix 1 for full details of Central Government Guidance, Cambridge Local Plan 2006 policies, Supplementary Planning Documents and Material Considerations.

5.2 Relevant Development Plan policies:

PLAN	POLICY NUMBER
Cambridge Local Plan 2006	3/4 3/7 4/13 10/1

5.3 Relevant Central Government Guidance, Supplementary Planning Documents and Material Considerations:

Central Government Guidance	National Planning Policy Framework March 2012 National Planning Practice Guidance 2014 Circular 11/95 – The Use of Conditions in Planning Permissions (Annex A) Community Infrastructure Levy Regulations 2010
Supplementary Planning Documents	Planning Obligation Strategy
Material Considerations	<u>Central Government:</u> Letter from Secretary of State for Communities and Local Government (27 May 2010) Written Ministerial Statement: Planning for Growth (23 March 2011)

The council submitted the Cambridge Local Plan 2014 to the Secretary of State for Communities and Local Government on 28 March 2014 for independent examination. Following submission of the local plan, an independent planning inspector has been appointed to hold an examination to consider the ‘soundness’ of the local plan. The Inspector has indicated that the hearings are not likely to start before mid October 2014.

6.0 CONSULTATIONS

Cambridgeshire County Council (Engineering)

6.1 No significant adverse effect upon the Public Highway should result from this proposal if it gains the benefit of Planning Permission.

Head of Refuse and Environment

6.2 Comments 29th April 2014 in response to the original proposed delivery times of 7:00 and 22:00 Monday to Saturday:

6.3 No objection to this application in principle, subject to the comments and recommended condition below:

6.4 It is understood this application is to ratify the previous permission for extended delivery hours which was given in June 2013 on a temporary basis only. I have consulted our Licensing and Enforcement Team with respect to any complaints received concerning the deliveries during the temporary permission period. Please see Mr Bayles comments below:-

6.5 When I visited last year at about 9pm I witnessed noise nuisance from the refrigeration unit on the trailer. Due to the height of the trailer the refrigeration unit was at bedroom window level of the neighbouring house and was above the boundary wall as there was no noise barrier.

6.6 I understand that Aldi has agreed the refrigeration units on any trailer will be switched off when delivering. Since the above issue we have received no further complaints. Therefore for clarity and ease of enforcement I recommend the condition below:

"The refrigeration unit(s) on any vehicle on the loading bay, or waiting use the loading bay, between 7 pm and 9 am shall be switched off. The refrigeration unit shall not be switched on until the vehicle has left the site.

Expect to move the vehicle the engines of any vehicles on the loading bay, or waiting use the loading bay, at any time shall be switched off."

6.7 Comments on 30th April 2014 in response to the amended delivery times of 7:00 to 21:00 Monday to Saturday:

6.8 I have no objection to this application in principle.

6.9 The proposed delivery times are deemed acceptable. However, attention should be drawn to the Environmental Health memo dated 28th April 2014 also relating to extended delivery hours.

- 6.10 Cambridge City Council has previously witnessed a noise nuisance from an evening delivery to the Aldi (Histon Road) store. Consequently, the comments of 28th April 2014 recommended the imposition of a Planning Condition relating to delivery vehicle engine noise and vehicle refrigeration noise. As such, a similar condition is recommended for this application, which is detailed below.
- 6.11 "The refrigeration unit(s) on any vehicle on the loading bay, or waiting use the loading bay, between 7 pm and 9 am shall be switched off. The refrigeration unit shall not be switched on until the vehicle has left the site.
- 6.12 The above responses are a summary of the comments that have been received. Full details of the consultation responses can be inspected on the application file.

7.0 REPRESENTATIONS

- 7.1 The owners/occupiers of the following addresses have made representations:
- 8 Nursery Walk (objects)
 - 5 Windsor Road (neutral)

The comments below were in response to the original proposed delivery times of 7:00 to 22:00 Monday to Saturday and 9:00 to 17:00 Sundays and Bank Holidays

- 7.2 The representations can be summarised as follows:
- The current deliveries carried out to the Aldi store create a significant adverse effect to my property at 8 Nursery Walk and unless measures are taken to mitigate the impact of this I wish to object to the application.
 - The application must include adequate noise mitigation measures as required in the Cambridge Local Plan 2014 - Policy 35:Protection of human health from noise and vibration. In my opinion this application is not taking into account the disturbance to the adjoining residential properties and therefore is contrary to this local plan policy.
 - The lorries that deliver to the Aldi store in Histon Road regularly make a lot of noise as they carry out the delivery either by

leaving their engines on or by noisy refrigeration units within the lorries left running during deliveries. In the last year I have called out the out of duty noise officer to listen to this disturbance as lorries arrive late in the evening to unload their goods to the store.

- I note that comments made by Environmental Health highlighted this noise disturbance and have indicated that if the application is approved that an additional condition should be attached to ensure this noise is dealt with. I would fully support this proposal but I am concerned that even with such a condition the noise would continue as my complaints so far have not resulted in Aldi carry out deliveries in a quieter manner or taking account of the fact that the delivery bay is so close to houses in Nursery Walk.
- The deliveries tend to be, as Aldi themselves have indicated in their application, outside of the hours when their store is open so as not to impact on their customers ie early morning and late evening. This does however mean they impact on their residential neighbours. The noise generated by the deliveries is at times that most disturbs my property. My daughter's bedroom is at the back of the house and looks directly over the delivery bay of the store and our kitchen and living room are also located at the rear of the house and therefore noise from the deliveries affects our main living spaces.
- Noise late at night when everywhere else is quiet and early in the morning is much more disturbing as there is less background noise for it to mingle with. As is stated in the Cambridge Local Plan Noise not only causes annoyance but it can also cause serious disturbance such as the loss of sleep (paragraph 4.47). Mitigation measures must be clearly set out as to how Aldi intend to reduce this disturbance to their residential neighbours before this application is determined.
- Aldi do not currently respect the existing delivery hours as often lorries arrive outside of the permitted times and the noise of their engines extend into the late evening. I formally complained to the Enforcement section of the Planning Department about regular deliveries arriving after 5pm on a Sunday during September and October 2013. In fact a delivery was made yesterday (5 May) at 7pm which is a bank holiday when the deadline for deliveries is 5pm. This disturbance is more noticeable during the summer when windows are left open. I am concerned that there appears to be little control of the deliveries and that allowing the current application would condone the current practice.

- Whilst we have not experienced an issue with the current arrangements, we'd request that they are periodically monitored to ensure that the permitted times are not exceeded - for example, there was a truck outside the store when I went past at 7.30pm today (5th May 2014 - bank holiday).

7.3 The members of public who responded to the original consultation were re-consulted about the proposed amended delivery times so deliveries could also take place from 7:00am to 7:30am Monday to Saturday. No further comments were received.

7.4 The above representations are a summary of the comments that have been received. Full details of the representations can be inspected on the application file.

8.0 ASSESSMENT

8.1 From the consultation responses and representations received and from my inspection of the site and the surroundings, I consider that the main issue is whether extended delivery times should be permitted on a permanent basis following the previous permission (reference 13/0209/S73) granted for the extension of the delivery times for a year. It is important that the variation will not have a harmful effect on the residential amenities of neighbours.

Current Permanent Delivery Hours

8.2 The delivery hours permitted under the original consent and which were varied by the 2011 application are between 07.30 and 21.00 Monday to Friday and 09.00 and 17.00 on Sundays and Bank Holidays. These delivery hours have been agreed on a permanent basis.

Temporary Delivery Hours

8.3 Temporary planning permission (13/0209/S73) was granted in June 2013 for a year following the implementation of the permission. It allowed extended delivery hours between 7:00 and 22:00 Monday to Saturday.

Planning Policy tests

- 8.4 Policy 4/13 of the Local Plan (2006) states that *'development will only be permitted which:*
- a. *does not lead to significant adverse effects on health, the environment and amenity from pollution; or*
 - b. *which can minimise any significant adverse effects through the use of appropriate reduction or mitigation measures.*

Proposals that are sensitive to pollution, and located close to existing pollution sources, will be permitted only where adequate pollution mitigation measures are provided as part of the development package'.

- 8.5 Paragraph 123 of the National Planning Policy Framework (NPPF) explains that *'planning policies and decisions should aim to:*
- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
 - mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;*
 - recognise that development will often create some noise and existing businesses wanting to develop in continuation of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established;*
 - and identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason'.*

The previous application reference 13/0209/S73

- 8.6 A temporary extension of delivery times was granted in June 2013 for a year following the implementation of the permission. It allowed extended delivery hours to between 7:00 and 22:00 Monday to Saturday. The reason for its temporary nature was because the Committee remained concerned that the arrival and departure of delivery vehicles during the extended delivery

times could unduly impact on the amenity of adjacent residential occupiers, This was particularly the case in relation to the occupiers of 8, 9, 10 and 11 Nursery Walk, which are in close proximity to the loading bay. The permission was granted for a temporary period to allow the Council to consider the extent of any additional harm arising as a result of the extended hours, with particular reference to any objections or complaints being made from the occupants of the aforementioned properties in Nursery Walk during the extended delivery time period or with reference to a subsequent application for a permanent extension of delivery hours.

Current application reference 14/0505/S73

- 8.7 The application as submitted sought a variation to allow deliveries between 07.00 and 22.00. However the application has been amended in response to officer advice to relate to 07.00 to 21.00. This represents an additional 30 minutes delivery time in the morning. The evening delivery time is unchanged. Therefore only this extension of time at the start of the day needs to be assessed.
- 8.8 The covering letter submitted with the application refers to the noise report submitted for the previous permission (reference 13/0209/S73) to extend the delivery hours. This covered the additional half hour in the morning proposed. No additional noise report has been submitted for the current application. This previous noise report was considered acceptable by the Environmental Health Officer.
- 8.9 The Environmental Health Officer has no objection. However, they explained that they had previously witnessed a noise nuisance from an evening delivery to the store and have requested a condition relating to the delivery vehicle engine and refrigeration noise. Further details will be provided on the Amendment Sheet.
- 8.10 Planning Enforcement officers have received a complaint that Aldi's deliveries have occurred outside of the permitted delivery times and on an occasion after 11pm, which was noisy. These allegations are recent complaints and are the subject of an investigation by officers.

- 8.11 Two third party comments were received to this application. One of the comments was neutral and asked that the deliveries are monitored to ensure they are within the permitted times. The other comment was from the occupier of 8 Nursery Walk and raising objections to the proposed hours of 07.00 to 22.00. This house is located 7m away from the delivery bay area and is the closest property to the delivery area. This street contains family houses. The objectors are concerned about the noise generated by the delivery lorries through leaving their engines on or by the refrigeration units. Their daughter's bedroom is located at the rear of the house along with a kitchen and living room. The objector also refers to deliveries taking place outside their permitted hours. These residents were re-consulted about revision to the application to allow deliveries to take place from 7.00am with no change to evening deliveries . No further comments were received.
- 8.12 I have considered the information above and acknowledge the close proximity of the site to residential properties. The proposal seeks to extend the current delivery hours by 30 minutes in the morning, Mondays to Saturdays. The Council's Environmental Health Officer has found the proposal acceptable. In my opinion, the principle of extending the delivery hours in the morning is acceptable, notwithstanding that there are on-going investigations regarding deliveries outside the permitted delivery hours in the evening. A refusal of permission could not be justified on the basis that there is an ongoing investigation or that there is potential for the extended hours not to be adhered to. A noise report was submitted for previous application reference 13/0209/S73, which demonstrates that delivery times between 7:00am and 7:30am Monday to Saturday would not have significant adverse effects on health, the environment or amenity.
- 8.13 The Environmental Health Officer has requested a condition for the refrigeration units on any trailer to be switched off when delivering. He has requested the condition for clarity and ease of enforcement. This should help to reduce noise levels and reduce the noise impact on nearby residents.
- 8.14 I therefore consider that the extension of deliveries hours would be in accordance with policies 3/4 and 4/13 of the Cambridge Local Plan (2006).

9.0 CONCLUSION

I consider that the application to vary this condition is acceptable subject to the restricted time period of 07:00 to 21:00 hours during which a maximum of two deliveries can be made on Monday to Saturday. This proposed varied condition reflects the purpose of condition 14 imposed to planning application reference C/0110/95. I recommend the application to vary this condition be approved.

10.0 RECOMMENDATION

APPROVE subject to the following condition:

1. The refrigeration unit(s) on any vehicle on the loading bay, or waiting use the loading bay, between 7 pm and 9 am shall be switched off. The refrigeration unit shall not be switched on until the vehicle has left the site.

Reason: To protect the residential amenity of nearby occupiers (Cambridge Local Plan 2006 policies 3/4 and 4/13).