

Application Number	20/01901/S73	Agenda Item	
Date Received	30th March 2020	Officer	Lewis Tomlinson
Target Date	29th June 2020		
Ward	Arbury		
Site	ALDI Unit 1 157 Histon Road		
Proposal	S73 application to vary condition 14 of planning permission C/95/0110 (as amended 19/1047/S73) that delivery hours shall only take place between 07:00hrs and 22:00hrs Monday to Saturday and 09:00hrs and 19:00hrs on Sundays and Bank Holidays and to remove the limitation on the number of articulated vehicles deliveries per day (Amended description).		
Applicant	ALDI Stores Ltd. c/o Agent		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <ul style="list-style-type: none"> • The proposal to remove the restriction on deliveries by articulated vehicles would not result in a significant increase in noise and disturbance upon the residential amenity of neighbouring properties
RECOMMENDATION	APPROVAL

1.0 SITE DESCRIPTION/AREA CONTEXT

1.1 The site is located within a District Centre, as identified in the Cambridge Local Plan 2018 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 student accommodation at Masters House.
- 1.3 The site is located within a Tree Preservation Order Area.

2.0 BACKGROUND

- 2.1 Planning application reference C/95/0110 (also known as C/0110/95) was 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 A subsequent application (14/0505/S73) proposed amending condition 14 to extend the delivery hours to between 7.00 and 21.00 Monday to Saturday and 9:00 and 17:00 on Sundays and Bank Holidays. This was approved at Planning Committee.
- 2.7 A further application (16/2236/S73) proposed to amend condition 14 of permission C/95/0110 to read: Deliveries to the existing retail unit at unit 1, 157 Histon Road, Cambridge shall only take place between the hours of 0600 and 2300 hours Monday to Saturday and 0800 hours and 2200 hours Sundays and Bank Holidays. This was refused under delegated powers on the 27th April 2017 for the following reason:
1. The application to vary condition 14 of planning permission C/95/0110 would harm the amenity of nearby residents in terms of noise pollution. The Noise Report and Technical Note accompanying the application demonstrates that the proposed delivery hours would be harmful to residential amenity particularly properties on Nursery Walk and at Masters House. The noise report does not justify that the proposed extended hours would be acceptable, as it fails to adequately assess the impact of noise on nearby residential properties to allow an alternative set of delivery times to be reasonably considered by the Council, in consultation with nearby residents. Given the location of the delivery bay adjacent to residential properties, the application has not adequately responded to its immediate context because it has failed to demonstrate that it would not lead to a significant adverse impact on the amenity of nearby residents or that mitigation measures available through the imposition of conditions could satisfactorily mitigate the potential harmful impact. The proposal is therefore contrary to policies 3/4 and 4/13 of the Cambridge Local Plan (2006) and the National Planning Policy Framework 2012.
- 2.8 Permission was subsequently granted on 23 January 2020 under application 19/1047/S73 to amend condition 14 of permission C/95/0110 (as amended 14/0505/S73) to allow

delivery hours to between 07:00hrs and 22:00hrs Monday to Saturday and 09:00hrs to 19:00hrs on Sundays and Bank Holidays. Under this application the applicant advised they also sought to remove the restriction on the number of deliveries by articulated vehicles. However, officers felt the application was unclear about also seeking the removal of the restriction on deliveries by articulated vehicles to a maximum of two a day and therefore reapplied this restriction within the amended condition.

3.0 PROPOSAL

- 3.1 This application seeks to keep the amended delivery hours as per the previous approved application but also seeks to remove the restriction on the amount of deliveries per day.
- 3.2 The reasons given for the proposed revision to the delivery hours is that Aldi has experienced significant growth in recent years and it will allow Aldi the flexibility to adapt to their future retail demands. The store has also recently undergone an extensive refurbishment. It is to be noted that previous consents did not include the restriction on the amount of deliveries allowed per day. This application is required in order to vary the condition to achieve the extended delivery hours as well as the removal of the amount of deliveries per day.

4.0 SITE HISTORY

Reference	Description	Outcome
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 condition
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
13/0209/S73	A S73 application to vary condition 14 of permission	Approved 11 th June

	C/95/0110 to allow extended delivery hours to between 7:00am and 10:00pm Monday to Saturday. (This granted temporary consent for 1 year)	2013 with conditions
14/0505/S73	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).	Approved 6 th August 2014 with condition
15/0914/FUL	Extension to foodstore	Approved 25 th August 2015 with conditions
16/2236/S73	Deliveries to the existing retail unit at unit 1, 157 Histon Road, Cambridge shall only take place between the hours of 0600 and 2300 hours Monday to Saturday and 0800 hours and 2200 hours Sundays and Bank Holidays.	Refused 27 th April 2017
19/1047/S73	S73 application to vary condition 14 of planning permission C/95/0110 (as amended 14/0505/S73) to allow delivery hours to between 07:00hrs and 22:00hrs Monday to Saturday and 09:00hrs and 19:00hrs on Sundays and Bank Holidays (Amended description).	Approved 23 rd January 2020

5.0 PUBLICITY

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

6.0 POLICY

6.1 Central Government Advice

National Planning Policy Framework 2019
Planning Practice Guidance

Circular 11/95 – The Use of Conditions in Planning Permissions
(Annex A)

6.2 Cambridge Local Plan 2018

PLAN	POLICY NUMBER
Cambridge Local Plan 2018	1, 35, 55

7.0 CONSULTATIONS

Cambridgeshire County Council (Highways Development Control)

- 7.1 No significant adverse effect upon the Public Highway should result from this proposal, should it gain benefit of Planning Permission.

Environmental Health Team

- 7.2 Our primary concern with regards to deliveries to this Aldi store is with regards to noise and disturbance at the more sensitive times of day / night. In general, delivery vehicle movements and delivery activities are considered to be an acceptable during day-time hours, depending on time of day / day of the week and how well managed the activities are.

I previously reviewed and commented on application reference 19/1047/S73 (S73 application to vary condition 14 of planning permission C/95/0110 (as amended 14/0505/S73) to allow delivery hours between 07.00hrs and 22.00hrs Monday to Saturday and 09.00hrs and 21.00hrs on Sundays and Bank Holidays). The applicant submitted an Environmental Noise Report prepared by Sharps Redmore and dated 23rd July 2019 in support of that application. However, given that significant

adverse impacts were demonstrated within that report at more sensitive times of day / night, a compromise was sought and agreed for the following hours:

- 07:00hrs and 22:00hrs Monday to Saturday and
- 09:00hrs and 19:00hrs on Sundays and Bank Holidays

These hours were subsequently approved and included as Condition 1 of the Decision Notice for 19/1047/S73. It is noted that Condition 1 also includes a restriction on the number of articulated vehicles delivering to the site to a maximum of two daily.

I have considered this application alongside the previous related applications and our complaints history and I have taken the following factors into account:

- The acoustic assessment provided for application 19/1047/S73 indicates that significant adverse impact is not likely to occur during the daytime hours due to delivery noise (this also considers the context of the local noise environment during those hours),
- Up until the recent application (19/1047/S73), the applicant has been operating under the remit of permission 14/0505/S73 (S73 application to vary condition 14 of planning permission C/95/0110 to allow delivery hours to be between 07:00hrs and 21:00hrs Monday to Saturday and 09:00hrs and 17:00hrs on Sundays and Bank Holidays) which does not restrict the number of articulated vehicle movements per day,
- Environmental Health have not received any complaints regarding noise from deliveries to the Aldi store during daytime hours.

On review of the planning and complaints history, I confirm that I am in a position to support this application to vary the wording of the relevant planning condition as requested.

- 7.3 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.

8.0 REPRESENTATIONS

8.1 The owners/occupiers of the following addresses have made representations in objection:

- 2 Hawkins Road (Cllr Cheney Payne)
- 8 Nursery Walk
- 15 Nursery Walk

8.2 The representations can be summarised as follows:

- This further application to remove the limitation on the number of articulated vehicle deliveries per day will have a detrimental impact on the quality of life of residents, by increasing the pollution, noise and vibrations they experience still further. This application conflicts with the city-wide clean air agenda, and will have a health impact on residents in the surrounding area.
- The present system is often breached: engines left running at 6 am, noisy refrigeration units buzzing, which is very disturbing
- Concerning that Aldi keep breaching different elements of their planning permission
- Instead of a total removal on the restriction on number of deliveries per day, it could be limited to 4 -5 deliveries per day?
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8.3 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.

9.0 ASSESSMENT

9.1 From the consultation responses and representations received and from my inspection of the site and the surroundings, it is considered that the main issues are:

1. Principle of variation

Principle of variation

9.2 Policy 35 (Protection of human health and quality of life from noise and vibration) of the Cambridge Local Plan 2018 states that: development will be permitted where it demonstrated that:

a. it will not lead to significant adverse effects and impacts, including cumulative effects and construction phase impacts wherever applicable, on health and quality of life/amenity from noise and vibration; and

b. adverse noise effects/impacts can be minimised by appropriate reduction and/or mitigation measures secured through the use of conditions or planning obligations, as appropriate (prevention through high quality acoustic design is preferable to mitigation).

9.3 Paragraph 180 of the National Planning Policy Framework 2019 states that: planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;

9.4 Condition 14 of planning permission C/95/0110 has been varied on a number of occasions since permission for a retail store was approved in 1995. The current permanent delivery hours were approved under permission reference 19/1047/S73 which allowed delivery hours to be between 07:00hrs and 22:00hrs Monday to Saturday and 09:00hrs and 19:00hrs on Sundays and Bank Holidays.

9.5 As explained above, the application also seeks to remove the restriction on the amount of deliveries per day by articulated vehicles.

9.6 Objections have been received from a number of properties along Nursery Walk and Hawkins Road. Properties No. 8, 10 and 11 Nursery Walk are the closest properties to the delivery area and their rear gardens border the Aldi site. The property of No. 8 Nursery Walk is the closest to the delivery yard and is located 1m from the boundary with the Aldi site and is 7m from

the delivery area at Aldi. The garden is located 6m away from the delivery loading area but adjoins the Aldi site. Masters House is also located close to the delivery area and lorries pass by the front of this building to access the delivery yard. It is located 12m from the delivery bay.

- 9.7 The deliveries for the Aldi store take place at the rear of the site, towards the western site boundary. The closest properties are along Nursery Walk, Masters House and Windsor Road. Nursery Walk contains large family houses that are particularly close to where lorries reverse and unload.
- 9.8 The Environmental Health Team have been consulted and consider the removal of the restriction of the amount of deliveries per day by articulated vehicles to be acceptable. Neighbours have suggested instead of removing the restriction completely, it should be replaced with a restriction of 4-5 deliveries per day. No such request has been made by the Environmental Health Team in terms of mitigating impacts from deliveries on residents' amenity. Officers accept this advice in this instance.
- 9.9 It is to be noted that the properties of Nursery Walk will benefit from an acoustic screen as per the previous application. A condition is recommended requesting full details of this.
- 9.10 In consideration of all the submitted information, comments from the neighbouring properties and the advice from the Environmental Health Team, officers accept the advice from the Environmental Health Team and consider the proposed removal of the restriction on the amount of deliveries per day by articulated vehicles would not have significant adverse effects on health, the environment or amenity in accordance with Policy 35 of the Cambridge Local Plan 2018.

11.0 RECOMMENDATION

APPROVE variation of condition 14 on planning permission C/95/0110 as follows;

Deliveries to the development hereby approved shall only take place between 0700 hours and 2200 hours Monday to Saturday and 0900 hours to 1900 hours on Sundays and Bank Holidays

1. Deliveries to the existing retail unit at Unit 1, 157 Histon Road, as approved under local planning authority reference C/0110/95, shall only take place between 07:00hrs and 22:00hrs Monday to Saturday and 09:00hrs and 19:00hrs on Sundays and Bank Holidays.

Reason: To protect the residential amenity of nearby occupiers (Cambridge Local Plan 2018 policies 55 and 35).

2. No deliveries shall take place between 21:00hrs and 22:00hrs on Monday to Saturday or between 17:00hrs and 19:00hrs on Sunday and Bank Holidays, until full details of an acoustic barrier for the properties on Nursery Walk has been submitted to and approved in writing by the Local Planning Authority, and the acoustic barrier has been constructed in accordance with the approved details. The acoustic barrier shall be maintained in accordance with these details thereafter.

Reason: To protect/safeguard the health and quality of life (amenity) of residential premises in accordance with the National Planning Policy Framework 2019 and aims of Policy 35 of the Cambridge Local Plan 2018.

3. No deliveries shall take place between 21:00hrs and 22:00hrs on Monday to Saturday or between 17:00hrs and 19:00hrs on Sunday and Bank Holidays, until a delivery management plan has been submitted to and approved in writing by the Local Planning Authority. The delivery management plan shall be implemented in accordance with the approved details thereafter.

Reason: To protect/safeguard the health and quality of life (amenity) of residential premises in accordance with the National Planning Policy Framework 2019 and aims of Policy 35 of the Cambridge Local Plan 2018.