

Application Number	21/02861/FUL	Agenda Item	
Date Received	21st June 2021	Officer	Richard Fitzjohn
Target Date	16th August 2021		
Ward	Abbey		
Site	393 - 395 Newmarket Road Cambridge		
Proposal	Installation of a mezzanine floor to Unit 2 and modification of S106 Agreement associated with planning permission 18/0363/FUL to allow open non-food retail sales (Class E) from the unit.		
Applicant	Aldi Stores Ltd. c/o Agent		

	SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <ol style="list-style-type: none"> 1. The proposed additional floorspace would not result in a significant additional adverse impact on the role or health of nearby centres. 2. Amending the Section 106 legal agreement would not result in a loss of vitality and viability of Cambridge Town Centre, nor to the retail hierarchy as a whole.
	RECOMMENDATION	APPROVAL subject to planning conditions and completion of a Deed of Variation.

1.0 SITE DESCRIPTION/AREA CONTEXT

- 1.1 The application site, 393 Newmarket Road, is an existing vacant retail unit on Newmarket Road, Cambridge. The site is attached to an Aldi food store. The site is accessed by car via Newmarket Road to the south east of the units, with car and cycle parking provided to the front of the units. To the north east of the site are residential dwellings accessed from Stanley Road. To the north and north west of the site are a variety of commercial and office units. Servicing takes place from the rear of the units.
- 1.2 The site is not within a Conservation Area or the setting of any Listed Buildings and is outside of the Eastern Gate Opportunity Area. There is a group Tree Preservation Order in place along the site frontage with Newmarket Road and covering trees within the site's car park.

2.0 THE PROPOSAL

- 2.1 It is proposed to introduce a mezzanine floor into Unit 2 at 393 Newmarket Road comprising an additional 412 sqm of floorspace. It is also proposed to alter the existing Section 106 Agreement relating to application ref. 18/0363/FUL which restricted the use of Unit 2, to open up the use of the unit to non-food retail sales (Class E). This is to enable occupation of the unit by a bicycle retailer and to allow for future flexibility for non-food retailers.
- 2.2 The application is accompanied by the following supporting information:
1. Design Statement
 2. Plans

3.0 SITE HISTORY

3.1 The relevant planning history identified for the site is the following:

Reference	Description	Outcome
C/93/0321	Erection of a building (2352 SQM) for retail use (Class A1) with associated new access, car parking and landscaping.	Approved
18/0363/FUL	Alteration to building and extension to provide loading bay. Reconfiguration of car park and associated landscaping. New S106 agreement to allow food retail.	Approved

4.0 PUBLICITY

4.1 Advertisement: No
Adjoining Owners: Yes
Site Notice Displayed: No

5.0 POLICY

5.1 Relevant Development Plan policies

PLAN	POLICY NUMBER
Cambridge Local Plan 2018	1, 2, 6
	27
	28, 29, 35, 36
	55, 56, 57
	80, 81, 82

5.2 Relevant Central Government Guidance and Supplementary Planning Documents

Central Government Guidance	National Planning Policy Framework 2021 National Planning Policy Framework – Planning Practice Guidance from 3 March 2014 onwards
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	Circular 11/95 (Annex A)
Supplementary Planning Documents	Greater Cambridge Sustainable Design and Construction (Jan 2020)

6.0 CONSULTATIONS

Cambridgeshire County Council (Highways Development Control)

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

Environmental Health

- 6.2 Concerns regarding potential for uses within Class E, including E(b) and E(d) to cause adverse impacts on neighbouring residential properties in terms of noise or odours. Requests clarification on proposed uses and conditions are suggested to require noise insulation, plant information and restrictions on opening hours.

Access Officer

- 6.3 The proposed mezzanine level should be served by a lift.

7.0 REPRESENTATIONS

- 7.1 The owners/occupier of the following address has made a representation:

□ 21 Stanley Road, Cambridge

- 7.2 The representation can be summarised as follows:

“While this work is carried out, would it be possible to cut the trees back to the boundary wooden fence side? The trees are now dangerously over hanging our roof and have given us a squirrel problem. ”

- 7.3 The above is a summary of the representations that have been received and the relevant planning matters will be considered in

the assessment. Full details of the representations can be inspected on the application file.

8.0 ASSESSMENT

Principle of Development

8.1 Application C/0321/93 approved a 2,353 sqm retail building at the site. The Section 106 Agreement relating to that application limited the use of the units within the building to the following goods:

- a) DIY goods including wallpaper and paint
- b) Materials for building
- c) Garden Products including pet food
- d) Furniture and carpets
- e) Electrical goods including videos
- f) Motoring and motor cycle accessories

8.2 In February 1995, a deed of variation to the S106 was agreed to allow the sales of the following goods:

- a) The bulk sale of office products, office stationery and equipment.

8.3 Permission was granted in 2019 (application ref. 18/0363/FUL) for the conversion of the adjacent Unit 1 to allow food sales from the unit and occupation by a Limited Availability Retailer (Aldi Stores Ltd.) which was implemented and is now complete. The amended S106 included a provision that should Aldi cease to use the building, the original restrictions listed above would automatically come back into force. Within the S106 for 18/0363/FUL, the above restrictions continue to apply to the neighbouring Unit 2, which is presently vacant.

8.4 This application seeks to alter the S106 agreement of 18/0363/FUL to allow Use Class E non-food retail use at Unit 2, and to install a mezzanine floor for an additional 412 sqm of floorspace. The applicant has stated that since Wickes (the previous occupant of Unit 2) left the site, the above restrictions have made it difficult to attract occupants and so the unit has remained vacant.

- 8.5 It is not proposed to alter the S106 agreement in respect of the restriction relating to the Aldi store at Unit 1.
- 8.6 Policy 6 of the Cambridge Local Plan establishes the retail hierarchy within the city, and seeks to direct retail and other main town centre uses to City, District, Local and Neighbourhood centres in line with the sequential approach set out in the National Planning Policy Framework.
- 8.7 Policy 6 states that any retail developments proposed outside of centres must be subject to a retail impact assessment, where the proposed gross floorspace is greater than 2,500 sq. m. the proposed development is not within a Centre but falls below this threshold and a retail impact assessment is not required.
- 8.8 Policy 6 also states that a retail impact assessment may be required below this threshold where a proposal could have a cumulative impact or an impact on the role or health of nearby centres within the catchment of the proposal. Given the existing retail use of the site, its close proximity to other established retail areas such as Cambridge Retail Park and the Beehive Centre, and the scale of the proposed increase in floorspace relative to the size of the existing units, it is not considered that the proposed additional floorspace would result in a significant additional adverse impact on the role or health of nearby centres.
- 8.9 Policy 6 requires that new retail development should in the first instance be directed to the centres and then located according to the sequential test set out in the NPPF.
- 8.10 As above, the site is not in a centre, and the application seeks the extension of an existing retail unit as opposed to a new retail development. Notwithstanding this, the applicant states that they have undertaken a review of potential alternative sites as per the sequential test.
- 8.11 The NPPF 2021 para 88 states that when considering out of centre retail locations, preference should be given to accessible sites which are well connected to the town centre.
- 8.12 The applicant has stated in their planning statement that the only alternative sites that would be sequentially more appropriate (being located in centres) were a former

Debenhams unit and a second vacant unit at the Grafton Centre. It is stated that at 4000sqm, the former is too large and would be better suited to an anchor tenant (as Debenhams was) who would make the maximum use of all of the available floorspace. The second vacant unit at the Grafton, at 430sqm, was considered too small to offer sufficient space for the intended occupant who is a cycle retailer.

- 8.13 It is also proposed to amend the Section 106 Agreement, as explained above. This would be achieved via a Deed of Variation
- 8.14 As a non-food retail use, the proposed use is comparable to some of the types of retail already permitted in the existing S106, in particular the sale of motoring and motorcycle accessories. The uses permitted in the existing S106 are all for sale of non-food items which are generally bulky, and this would also be the case for the proposed use.
- 8.15 It is therefore considered that the variation to include other non-food retail uses would not result in a significant adverse impact on the vitality and viability of the city centre or of retail within District, Local and Neighbourhood centres.
- 8.16 A restriction on the use of Unit 2, limiting it to non-food retail uses within Use Class E(a), would be included within the Deed of Variation to allow the LPA to retain control over the use of the site and to avoid any impacts on the vitality or viability of centres and existing nearby retail units that have not been considered under this application.
- 8.17 Such a restriction would also avoid potential impacts on residential amenity from an unrestricted Class E use, as set out in further detail elsewhere in this report.
- 8.18 Taking the above into account, the proposed mezzanine floor is considered to comply with Policy 6 and the principle of development is acceptable, and it is concluded that amending the Section 106 legal agreement would not result in a loss of vitality and viability of Cambridge Town Centre, nor to the retail hierarchy as a whole.

Context of site, design and external spaces

- 8.19 The proposed development only proposes internal modifications and would not alter the external appearance of the existing unit and so the proposed development would not result in a significant adverse impact on the character and appearance of the area or the building itself.
- 8.20 The proposal is compliant with Cambridge Local Plan (2018) policies 55, 56, 57, 59.

Residential Amenity

- 8.21 The Environmental Health Officer has expressed concerns that by varying the S106 to allow uses within Class E at Unit 2, there would be the potential for some uses such as E(b) and E(d) to adversely impact on residential amenity if uncontrolled.
- 8.22 Officers consider that these concerns would be addressed by imposing a restriction within the varied S106 that Unit 2 shall only be used for the retail of non-food items and for no other use within Class E(a) or Class E as a whole.
- 8.23 Environmental Health have also requested that the opening hours of Unit 2 be restricted to align with the opening hours of the Aldi store at Unit 1 to 08:00hrs – 22:00hrs Monday to Saturday and 10:00hrs – 18:00hrs on Sundays and public holidays. The opening hours and permitted delivery hours for the Aldi unit are controlled via the S106. The times advised by the Environmental Health officer are considered to be reasonable and necessary in the interests of residential amenity and would be restricted within the varied S106.
- 8.24 Environmental Health have also requested limits on the delivery times as was requested in application 18/0363/FUL, and have advised that a condition requiring assessment and mitigation prior to the installation of any plant could be added, to ensure local amenity is protected. These limits will be imposed by condition on any consent or via the amended S106 agreement, as appropriate.
- 8.25 Subject to these conditions the proposal adequately respects the residential amenity of its neighbours and the constraints of

the site and is compliant with Cambridge Local Plan (2018) policies 56 (58) and 35.

Accessibility

- 8.26 The Access Officer has requested a lift to the mezzanine level. The submitted Design and Access Statement states a lift has not been shown in the proposed plans because the proposed occupant is a bicycle retailer, and all activities such as cycle testing are available on the ground floor which has level access and disabled toilet facilities.
- 8.27 Officers note that the occupant of the building may not always be a cycle retailer and so these circumstances may change. However, Building Control Approved Document M (section 4.1) states people must have access to and use of all facilities provided in a building. As installation of a lift would take place internally and the building is not listed, installation of a lift if necessary at the Building Control stage could be accomplished without requiring planning permission.

Highway Safety

- 8.28 No objections have been received from the Local Highway Authority with regards to highway safety impacts of the proposed development
- 8.29 The proposal is compliant with Cambridge Local Plan (2018) policies 80 and 81.

Car and Cycle Parking

- 8.30 As noted in the Officer report for 18/0363/FUL, the existing site contains 114 car parking spaces and the requirement for the site under Appendix L of Policy 82 is for 89 spaces.

The additional 412 sqm of non-food retail floorspace would generate a requirement for an additional 8 spaces. The proposed development would therefore still meet the above standards.

- 8.31 The proposal is compliant with Cambridge Local Plan (2018) policy 82.

Third Party Representations

- 8.32 Third party representation with regard to overhanging trees is noted, however this is not a planning matter and can be addressed outside of the planning regime.

9.0 CONCLUSION

- 9.1 In conclusion, the proposed additional floorspace would not result in a significant additional adverse impact on the role or health of nearby centres, and amending the Section 106 legal agreement would not result in a loss of vitality and viability of Cambridge Town Centre, nor to the retail hierarchy as a whole.

10.0 RECOMMENDATION: APPROVE, subject to the following conditions and completion of a Deed of Variation.

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

Reason: In accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the approved plans as listed on this decision notice.

Reason: In the interests of good planning, for the avoidance of doubt and to facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.

3. No operational plant, machinery or equipment shall be installed until a noise assessment and any noise insulation/mitigation as required has been submitted to and approved in writing by the local planning authority. Any required noise insulation/mitigation shall be carried out as approved and retained as such.

Reason: To protect the amenity of nearby properties (Cambridge Local Plan 2018 policy 36).