Application Number	Date of Appln	Committee Date	Ward
086696/JO/2008/N2	19th May 2008	11th Sep 2008	Ancoats And Clayton Ward

Proposal Variation of conditions 8 (service and delivery hours) and the removal of condition 25 (delivery banksman) in relation to the hours of delivery and servicing without the need of a delivery banksman

Location Site Of Former Maynes Coach Depot, 974-998 Ashton New Road, Clayton, Manchester, M11 4RX,

Applicant ALDI Stores Ltd, C/o Agent

Agent Turley Associates The Chancery, 58 Spring Gardens, Manchester, M2 1EW

Background

This application was on the agenda for the 24th July 2008 Planning and Highways Committee meeting. However, the agent requested at the meeting that the item be deferred to allow a detailed noise assessment to be completed. A noise report has now been submitted by Cheshire Environmental Services on behalf of Aldi Stores Ltd., and this has been fully assessed by the Head of Regulatory and Enforcement Services.

Also, the agent has now confirmed that there is no longer a requirement to vary Condition 19 in relation to the security bollards. Therefore, it has been requested that this element of the variation application be removed.

Site Description

The application site was previously occupied by the Maynes coach depot, which consisted of two single storey buildings facing onto Ashton New Road. These buildings have now been demolished to clear the site for redevelopment. The buildings were surrounded by car parking and servicing areas. There is a piece of land to the rear of the depot buildings that is currently vacant grassland surrounded by security fencing.

The site measures approximately 0.9 hectares (2.2 acres) and it is located approximately 4.5km east of the City Centre along the main radial route of Ashton New Road. The site is bounded on two sides by roads; Ashton New Road to the north, and Crabtree Lane to the west, with the existing vehicular entrance to Aldi and Iceland to the east. There are existing industrial uses to the south of the site along Crabtree Lane towards the Ashton Canal. The site is located within a Local Neighbourhood Centre, which is comprised of a mixture of residential properties, retail and commercial uses. The residential properties closest to the application site are across the road on Ashton New Road and beyond.

Planning History

Application 084018/FO/2007/N2 was granted approval on the 25th October 2007 for the redevelopment of the site into a new foodstore and a small retail

pod both fronting onto Ashton New Road. This application was for the erection of a new retail foodstore (1,552 m2) on the corner of Ashton New Road and Crabtree Lane and one Class A1 retail unit (255 m2) with associated car parking, pedestrian areas, servicing areas, and landscaping. The vehicular access into the new car park would be from the existing main vehicular access off Ashton New Road into the existing Aldi and Iceland car parks.

The application above was granted subject to 23 conditions, including controls over servicing hours and the provision of a servicing banksman. The conditions previously attached to approval 084018/FO/2007/N2 in relation to the above were worded as follows:

Condition 8
Deliveries, servicing and collections, including waste collections shall not take place outside the following hours:

Mondays to Friday 7:00am to 10:00pm
Saturdays 7:30am to 10:00pm
Sundays and Bank Holidays 9:00am to 8:00pm

Reason

In interests of residential amenity in order to reduce noise and general disturbance in accordance with Policies H2.2 and DC26 and the Unitary Development Plan for the City of Manchester.

Condition 25
All service and delivery vehicles visiting the new foodstore unit hereby approved, shall be fully supervised by a banksman at all times whilst within the car park and servicing areas, unless otherwise agreed in writing with the Local Planning Authority.

Reason

In the interests of pedestrian and highway safety, pursuant to Policies H2.2, T2.6, T3.1 and T3.7 of the adopted UDP for the City of Manchester.

Current Application

Condition 25 required all service and delivery vehicles visiting the new foodstore unit to be fully supervised by a banksman at all times whilst within the car park and servicing areas. This was due to the potential conflict between delivery vehicles and customers (vehicles and pedestrians) using the store. Aldi have now confirmed that it is not possible to provide a banksman to supervise all deliveries, and therefore it is now proposed to service the store outside the previously approved opening hours.

Therefore, this application is to seek consent to remove Condition 25 in relation to the delivery banksman and to vary Condition 8 (delivery hours) to allow the out of hours servicing and delivery.

The hours now being applied for are as follows:

Deliveries/Servicing
Mondays to Friday 7:00am to 12:00am
Saturdays 7:30am to 12:00am
Sundays and Bank Holidays 9:00am to 10:00pm

Security Bollards

As mentioned above, the original submitted application included a request to vary Condition 19 in relation to the provision of security bollards across the vehicular entrance into the new car park, to be in line with the extended servicing/delivery hours that were being applied for. The original condition on approval 084018/FO/2007/N2 was worded as follows:

Condition 19
The security bollards across the vehicular access into the new car parking area hereby approved, shall be fully raised outside the following hours:

Monday to Saturday 6.30am to 10pm
Sunday and Bank Holidays 8am to 7pm

Reason

To reduce the risk of antisocial behaviour and crime pursuant to Policy E3.5 of the Unitary Development Plan of the City of Manchester and to reflect the guidance contained in Planning Policy Statement "Delivering Sustainable Development".

The agent has now confirmed that Aldi will provide all the servicing/delivery drivers will an electronic devise that will lower and raise the security bollards electronically from within their vehicle. Therefore, the security bollards can remain in the raised position between 10pm and 6.30am as previously approved, and will only be lowered temporarily when vehicles are arriving and leaving the site.

Consultations

Local Residents / Businesses - Two letters of objection were received against this application. The comments can be summarised as follows:

1) Residents asked for conditions to be placed on the original application, which were agreed to by the developer and this helped to progress the application. This now seems to have been a total waste of time and it would appear that the developer is laughing in the face of the local planning regulators and the local residents.

2) The condition relating to the security barrier was requested by a local resident because of people driving around the car park at all hours of the night . It seems that if the amendment is approved, residents will have to put up with the noise and the youth nuisance until 12.00 midnight. It is extraordinary that developers can alter and amend applications as they see fit without any consideration or dialogue with the local residents.

3) Object strongly to the amended planning application and would ask the Planning Committee to reject this completely .

4) Disturbance due to early morning deliveries from noise pollution.

5) Disturbance due to late night deliveries again from noise pollution .

6) The current permitted trading hours are 8am to 8pm. If the amended application is allowed this will mean we have to put up with the youths of the area hanging around the entrance for another 4 hours.

It should be noted that Councillor Mike Carmody is objecting to the variation of condition application as a local resident, and not as the locally elected Ward Member.

Environmental Health – The original comments made by the Head of Regulatory and Enforcement Services were as follows:

The following conditions should be included in any approval:

1) Conditions requiring the implementation of the three measures to minimise the impact of deliveries as described on Page 2 of the letter from Turley Associates dated 16th May.

2) Condition ensuring that the variation of conditions 8 and 19 only applies while Aldi occupy the development.

It is also recommended that deliveries in small vehicles, such as deliveries of fresh bread or milk, and collections of waste are not excluded from the requirements of Condition 8, as requested in the letter from Turley Associates dated 16th May. Deliveries and collections regularly cause complaints and noise nuisance and to exclude them from Condition 8 would be to leave them completely uncontrolled in a residential area.

Additional Comments
Since the submission and assessment of the detailed noise report, further comments have now been received from the Head of Regulatory and Enforcement Services. These are as follows:

The amended acoustic report and its conclusions are reasonable and satisfactory. Also, because of the time at which the background noise was measured (03:30am) the reports findings also represents the worst case scenario likely to arise from deliveries to the store. In light of the findings of report, and in light of the conditions agreed by the applicant in relation to the way in which deliveries are to take place, we do not think that the variation of the condition is likely to cause a significant impact on local residential amenity.

Greater Manchester Police - There are no comments to make on this occasion.

Engineering Services - The main reason for insisting on the use of a banksman to service and deliver to the store on the previous application, was due to the operation taking place whilst the store was open to the public. However, as it is

now the intention to service the store 'out of hours', there would be no concerns for pedestrian safety. Therefore, there is now no need for a banksman to be provided. This 'out of hours' servicing strategy would however, need to be applied to all servicing and deliveries.

Issues

Unitary Development Plan - The relevant UDP policies in this case, in relation to the variation of the servicing/delivery hours and the use of the security bollards, are Policies DC26, H2.2 and E3.5. These policies will now be outlined below.

Policy DC26 states that the Council intends to use the development control process to reduce the impact of noise on people living and working in, or visiting, the City. In giving effect to this intention, the Council will consider the effect of new development proposals that are likely to be generators of noise. It is considered that the extension of the servicing/delivery hours of this new store will generate unacceptable levels of noise and disturbance to the people living in the immediate area, and therefore this proposal is considered to be contrary to Policy DC26.

Policy H2.2 is also relevant and states that the Council will not allow development, which will have an unacceptable impact on residential areas. The matters that the Council will consider will include the scale and appearance of the development and it's impact in terms of noise, vibration, traffic generation, road safety and air pollution. It is considered that allowing the delivery and servicing of this new store until midnight would cause a serious and unacceptable detrimental impact on this residential area in terms of noise and traffic generation late at night during unsociable hours. Therefore, it is believed that this proposal is contrary to Policy H2.2.

Policy E3.5 explains that the Council will promote measures, which will lead to a safer environment for all people living in and using the City. These measures will include; a) ensuring that the layout of new development is designed with safety in mind; and b) improving road safety. It is considered that by reducing the hours that the security bollards will be raised, the potential of anti-social behaviour will be increased to the detriment of the residential amenity of the existing dwellings in the immediate area. This development would not be ensuring the safe environment of this residential area. Therefore, it is believed that this proposal is contrary to Policy E3.5.

Principle - The principle of a new Aldi store, surrounding car parking and landscaping and the retail pod unit were previously approved under application 084018/FO/2008/N2 subject to the inclusion of a number of specific conditions. However, the impact of the extended servicing hours on the surrounding residential properties should be assessed.

Noise and Disturbance - The application site is located along Ashton New Road, in a mixed residential and commercial area. Opposite the location of the new Aldi store, there are a number of residential properties along Ashton New Road and beyond into Clayton. The previously approved opening hours and servicing/delivery hours under application 084018/FO were considered in relation to the proximity of this new store to existing residential properties, and also reflected the permitted opening and delivery hours of the existing Aldi and

Iceland stores on the adjacent site. The latest opening hour of 8:00pm and latest delivery hour of 10:00pm were considered to be acceptable in this location, in line with other permitted hours in the area and not detrimental to the existing residential properties.

Concerns were previously raised that the proposed extension of these hours until midnight Mondays to Saturdays and 10.30pm on Sundays and Bank Holidays would have an unacceptable detrimental impact on these residencies due to general noise and disturbance. This was mainly in relation to the general noise and disturbance that may have resulted from heavy goods vehicles arriving at the site, waiting to turn into the access road, waiting for the security bollards to be lowered (if raised), manoeuvring within the site to reverse into the servicing area, and the actions of loading and unloading of goods and refuse/recycling.

However, a fully detailed noise report has now been submitted, which concludes the following:

> "The BS 4142 assessment for a delivery vehicle arriving on site, parking and unloading of food produce, indicates that the noise level is below the background noise level during the extended delivery hours sought by the applicant.
>
> Although the vehicle refrigeration unit is not normally operated when the vehicle arrives on site, an assessment for noise emission for the vehicle refrigeration unit indicates that this is also below the background level at 03.30 hours. Aldi Stores Ltd has suggested that a condition is placed on the consent to ensure that this takes place."

This document has been assessed and it has been concluded by the Head of Regulatory and Enforcement Services that there will be not be a significant impact on local residential amenity from the extension to the servicing/delivery hours. This is subject to the inclusion of specific conditions to control the activities of vehicles visiting the site during the later hours.

A number of measures have been proposed by the applicant to limit the noise made by the vehicles within the site. These include switching off vehicle reversing alarms, switching off the refrigeration units and turning engines off during loading and unloading. These will be controlled by condition, along with an additional personal permission condition to limit this approval to Aldi Stores Ltd. alone, as requested by the Head of Regulatory and Enforcement Services.

Therefore, it is now considered that the extension of the servicing and delivery hours for the new Aldi store are acceptable and will not cause significant harm to the residential amenity of the dwellinghouses located close to the application site.

Security Bollards and Anti Social Behaviour – Condition 25 requires the installation of security bollards across the entrance to the new car park to be raised during the night to prevent the use of the car park for anti social behaviour. This condition was included following a request by a local resident, who was suffering from the impacts of anti social behaviour within the existing car parking areas.

Previously, this application requested a reduction in the hours in which the bollards would be raised, from 10.30pm to 12.30am. This was considered to be unacceptable, as the worst impact from the anti social behaviour described would be between the hours of 10pm and 12am, when the car park would now be open and unsupervised by customers visiting the store or members of staff. Therefore, the applicant has now confirmed that it is no longer necessary to vary this condition and this element of the application has been removed.

As stated above, the agent has confirmed that Aldi will provide all the servicing/delivery drivers will an electronic devise that will lower and raise the security bollards electronically from within their vehicle. The security bollards can remain in the raised position between 10pm and 6.30am as previously approved, and will only be lowered temporarily when vehicles are arriving and leaving the site. Therefore, the Head of Planning is now satisfied that the security measures originally approved will not be compromised by the extension of the servicing hours.

Human Rights Act 1998 considerations – This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have the right to a fair hearing and to this end the Committee must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Unitary Development Plan, the Head of Planning has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. He believes that any restriction on these rights posed by the approval of the application is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and country Planning Acts.

Recommendation APPROVE

Conditions and/or Reasons

1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason - Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2) The development hereby approved shall be carried out in accordance with the following drawings and documents unless otherwise agreed in writing by the City Council as Local Planning Authority:

The application forms, the accompanying letter from Turley Associates and the drawing numbered ALDM1291, stamped as received by the Local Planning

Authority on the 16th May 2008, and the Noise Report by Cheshire Environmental Services received by email on the 28th August 2008.

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policies EM3, EM16, DC9, S2, E3.3, T1.8, DC26 and H2.2 of the Manchester Unitary Development Plan, the Guide to Development in Manchester Supplementary Planning Document and Planning Guidance, Planning Policy Statement 1, Planning Policy Statement 6 and Policies DP2, DP3 and ER13 of the Regional Spatial Strategy.

3) The permission hereby granted shall be personal to Aldi Stores Ltd. ceasing to occupy the premises the opening hours, servicing /delivery hours, and the provision of a banksman for which the permission is hereby granted shall be discontinued.

Reason

In granting this permission the City Council as local planning authority has had regard to the special circumstances of the applicants and their operation of the use.

4) Deliveries, servicing and collections, including waste collections shall only take place outside the store opening hours between the following times:

Monday to Friday 7:00am to 8:00am and 8:00pm and 12.00am
Saturdays 7:30am to 8:30am and 8:00pm to 12.00am
Sundays and Bank Holidays 9:00am to 10:00am and 5:00pm to 10:00pm

Reason

In interests of residential amenity in order to reduce noise and general disturbance in accordance with Policies H2.2 and DC26 and the Unitary Development Plan for the City of Manchester.

5) The premises shall not be open outside the following hours, unless otherwise agreed in writing by the City Council as local planning authority:-

Monday to Saturday 8:00am - 8:00pm, Sundays 10:00am - 5:00pm

Reason - In interests of residential amenity in order to reduce noise and general disturbance in accordance with Policies H2.2 and DC26 and the Unitary Development Plan for the City of Manchester.

6) The security bollards across the vehicular access into the new car parking area hereby approved, shall be fully raised outside the following hours:

Monday to Saturday 6.30am to 10.00pm
Sunday and Bank Holidays 8.00am to 7.00pm

Any servicing / delivery vehicles using the vehicular access outside these hours should ensure that the bollards are fully raised at all times apart from when movement in and out of the site is required.

Reason

To reduce the risk of antisocial behaviour and crime pursuant to Policy E3.5 of the Unitary Development Plan of the City of Manchester and to reflect the guidance contained in Planning Policy Statement "Delivering Sustainable Development".

7) No vehicle reversing alarms shall be used within the site on Mondays to Sundays between 10:00pm and 8:00am, where all alarms shall be switched off by the vehicle drivers.

Reason

To safeguard the amenities of the occupiers of nearby accommodation, pursuant to Policies H2.2 of the adopted UDP for the City of Manchester.

8) Prior to all servicing and delivery vehicles arriving at the site, any refrigeration units within or attached to the vehicles shall be turned off between the hours of 10:00pm and 8:00am Mondays to Sundays, where all refrigeration units shall be switched off by the vehicle drivers.

Reason

To safeguard the amenities of the occupiers of nearby accommodation, pursuant to Policies H2.2 of the adopted UDP for the City of Manchester.

9) Whilst all servicing and delivery vehicles are waiting/stationary within the site, the engines of the vehicles shall be turned off between the hours of 10:00pm and 8:00am Mondays to Sundays, where all engines shall be switched off by the vehicle drivers.

Reason

To safeguard the amenities of the occupiers of nearby accommodation, pursuant to Policies H2.2 of the adopted UDP for the City of Manchester.

Local Government (Access to Information) Act 1985

The documents referred to in the course of this report are either contained in the file(s) relating to application ref: 086696/JO/2008/N2 held by planning or are City Council planning policies, the Unitary Development Plan for the City of Manchester, national planning guidance documents, or relevant decisions on other applications or appeals, copies of which are held by the Planning Division.

The following residents, businesses and other third parties in the area were consulted/notified on the application:

Environmental Health
Greater Manchester Police
Engineering Services
851 Ashton New Road, Manchester, M11 4PA
853 Ashton New Road, Manchester, M11 4PA

855 Ashton New Road, Manchester, M11 4PA
861 Ashton New Road, Manchester, M11 4PA
865 Ashton New Road, Manchester, M11 4PB
867 Ashton New Road, Manchester, M11 4PB
869 Ashton New Road, Manchester, M11 4PB
871 Ashton New Road, Manchester, M11 4PB
873 Ashton New Road, Manchester, M11 4PB
1018 Ashton New Road, Manchester, M11 4PD
1020 Ashton New Road, Manchester, M11 4PD
2 Seymour Road South, Manchester, M11 4PG
4 Seymour Road South, Manchester, M11 4PG
6 Seymour Road South, Manchester, M11 4PG
8 Seymour Road South, Manchester, M11 4PG
Iceland Foods Plc, Ashton New Road, Manchester, M11 4YX
8 Tobermory Close, Manchester, M11 4TB
10 Tobermory Close, Manchester, M11 4TB
18 Tobermory Close, Manchester, M11 4TB
6 Tobermory Close, Manchester, M11 4TB
2 Tobermory Close, Manchester, M11 4TB
12 Tobermory Close, Manchester, M11 4TB
14 Tobermory Close, Manchester, M11 4TB
16 Tobermory Close, Manchester, M11 4TB
20 Tobermory Close, Manchester, M11 4TB
22 Tobermory Close, Manchester, M11 4TB
24 Tobermory Close, Manchester, M11 4TB
Classic Wines, 857 Ashton New Road, Manchester, M11 4PA
Walkers Of Manchester Ltd, Crabtree Lane, Manchester, M11 4GU
849 Ashton New Road, Manchester, M11 4PA
The Family Surgery, 863 Ashton New Road, Manchester, M11 4PB
Cohens Chemist, 861a, Ashton New Road, Manchester, M11 4PA
4 Tobermory Close, Manchester, M11 4TB
805 Ashton New Road, Manchester, M11 4GS
807 Ashton New Road, Manchester, M11 4GS
809 Ashton New Road, Manchester, M11 4GS
811 Ashton New Road, Manchester, M11 4GS
813 Ashton New Road, Manchester, M11 4GS
815 Ashton New Road, Manchester, M11 4GS
817 Ashton New Road, Manchester, M11 4GS
819 Ashton New Road, Manchester, M11 4GS
821 Ashton New Road, Manchester, M11 4GS
Sonoco Consumer Products, , Stokes Street,, Clayton, Manchester, M11 4QX

Representations were received from the following third parties:

Environmental Health
Greater Manchester Police
Engineering Services
Mr Bernard Homer, 865 Ashton New Road, Manchester, M11 4PB
Councillor Mike Carmody, 805 Ashton New Road, Manchester, M11 4GS

Relevant Contact Officer : Jeni Wilson

Telephone number : 0161 234 4164
Email : j.wilson3@manchester.gov.uk