Application Number	Date of Appln	Committee Date	Ward
086696/JO/2008/N2	19th May 2008	24th Jul 2008	Ancoats And Clayton Ward

Proposal Variation of conditions 8 (service and delivery hours) and 19 (security bollards) and the removal of condition 25 (delivery banksman) in relation to the hours of delivery and servicing and the hours of the use of security bollards 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

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.

Application 084018/FO/2007/N2 was granted approval on the 25th October 2007 and was 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, the provision of a servicing banksman and the use of security bollards for the car park during closed hours. 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 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".

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.

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. In order to service the store outside these approved opening hours, the use of the security bollards for the new car park will also need to amended.

Therefore, this application is to seek consent to remove Condition 25 in relation to the delivery banksman, and to vary Conditions 8 (delivery hours) and 19 (use of security bollards) to allow the out of hours serving 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	Monday to Saturday between 6.30am to 12.30am Sundays/Bank Holidays between 8am to 10.30pm

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 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.

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 and the reduced use of the security bollards 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. Immediately 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. It is now considered 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.

The general noise and disturbance would be the result of 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. The noise generated from all of these actions between 10pm and midnight during unsociable hours is considered to be unacceptable and detrimental to the level of amenity currently enjoyed by the residential properties in this area.

It is acknowledged that 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. However, these measures will not reduce the impact of the following; a) the heavy goods vehicles driving passed the existing residential properties along Ashton New Road, b) the noises created from breaking and turning, c) the engine noises whilst waiting outside the site, and d) the noises created whilst manoeuvring around the site before the unloading and loading actions take place. Therefore, it is considered that the extension of the servicing and delivery hours for the new Aldi store is unacceptable and will cause serious detrimental harm to the residential amenity of the dwellinghouses located close to the application site.

Security 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. The comments made previous by a local resident were as follows:

"The site is already is a magnate at night for the local yobs to hang out. The car park is used to practice hand brake turns for the local car thieves. If the vehicle access route could be gated or have a locked barrier at night that would eliminate some of the problems."

An additional car parking area could have exacerbated the existing problem, and would have brought the problem closer to the properties along Ashton New Road.

This application requests a reduction in the hours in which the bollards would be raised, from 10.30pm to 12.30am. It is considered that 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 amendment of the requirements of this condition may render it useless and completely ineffective. The detrimental impact of anti social behaviour on the amenity of the surrounding residents can be avoided through the proper implementation of this condition. Therefore, it is not considered acceptable for this condition to be varied.

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 refusal of the application is proportionate to the wider benefits of refusal and that such a decision falls within the margin of discretion afforded to the Council under the Town and country Planning Acts.

Recommendation REFUSE

Conditions and/or Reasons

1) The variation of condition 8 attached to application 084018/FO/2007/N2 to allow the movement, loading and unloading of delivery and service vehicles until the hours of 12am Monday to Saturdays and 10.30pm on Sundays would generate additional noise, activity and vehicular movements around the site, particularly late at night in unsocial hours, which would be detrimental to the

residential amenities of the occupiers of the nearby dwellinghouses and would thereby be contrary to policies DC26 and H2.2 of the Unitary Development Plan.

2) The variation of condition 19 attached to application 084018/FO/2007/N2 to allow the reduced use of the security bollards between the hours of 6.30am and 12.30am would lead to the car park being used for noisy and anti social behaviour, which would be detrimental to the residential amenities of the occupiers of the nearby dwellinghouses and would thereby be contrary to policies E3.5 and H2.2 of the Unitary Development Plan.

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