Application Number	Date of Appln	Committee Date	Ward
086696/JO/2008/N2	19th May 2008	23rd Oct 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 brought before Members of the Planning & Highways Committee on 11th September 2008, with a recommendation for Approve subject to a number of conditions.

At the September Committee, Members were minded to refuse the application on two main grounds, including; a) that turning off the vehicle reversing alarms may lead to Health and Safety problems to the detriment of public/staff safety, and b) that infrequent breaches in the restrictive conditions applied to any approval may be difficult to enforce, yet still detrimental to the local residents. It was therefore requested that the Head of Planning bring forward a report to the next available committee addressing the above concerns and proposing potential reasons for refusal.

For clarification, as a result of the addition of late representations to the 11th September 2008 Committee, changes have been made to conditions set out towards the end of this report.

Agent Response

Following the concerns expressed by the Members of Committee at the meeting on 11th September 2008, the agent for the planning application has now issued a response. The comments made are as follows:

Turley Associates response 7th October 2008

Background – Aldi Stores Ltd has made an application to extend the permitted delivery hours. Manchester City Council's Environmental Health Officer has recommended that that the consent is subject to a condition that would require delivery vehicles to switch off vehicle reversing signals and the refrigeration units before entering the site in order to ensure that local residents are not disturbed. This requirement would only apply after 10pm and the applicant has confirmed acceptance of this condition.

It was noted that at the committee meeting, Members were concerned about pedestrian safety within the store car park and delivery area of the store if these signals were turned off. Having considered the Member's concerns, a response on behalf of the client is now set out below.

Applicant's Response - Delivery vehicles would be permitted to continue to use the reversing signals from store closing until 10pm; this would ensure that any late customers have adequate opportunity to leave the site before any delivery vehicle is required to turn off its reversing signals. The application site is private land and the car park is not crossed by any public rights of way or natural desire lines. There is therefore no reason why pedestrians would need to access or move through the site outside of store opening hours. Furthermore, it is understood that any liability for public safety would rest with Aldi Stores Ltd as owner of the site freehold, rather than Manchester City Council.

Notwithstanding the above, it is important to note that visibility for delivery drivers entering the site is good. Vehicles will enter the site at low speed and in a forward gear and upon entering the site, drivers would have a direct and unobstructed view into the delivery bay, which is illuminated and contains no concealed areas. The car park is also sufficiently illuminated to provide good visibility for drivers and pedestrians. The vehicles would pull parallel to the front of the store, again in a forward gear, before making the short reversing manoeuvre into the delivery bay.

Summary - Given the above, it is considered that the movements of delivery vehicles will not harm the safety of pedestrians, particularly as there is no reason for pedestrians to be within the car park during the times that delivery vehicles would arrive at the site.

Refusal Issues

Health and Safety

For clarification, the proposed servicing strategy for the new Aldi store includes a number of measures to reduce the general noise and disturbance caused by the store on surrounding residential properties. This strategy includes the requirement of all service/delivery vehicle drivers to turn off their reversing alarms whilst manoeuvring around the site during unsociable hours. However, the Members of Committee raised concerns that turning off these alarms may lead to serious Health and Safety issues for both Aldi personnel and members of the public using the site out of hours.

Since the September meeting of Planning & Highways Committee, the issue of Health and Safety and whether this is a material consideration within the Planning system has been assessed by City Solicitors. The advice given is that in general, health considerations and public concern can, in principle, be a material consideration in determining applications for planning permissions. However, the Government's first view is that the planning system is not the place for determining health safeguards. It was clarified at the 11th September Committee meeting, that if an accident did happen at the site, then the responsibility would ultimately lie with the landowner and not the Council.

Therefore, in this instance, it is considered that a reason for refusal based on health and safety grounds could not be easily sustained.

Further to this consideration, are issues surrounding highway and pedestrian safety. Public concerns about safety may still be a material consideration, however fears and concerns held by members of the public may only be a material consideration if they are objectively justified. If it is considered that the proposed development would introduce or increase a risk of danger to highway and pedestrian safety, this issue must be a factor to be assessed and weighed in the balance.

However, in this instance, the Head of Engineering Services has confirmed that the main reasons for the insisting on the use of a banksman to service & deliver to the store on the original application was due to the operation taking place whilst the store was open to the public. As it is now the intention to carry out all servicing and delivery operations at the store outside the opening hours, the concerns for the safety of pedestrians would be at a minimum.

The Head of Engineering Services has also stated that with reference to 'turning off' the reversing audible warnings on the HGV, the driver would be solely responsible for ensuring that the route is clear.

Therefore, based on all of the above advice, it is the impact of the servicing/delivery operations on the residential amenity of the surrounding residents that is of greater concern.

Residential Amenity

As outlined above, the second main concern raised by Members of the Committee was in relation to the impact of the extended servicing/delivery hours on the residential amenity currently enjoyed by the nearby properties.

It has been acknowledged that the proposals set out in the servicing strategy and the recommended conditions may assist in reducing the impact caused by the servicing during unsociable hours. However, Members expressed serious concerns over whether the strategy and proposed conditions are actually practical and enforceable. If there were any breaches in the conditions in the future, it may be unlikely that the Local Planning Authority would take any enforcement action against Aldi, if the breaches were deemed to be irregular in occurrence. However, even despite this irregular nature, each and every breach of the condition would result in a detrimental impact on the amenity of the nearby residents. Therefore, it is considered that the impact on residents may not be strictly and effectively controlled with the use of specific conditions, and that there is the potential for a detrimental impact on residential amenity.

Conclusion

The recommendation to Committee remains to be one of Approval. However, if members are minded to proportion greater weight to the issues raised above, the following reason for refusal is recommended:

"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 10.00pm 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."

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 due to their staffing policy, it is not possible to provide a banksman to supervise all deliveries. 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 8:00am and 8:00pm to 12:00am
Saturdays 7:30am to 8:00am and 8:00pm to 12:00am
Sundays and Bank Holidays 9:00am to 10:00am and 5:00pm to 10:00pm

Security Bollards

As mentioned in the report of the September Planning and Highways Committee, the original submitted application included a request to vary Condition 19 of permission 084018/FO/2007/N2 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 with 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. Therefore, previous Condition 19 is now slightly amended to reflect the new situation (see proposed condition 23 in list at the end of the report).

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, namely that service and delivery vehicles will turn off engines when parked, the delivery vehicle refrigeration units will be turned off before the vehicle arrives at the site, and that the vehicle reversing alarms will be turned off while manoeuvring within the site.

2) Condition ensuring that the variation of conditions 8 and 19 to permission 084018/FO/2007/N2 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 represent 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.

Additional Comments - Following the concerns raised by Members of the Committee in relation to Health and Safety grounds, further consultation was carried out with the Head of Engineering Services. The comments made are as follows:

It can be re-confirmed that the main reasons for the insisting on the use of a banksman to service & deliver to the store, for the previous application was due to the operation taking place whilst the store was open to the public. Not only would the reversing route run along the rear of proposed parking areas dedicated for the most vulnerable road users such as disabled people and parents with children, but also be negotiating across a raised pedestrian crossing to the southern end of the site whilst the store was operational.

However, as it is now the intention to service the store (all servicing) 'out of hours', the concerns for the safety of pedestrians would be at a minimum although there may still be some pedestrians in the vicinity, before store opening hours.

With reference to 'turning off' the reversing audible warnings on the HGV, I cannot really comment on this as it is not a highways issue and the operation will be out of store opening hours. However, as there is no longer to be a banksman available overseeing the manoeuvres into the servicing bay, the driver would be solely responsible for ensuring that the route is clear. To further minimise any conflicts, it could be suggested that servicing functions were carried out in good time prior to the store opening hours.

Issues

Unitary Development Plan – The relevant UDP policies in relation to the development of this site for a new retail facility, car parking and landscaping are as follows. The relevant policies in relation to the variation of the proposed conditions will be discussed in the later section.

As the site lies within a Local Neighbourhood Centre area Policies EM3 and EM16 are relevant. Policy EM3 states that within district centres the following development will be permitted, to support their vitality and viability. These include a) retail A1, A2 and A3 of a scale and function consistent with a district centre; b) mixed use development; and c) employment B1, leisure and community facilities. Where suitable sites or buildings suitable for conversion to retail or leisure are not available within the above centres, then sites on the edge of centres will be permitted, provided that a need for the development has been demonstrated. Within the residential neighbourhoods additional shopping to meet local needs will be permitted within local neighbourhood shopping centres and individual small retail units will be permitted within residential areas. Retail development, which conflicts with vitality and viability of existing centres, will not be permitted.

Area Policy EM16 goes on to outline that the area located between Sportcity and the Manchester City boundary has a number of strategic roads cutting through it including Ashton New Road. These roads provide important corridors for traffic movement but also sever Openshaw and Higher Openshaw from neighbouring facilities and communities. The area is predominantly residential with a number of distinct neighbourhoods that are punctuated with a mix of other uses. Within Lower and Higher Openshaw development will be permitted which includes; a) Retail, community facilities and mixed use development: b) the redevelopment, improvement and modernisation of residential neighbourhoods; and d) Provision of a hierarchy of streets which is permeable

to pedestrians and cyclists and connects to the residential neighbourhoods, employment areas, adjacent areas, Sportcity, proposed Metrolink stops along Ashton New Road and proposed quality bus corridor along Ashton Old Road.

When dealing with applications of this nature, regard is given to Development Control Policy No. 9 "New Commercial and Industrial Development". This policy ensures that all new commercial and industrial buildings and the environments in which they are set meet the high standards of accessibility for disabled people. Shopping Policy S2 goes on to outline how the Council will ensure the provision of a full range of shopping facilities for all people in the City. It also states that the Council recognises the importance of good quality local and convenient shopping facilities within easy reach of people's homes and will seek to ensure that all parts of the City are well provided for and that facilities are accessible to disabled people.

The site is also affected by policies E3.3 and DC16. Policy E3.3 states seeks to ensure high quality design along the City's main orbital and radial routes and Policy DC16 'Street Landscapes' can be applied here as this requires the retention of existing trees and the provision of tree planting along the public frontages of sites. As the site is located close to existing residential properties,

Further Transport Policies that are also relevant in this case are T1.8, T2.6 and T3.1. Policy T1.8 outlines that the Council will safeguard those routes within Manchester over which the Greater Manchester Passenger Transport Authority has powers for the extension of the Light Rapid Transit (LRT) network, including the route from the City Centre to Ashton via East Manchester, which is along Ashton New Road. Policy T2.6 explains how the Council expects an adequate car parking provision to be made for disabled people and T3.1 states that the Council will ensure that the particular needs of both pedestrians and cyclists are catered for in new development schemes.

In considering the proposals reference is not only made the UDP, but also Planning Policy Statements and the Guide to Development in Manchester Supplementary Planning Document and Planning Guidance. Planning Policy Statement 6 "Planning for Town Centres" states that the government wishes to promote the vitality and viability of existing centres by enhancing consumer choice by making provision for a range of shopping, leisure and local services; supporting efficient, competitive and innovative retail and leisure services; improving accessibility, ensuring new development is accessible by a choice of means of transport. In addition, the government wishes to encourage investment to regenerate deprived areas, creating additional employment opportunities and an improved physical environment. More sustainable patterns of development are also encouraged ensuring that locations are fully exploited through high density mixed use development and promoting sustainable transport choices. It is considered that this scheme would create a medium density sustainable retail development, which would support the existing district centre in line with government policy.

The Guide to Development in Manchester Supplementary Planning Document and Planning Guidance provides a framework for all development in the City and requires that the design of new development incorporates a cohesive relationship with the street scene, aids natural surveillance through the demarcation of public and private spaces and the retention of strong building

lines and appropriate elevational detailing and strong design particularly to corner plots.

Regional Spatial Strategy for the North West - Formerly RPG13, this provides planning guidance for the North West region. Since 2004, the RSS has formed part of the development plans; as such the weight to be attached to its policies has increased. It contains policies that address core principles of development including the following:

DP2 Enhancing the Quality of Life - ensuring development provides a high quality of life for this and future generations

DP3 Quality in New Development - ensuring that new development demonstrates good design and respect for its setting.

Specifically in relation to sustainability, Policy ER13 within Regional Planning Guidance states that local authorities should ensure that development minimises energy use through careful and imaginative location, design and construction techniques and that authorities should positively encourage the use of energy-efficient technologies and energy from renewable sources in major developments.

The relevant UDP policies 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 was previously considered that the extension of the servicing/delivery hours of this new store would generate unacceptable levels of noise and disturbance to the people living in the immediate area. However, it has been demonstrated through a detailed servicing strategy, that it is possible to service the store during later hours without causing serious harm to the amenity of nearby residents. Therefore, it is now considered that this proposal is in accordance with 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 its impact in terms of noise, vibration, traffic generation, road safety and air pollution. Again, it was previously 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. However, as outlined above, it has been demonstrated through a detailed servicing strategy, that it is possible to service the store during later hours without causing serious harm to the amenity of nearby residents. Therefore, it is now considered that this proposal is in accordance with 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. As the original proposal included a request to vary Condition 19 to allow the reduction in the hours that the security bollards would be raised, it was previously considered that the potential of anti-social behaviour would be increased to the detriment of the residential amenity of the existing dwellings in the immediate area. However, the agent has proposed revised access/egress arrangements, which would only see the bollards momentarily lowered during the extended servicing/delivery hours. Therefore, the proposal is now in accordance with 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/2007/N2 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 the servicing/delivery hours until midnight Mondays to Saturdays and 10.00pm 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 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 conditions (see Conditions 8 to 12 in the list at the end of the report). The Head of Regulatory and Enforcement Services has requested to include an additional personal condition that will ensure that the variation of Conditions 8 and 19 only apply while Aldi occupy the development. Nevertheless, the City Solicitor's advice is that the revised conditions (proposed Conditions 8 to 12) are considered to be sufficiently precise so as to be capable of enforcement. Any non-compliance would undoubtedly be brought to the Council's attention by those affected by the contravention; monitoring would therefore occur naturally. In the event a condition were breached, resulting in an unacceptable affect on amenity meriting protection in the public interest, the Council would be under a duty to take appropriate steps, including, if necessary, enforcement action, to secure compliance with the relevant condition.

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 the hours in relation to 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 with 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, it would be necessary to slightly amend previous Condition 25 to reflect the proposed change (see proposed Condition 23). Nevertheless, 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

It is considered that the proposal will generally accord with the policies contained within the Development Plan, specifically the Unitary Development Policies EM3, EM16, DC9, S2, E3.3, DC16, DC26, H2.2, T1.8, T2.6 and T3.1 and the principles set out in 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 in that the development would improve the quality of retail facilities within the local neighbourhood centre within easy access of existing residential properties, there would not be any significant impacts on the residential amenities of adjoining occupiers; would improve the access to shopping facilities for disabled people, would not compromise the provision of the Metrolink expansion and generally the proposal would provide a high quality facility within the area to the benefit of the wider surrounding community allowing the continuing regeneration of the locality.

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 Planning Statement, Design and Access Statement, an Environmental Screening Opinion letter, Transport Assessment, Bat, Bird and Habitat Survey, Environmental Noise Impact Assessment, Crime Impact Statement, Remedial Method Statement and the drawings numbered ALDM1214, 0014-MID/50, 0014-MID/108/B, 0014-MID/109, 0014-MID/110, 0014-MID/111, 0014-MID/112/A, and the CGI Perspective Drawing, stamped as received by the Local Planning Authority on the 30th July 2007, the additional ram raid bollard information stamped as received by the Local Planning Authority on the 27th September 2007, and the letter from Mayer Brown Limited and attached drawing numbered 0014MID/108/C received by email on the 24th October 2007 and 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) No development that is hereby approved shall commence unless and until samples and specifications of all materials to be used on all external elevations of the development have been submitted to and approved in writing by the City Council as local planning authority. The development shall be constructed only using the approved materials unless otherwise agreed in writing by the City Council as local planning authority.

Reason - To ensure that the appearance of the development is acceptable to the City Council as local planning authority in the interests of the visual amenity of the area within which the site is located, as specified in policy S2, E3.3, and H2.2 of the Unitary Development Plan for the City of Manchester.

4) Notwithstanding the submitted landscape drawing, no development shall commence until a hard and soft landscaping treatment scheme has been submitted to and approved in writing by the City Council as local planning authority. The approved scheme shall be implemented not later than 12 months from the date the buildings are first occupied. If within a period of 5 years from the date of the planting of any tree or shrub, that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place, unless otherwise agree in writing by the City Council as local planning authority.

Reason - To ensure that a satisfactory landscaping scheme for the development is carried out that respects the character and visual amenities of the area, in accordance with policies E3.3, DC26 and H2.2 of the Unitary Development Plan for the City of Manchester and the Guide to Development in Manchester Supplementary Planning Document.

5) No development approved by this permission shall be commenced until a desk study has been undertaken and agreed in writing by the Local Planning Authority to investigate and produce an assessment of the risk of the potential for on-site contamination. If the desk study identifies potential contamination a detailed site investigation and risk assessment should be carried out to establish the degree and nature of the contamination and its potential to pollute the environment or cause harm to human health. If remediation measures are necessary they will be implemented in accordance with the assessment and to the satisfaction of the Local Planning Authority.

Reason - To ensure a safe form of development that poses no unacceptable risk of pollution, pursuant to Policy H2.2 of the UDP for the City of Manchester.

6) The development hereby permitted shall not begin until a scheme to deal with contamination of land and/or groundwater has been submitted and approved by the LPA and until the measures approved in that scheme have been fully implemented. The scheme shall include all of the following measures unless the LPA dispenses with any such requirement specifically and in writing:

1. A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until:

(i) The requirements of the LPA for site investigations have been fully established; and
(ii) The extent and methodology have been agreed in writing with the LPA.

2. A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be agreed in writing with the LPA prior to commencement and all requirements shall be implemented and completed to the satisfaction of the LPA by a competent person. No deviation shall be made from this scheme without the express written agreement of the LPA.

4. If during the works contamination is encountered which has not previously been identified then work shall cease in that area, the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the LPA.

5. Upon completion of the works, this condition shall not be discharged until a verification report has been submitted to, and approved by, the LPA.

Reason - To ensure that the presence of or the potential for any contaminated land and/or groundwater is detected and appropriate remedial action is taken in the interests of public safety, pursuant to Policy H2.2 of the adopted UDP for the City of Manchester.

7) 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 and Bank Holidays 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.

8) 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 8:00am 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.

9) The retail foodstore hereby approved shall only be serviced in strict accordance with the strategy outlined within Turley Associates letter dated 16th May 2008, which includes a maximum of 2 HGV deliveries a day, lasting a maximum of 30 minutes per delivery, with all deliveries being unloaded within the sheltered canopy, and with operations carried out by the stores own delivery personnel, unless other wise agreed in writing with the Local Planning Authority. The details of this approved servicing and delivery strategy shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.

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.

10) No vehicle reversing alarms shall be used within the site between the following hours, where all alarms shall be switched off by the vehicle drivers:

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

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.

11) Prior to all servicing and delivery vehicles arriving at the site, any refrigeration units within or attached to the vehicles shall be turned off by vehicle drivers between the following hours:

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

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.

12) Whilst all servicing and delivery vehicles are waiting/stationary within the site, the engines of the vehicles shall be turned off by the vehicle drivers between the following hours:

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

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.

13) Before first occupation of the development the building, together with any externally mounted ancillary equipment, shall be acoustically insulated in accordance with a scheme submitted to and approved in writing by the City Council as local planning authority in order to secure a reduction in the level of noise emanating from the equipment.

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to policy H2.2 of the Manchester Unitary Development Plan.

14) Before the development hereby approved commences, full details regarding the waste management strategy for the development, namely the refuse storage space for segregated waste collection and recycling and details of all internal and external storage areas, shall be submitted to and approved in writing by the City Council as Local Planning Authority. The details of the approved scheme shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.

Reason - In the interests of amenity and public health, pursuant to policy H2.2 of the adopted UDP.

15) No external lighting shall be erected on or around the site without the prior written approval of the Local Planning Authority. Details of any proposed external lighting within the site must be submitted to and approved in writing by the City Council as Local Planning Authority. The lighting must only be implemented in accordance with the approved details.

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation once the development is completed, pursuant to Policy H2.2 of the adopted UDP for the City of Manchester.

16) Details of a Travel Plan with the objective of helping to encourage sustainable modes of travel; and including particulars of its implementation and monitoring of effectiveness and how measures to improve effectiveness shall be implemented shall be submitted to and approved in writing by the City Council as local planning authority by 3 months after the store is first opened. For so long as the use is in operation the local planning authority shall be provided with such information as specified in the Travel Plan and all measures that are identified that can improve the effectiveness of the Travel Plan shall be adopted and implemented within a timescale agreed in writing by the local planning authority.

Reason - In accordance with the provisions contained within the Policies of the adopted UDP for the City of Manchester, Planning Policy Statement 1 'Creating

Sustainable Communities', 3 'Housing' and the Regional Planning Guidance RPG13.

17) Notwithstanding the approved drawings, full highway engineering details in relation to the modified vehicular access onto Ashton New Road in connection with the future expansion of Metrolink shall be submitted and approved in writing with the Local Planning Authority, including the modification and widening of the access, swept path details, possible signalisation of the junction, pedestrian footways and pedestrian desire lines, dropped kerbs, surfaces and visibility splays. The development shall be carried out in accordance with the details thereby approved.

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

18) No clearance of vegetation or trees from the site should be carried out in the bird nesting season (March to July inclusive). If clearance during the nesting season is unavoidable then a survey for nesting birds must be undertaken prior to work commencing and submitted to and approved in writing by the City Council as local planning authority. If nesting birds are found by the survey and are likely to be disturbed by clearance works then clearance should be delayed until after the young have fledged.

Reason - The site supports habitats suitable for use by nesting birds, which are protected by the Wildlife and Countryside Act 1981, and pursuant to Policy E2.4 in the Unitary Development Plan for the City of Manchester.

19) In accordance with the Sustainability Statement within the Design and Access Statement stamped as received by the Local Planning Authority on the 30th July 2007, the development hereby approved shall incorporate measures to minimise the environmental impact and energy use of the building and shall achieve an Building Research Establishment Industrial rating of 'very good'. Written confirmation of the achieved rating shall be submitted to and approved in writing by the City Council as local planning authority before the development is occupied, unless otherwise agreed in writing by the local planning authority.

Reason - In the interests of minimising the impact on the environment of the development pursuant to policies E1.5 and E1.6 in the Unitary Development Plan for the City of Manchester, the Guide to Development in Manchester Supplementary Planning Document and Planning Guidance, Planning Policy Statement 1 (PPS1), and the Regional Spatial Strategy for the North West.

20) The development shall not be occupied unless accreditation, confirming achievement of the Secured by Design standards in respect of the development has been issued by Greater Manchester Police, unless otherwise agreed in writing by City Council as local planning authority.

Reason - To reduce the risk of 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".

21) Details of the proposed boundary treatment, including colour, shall be submitted to and approved in writing by the City Council, as local planning authority, before the use commences.

Reason - To ensure that the appearance of the development is acceptable to the City Council as local planning authority in the interests of the visual amenity of the area within which the site is located, pursuant to policies H2.2, E3.3 and E3.5 of the adopted UDP.

22) The car parking indicated on the approved plans shall be surfaced, demarcated and made available for use prior to the building hereby approved being occupied. The car park shall then be available at all times whilst the site is occupied.

Reason - To ensure that there is adequate parking for the development proposed when the building is occupied in order to comply with Policies H2.2 and T2.6 of the Unitary Development Plan for the City of Manchester.

23) The security bollards across the vehicular access into the new car parking area hereby approved, shall be fully raised during the following hours except and only for such time as necessary to allow for the access and egress of delivery/servicing vehicles:

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".

24) The details of an emergency telephone contact number for the developer and the contractor shall be displayed in a publicly accessible location on the site from the commencement of development until construction works are complete unless otherwise agreed in writing by the City Council as local planning authority.

Reason - To prevent detrimental impact on the amenity of nearby residents and in the interests of local amenity in order to comply with Policy H2.2 of the Unitary Development Plan for the City of Manchester.

25) Details of the materials to be used for all footpaths and for the areas between the pavement and the line of the proposed building, including the provisions of dropped kerbs and tactile paving for disabled access shall be submitted to and approved in writing by the City Council as the local planning authority. Any works approved shall be implemented in full within six months, or as otherwise agreed in writing by the local planning authority, of any part of the development first being occupied.

Reason - In the interests of amenity and to ensure that paving materials are consistent with the use of these areas as pedestrian routes and in accordance with policies DC9, E3.3, DC26 and H2.2 of the Unitary Development Plan for

the City of Manchester, and the Guide to Development in Manchester Supplementary Planning Document.

26) The wheels of contractors vehicles leaving the site shall be cleaned and the access roads leading to the site swept daily in accordance with a management scheme submitted to and approved in writing by the City Council as local planning authority prior to any works commencing on site.

Reason - In the interest of pedestrian and highway safety, as specified in policy H2.2 of the Unitary Development Plan for the City of Manchester.

27) All contractors vehicles entering and leaving the site during the construction period shall be properly sheeted.

Reason - To ensure that the proposed development is not prejudicial or a nuisance to adjacent dwellings, and in the interests of public health and amenity, pursuant to policy H2.2 of the Unitary Development Plan for the City of Manchester

28) Notwithstanding the approved drawings, full details are required to be submitted and approved in writing with the Local Planning Authority in connection with the proposed servicing arrangements for the new retail pod unit hereby approved, including the dedicated loading/unloading bay and the frequency of deliveries and servicing activities. The development shall be carried out in accordance with the details thereby approved.

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

29) Notwithstanding the approved drawings, full details in relation to the design of the raised pedestrian crossing over which the HGV's would be reversing over shall be submitted to and approved in writing by the City Council as Local Planning Authority. The gradient must be carefully determined bearing in mind the type of manoeuvre, the fact that its on a bend and the risk to pedestrians. The development shall be carried out in accordance with the details thereby approved.

Reason - In the interests of residential amenity and highway safety, pursuant to Policies H2.2, T2.6, T3.1 and T3.7 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