AVISON YOUNG

Aldi Stores Ltd

Written Appeal Statement

Aldi Foodstore, 580 Altrincham Road, Manchester, M23 9SR - Refused Planning Application Ref. 138866/JO/2023

July 2024

Contents

1. Introduction 1
2. Appeal Application 2
3. Policy Background 4
4. Planning Considerations 6
5. Conclusion 10

Appendices

Appendix I Planning App. Ref. 138866/JO/2023 – Decision Notice

Report title: Appeal Statement on behalf of Aldi Stores Ltd
Prepared by: Danny Cremen / Dan Brown
Status: Rev. 1
Draft date: 1 July 2024

For and on behalf of Avison Young (UK) Limited

1. Introduction

1.1 Following due consideration, our client Aldi Stores Ltd (thereafter referred to as 'the appellant') has instructed Avison Young to appeal the decision by Manchester City Council ('MCC') to refuse Planning Application Ref. 138866/JO/2023. The application seeks the variation of condition 5 of Planning Permission Ref. 110012/FO/2015/S2 to allow servicing hours to extend by one further hour to 9pm on Monday to Saturdays with no amendment sought to the servicing hours on Sundays, at Aldi, 580 Altrincham Road, Baguley, Manchester, M23 9SR.

1.2 The following appeal statement sets out the appellant's case based upon the Local Planning Authority's ('LPA') reason for refusal in respect of planning matters. It should be read in conjunction with the accompany Noise Proof of Evidence prepared by NSL (Doc Ref. 91500/00, Dated 3rd April 2024).

2. Appeal Application

2.1 On 29th October 2015, planning permission was granted (110012/FO/2015/S2) for the erection of a single storey extension to an existing Aldi foodstore providing a total gross internal area of 1,522 sqm together with amendments to the car parking layout to provide a total of 64 car paring spaces at the aforementioned address. The planning permission for the store extension imposed a number of operational control conditions, including one restricting the permitted servicing hours each day.

2.2 Condition 5 of planning permission ref. 110012/FO/2015/S2 restricted the servicing hours at the foodstore to between the hours of 07:00 to 20:00 on Mondays through Saturday, and 08:00 to 18:00 on Sundays. It should also be noted that Condition 5 also requires that there are no more than two deliveries by Heavy Goods Vehicles (HGV) per day between the hours of 07:00 to 09:00 Monday to Saturday and 08:00 to 09:00 Sundays and no more than two deliveries by HGV per day between the hours of 09:01 to 20:00 Monday to Saturday and 09:01 to 18:00 on Sundays. Further, no reversing warning sounds, radios, or revving of engines within the service yard are permitted. Planning Permission Ref. 110012/FO/2015/S2 forms part of this appeal submission for reference purposes.

2.3 Following the 2015 planning permission, there have been three Section 73 planning applications submitted to vary condition 5, seeking the amendment of the servicing hours. These can be summarised as follows:

Ref. 122237/JO/2018 – sought consent to extend the servicing hours on Monday to Saturday to 06:00 to 22:00, with no change to Sunday hours. It also sought consent to change the first part of the condition which reads *"No more than two deliveries by Heavy Goods Vehicles (HGV) per day between the hours of 07:00 to 09:00 Monday to Saturday and 08:00 to 09:00 Sundays and no more than two deliveries by HGV per day between the hours of 09:01 to 20:00 Monday to Saturday and 09:01 to 18:00 on Sundays. No more than one HGV delivery present at the site at any one time;"* to be changed to *"No more than one HGV delivery present at the site at any one time;"*. This application was refused permission on 29th March 2019. The reason for refusal related to the "*increase in noise nuisance and disturbance for the occupiers of residential properties, from the activities of vehicles and staff in the early morning and late at night, to the detriment of residential amenity, contrary to saved UDP policy DC26 and Core Strategy policies DM1 and SP1."*

- **Ref. 137942/JO/2023** – This more recent application sought consent to extend the servicing hours from the consented 07:00 to 20:00 Monday to Saturday to 06:30 to 23:00 Monday to Saturday. It also sought consent for an extra hours' extension on Sundays from 18:00 to 19:00. The application was refused on 7th November 2023, on grounds that the proposal would *"by reason of the close proximity of the servicing yard to residential properties, lead to an increase in noise nuisance and disturbance for the occupiers of residential properties, from the activities of vehicles and staff in the early morning and late at night, to the detriment of residential amenity, contrary to saved UDP policy DC26 and Core Strategy policies DM1 and SP1."*

- **Ref. 138866/JO/2023** – which is the subject of this appeal, sought consent for a single extra hour to the permitted servicing hours on Monday to Saturday from the consented 07:00 to 20:00 to 07:00 to 21:00, with no change sought to the permitted Sunday hours. The application was refused permission on 6th February 2024. The reason for refusal was *"The proposed extension of the servicing and delivery hours to allow servicing to take place until 21:00hrs Monday to Saturday, would, by reason of the close proximity of the servicing yard to residential properties, lead to an increase in noise nuisance and disturbance for the occupiers of residential properties, from the comings*

and goings of vehicles and staff late at night, to the detriment of residential amenity, contrary to saved UDP policy DC26 and Core Strategy policies DM1 and SP1."

2.4 As per the previous paragraph above, application ref. 138866/JO/2023, is the refused application to which this appeal is submitted. The case officer informed Avison Young that the application was going to be refused via email in advance of a decision. Upon further correspondence, the case officer outlined that the EHO had outlined in their statutory consultee response that they ***"confirmed that given there is no increase in servicing hours in the morning, that the activity in the evening would not disturb sleep, which has previously been the basis of the noise complaints received by environmental health, they have not raised an objection to the proposal* (our emphasis)*."***

2.5 Despite a detailed Noise Impact Assessment (Dated 6th December 2023) being submitted in support of planning application Ref. 138866/JO/2023 and the Council's environmental health team raising no objection to servicing take place during one additional hour in the evening, the case officer stated that the proposal had been considered in relation to the development plan and found to be contrary to policy and would be refused on that basis.

2.6 The reason for refusal of the subject application, 138866/JO/2023 (See **Appendix 1** for Decision Notice) states:

"The proposed extension of the servicing and delivery hours to allow servicing to take place until 21:00hrs Monday to Saturday, would, by reason of the close proximity of the servicing yard to residential properties, lead to an increase in noise nuisance and disturbance for the occupiers of residential properties, from the comings and goings of vehicles and staff late at night, to the detriment of residential amenity, contrary to saved UDP policy DC26 and Core Strategy policies DM1 and SP1."

3. Policy Background

National Planning Policy Framework (December 2023)

3.1 Guidance contained in the National Planning Policy Framework ('NPPF') in relation to the interpretation of noise impacts should be given particular weight in this case in our view, given that publication of the NPPF postdates the both the Manchester Core Strategy (2012) and the saved policies of the Local Plan (1995)

3.2 The National Planning Policy Framework ('NPPF') provides guidance in regard to minimising the adverse impacts of noise. Paragraph 180 states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk.

3.3 Paragraph 191 of the NPPF states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as potential sensitivity of the site or the wider area to impact that could arise from the development. it states that in doing so, the policies and decision should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to "significant adverse" impacts on health and quality of life.

3.4 Paragraph 191 of the NPPF evidently seeks to ensure that decisions *"avoid noise giving rise to significant adverse impacts on health and the quality of life".* The wording of national planning policy is therefore clear that it is 'significant adverse' impacts which are to be 'avoided', the implication being that an impact which is of a lesser magnitude than 'significant adverse' (i.e. merely adverse) should not of itself mean a scheme is contrary to development plan policy, and is capable of being outweighed by other material considerations in the planning balance.

Development Plan

3.5 The Manchester Local Plan consists of a number of planning documents, one of which, the Core Strategy (adopted in 2012) sets out the long term strategic policies for Manchester's future development. The various relevant policies of the Core Strategy are outlined below;

3.6 **Policy SP1** (Spatial Principles) outlines the Core Development Principles. It states that development in all parts of the city should making a positive contribution to neighbourhoods of choice including:

- Creating well designed places that enhance or create character.
- Making a positive contribution to health, safety and wellbeing of residents
- Protect and enhance the built environment.

3.7 **Policy DM1** (Development Management) states that all development should have regard to a number of specific issues. These include:

- Appropriate siting, layout, scale, form, massing, materials, and details.

- Impact on surrounding areas in terms of the design, scale, and appearance of the proposed development. Development should have regard to the character of the surrounding area.

- Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise.

3.8 It should be also noted that **Policy C 10** (Leisure and Evening Economy) outlines the policy provisions for new development that supports evening economy, contributes to the vitality of district centres, and supports a balanced and socially inclusive evening / night-time economy. Whilst this appeal relates to an application concerning a retail development, the specific policy provisions of residential amenity of night-time related development should be considered. Policy C10 states that this kind of development will be permitted, subject to a number of considerations including "Residential amenity – the proposed use should not create an unacceptable impact on neighbouring uses in terms of noise, traffic and disturbance."

3.9 Several saved policies of the 1995 Manchester UDP also remain part of the local development plan. Policy **UDP DC26.1** outlines 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 both:

a. The effect of new development proposals which are likely to be generators of noise; and

b. The implications of new development being exposed to existing noise sources which are effectively outside planning control."

3.10 Furthermore, saved policy **UDP DC26.4** outlines the following:

"Where the Council believes that an existing noise source might result in an adverse impact upon a proposed new development, or where a new proposal might generate potentially unacceptable levels of noise, it will in either case require the applicant to provide an assessment of the likely impact and of the measures he proposes to deal satisfactorily with it…"

4. Planning Considerations

Proposal and Rationale

4.1 As the Inspectorate will gather from the site's planning history, the foodstore is currently subject to a particularly strict servicing condition (Condition 5 of 110012/FO/2015/S2) which, as well as restricting the overall hours of servicing, limits the number of deliveries that can be made within certain periods of the day. As is commonplace with food retail operations, deliveries take place throughout the day but early mornings and late evenings are particularly important because perishable goods are delivered at this this time in order that they can be stocked fresh on shelves before the foodstore opens for trade.

4.2 In the case of the Baguley foodstore, Condition 5 currently states in relation to evening servicing that *"no loading or unloading, within both the service yard and at the front entrance of the store"* can take place beyond 20:00 Monday to Saturday. The servicing procedure at an Aldi foodstore involves a Heavy Goods Vehicle ('HGV') utilising a dedicated "loading dock". Vehicles reverse down a delivery ramp, into a sheltered canopy, and a dock leveller system is then used to enable pallets to be unloaded directly into the building's internal warehouse without any external activity, such as forklift trucks, scissor lifts, or cages. This process is largely led by the delivery vehicle driver, although there is some involvement by foodstore staff, and typically takes 30 – 60 minutes to complete.

4.3 Given the timescales involved in the servicing procedure and the current restrictions imposed by Condition 5, at present it is often necessary for servicing vehicles to arrive at site by 19:00 (or sometimes earlier) for the day's final delivery so that they depart before 20:00. With the store permitted to open until 22:00, at 19:00 there often remains a substantial number of customers within the premises and using the car park. Accommodating a delivery at this time takes staff away from the shop floor and checkouts at what can remain a busy period. Delivery vehicles arriving and maneuvering in the car park at this time also increases the prospect of conflict with private vehicles and pedestrians. These issues are compounded during peak times of the year, such as Christmas and other public holidays, when Aldi's stores can remain busy much later into the evening.

4.4 Accordingly, Aldi are seeking the variation of Condition 5 in order to permit servicing to take place until 21:00 on Monday to Saturday. This additional hour will make an important difference to the store's operation, as customer numbers inevitably drop off later into the evening, reducing the burden on sales floor staff and thereby making the delivery process more manageable. The car park will also be less busy, reducing the potential for servicing vehicle / private vehicle conflicts. These operational gains will be felt particularly during the Christmas and holiday periods, to the overall benefit of Aldi's customers and staff.

4.5 It should be noted that there are no further changes proposed to the wording of Condition 5. The proposed re-wording of the condition is as follows:

1) *"No more than two deliveries by Heavy Goods Vehicles (HGV) per day between the hours of 07:00 to 09:00 Monday to Saturday and 08:00 to 09:00 Sundays and no more than two deliveries by HGV per day between the hours of 09:01 to ~~20:00~~ 21:00 Monday to Saturday and 09:01 to 18:00 on Sundays. No more than one HGV delivery present at the site at any one time;*

2) *No more than 4 refuse collections per week;*

3) *No reversing warning sounds, radios or revving of engines within the service yard;*

4) *All other servicing, other than by HGV and refuse collection, must be carried out within the curtilage of the store car park.*

5) *No loading or unloading, within both the service yard and at the front entrance of the store, shall be carried out on the site outside the hours:*

- *Monday to Saturday 07:00 to ~~20:00~~ 21:00*
- *Sunday 08:00 to 18:00"*

Planning Justification

4.6 By way of context, Aldi's Baguley foodstore is situated just off the A560 Altrincham Road, which is an important vehicular route connecting Altrincham and surrounding areas to the M60 / M56. Altrincham Road is also a busy bus corridor, with around six services an hour in each direction at peak times, with services running from before 6am until after 11pm. Furthermore, the foodstore store is located within an established retail area of Brookway Retail Park, which forms part of Baguley (West Wythenshawe) district centre according to Paragraph 10.46 of Manchester's Core Strategy, and has operated as an important retail destination for local residents for some time.

4.7 Indeed, the Aldi foodstore itself is already permitted to open until 22:00 on the days to which the one hour extension to the servicing hours are sought. Customers and their vehicles therefore already come and go from the site with frequency up until 22:00 Monday to Saturdays. As such, this appeal does not look to create any additional hours in which the overall site can be used.

4.8 Accordingly, it can reasonably be said that the appeal site forms part of a large commercial area and defined Manchester 'district centre' on a busy vehicular route where existing ambient noise levels are already elevated throughout the day and into the evening. Indeed, a Noise Impact Assessment submitted in support of the planning application confirmed that there is no significant difference in background sound levels when comparing the Monday to Saturday noise climate between the hours of 20:00 and 21:00. This highlights that various forms of activity are already commonplace in the locality well into the evening hours of the day.

4.9 The habitable rooms of the closest residential properties to the foodstore's existing servicing dock are some 15 or so metres to the north. However, between the servicing dock and the nearest properties are already a range of acoustic mitigation measures. For example, a 3.75m high acoustic fence[1] immediately abuts the servicing ramp to the north and was provided as part of planning permission Ref. 108734/FO/2015/S2. This mitigates the potential noise impacts of servicing activities alongside a range of noise management procedures (also required by the existing conditions). The noise management procedures include no reverse warning sounds, radios or revving of engines within the service yard, and also limiting the number of HGV deliveries permitted.

4.10 Beyond the servicing dock's acoustic fence is a substantial (approx. 5.5m) landscaping buffer and a 2m high close boarded timber fence along the length of the foodstore's northern site boundary. This

[1] Minimum surface mass of 10kg/m2 and an absorbent inner lining.

provides further acoustic attenuation, separation distance and visual screening between the Aldi site and residential properties.

4.11 In light of this context, a Delivery Noise Impact Assessment (including a measured noise survey) was prepared by Noise Solutions Ltd (NSL) in May 2023. Both this report and a separate Proof of Evidence on behalf of NSL form part of this appeal submission. Based on the sound data recorded in the area and representative servicing noise, the Noise Impact Assessment concludes at Paragraphs 8.5 and 8.6 that:

"Predicted rating levels during the proposed delivery periods are below the existing representative background sound level, indicating that no worse than a negligible noise impact is anticipated. Furthermore, there is no significant difference in representative background sound levels in the existing permitted delivery periods compared with those proposed… It is therefore considered that noise should not be considered as an obstacle to deliveries within the proposed extended period, 20.00 to 21.00 hours, Monday to Saturday (our emphasis)."

4.12 This technical (quantitative) evidence clearly demonstrates that there will be no significant impacts on residential amenity by virtue of noise as a consequence of the proposal to extend by one hour the existing servicing hours during Monday to Saturday evenings. The change will evidently not lead to an increase in noise nuisance and disturbance for the occupiers of neighbouring residential properties by virtue of the fact that the noise from the servicing activities of vehicles and staff will not be perceptible above background noise levels. As a consequence, it follows that there should be no conflict with the local planning policies which seek to protect the amenities of surrounding residential occupiers, namely Core Strategy policies DM1 and SP1 and saved UDP policy DC26.

4.13 As part of the Officer Report for the appeal scheme, the case officer sets out the Environmental Health comments. These comments confirm that:

"The noise report has calculated the noise levels at the residential at the hour (8pm to 9pm) and the noise levels are predicted to be 39 dB LAeq,1 hour compared to lowest background of 40 dB LA90 at that time and the maximums of the delivery was 53-60 dB LAmax. The residents will be able to hear the delivery, but the Lamax's recorded in the baseline monitoring look to be at similar levels (60 -78 dB Lamax) so nothing out of the ordinary with regards to the ambient levels. The proposed hour is daytime and so would not disturb sleep which is what the complaints have been about at 6am".

4.14 Reference in the in the above passage to complaints in relation to 6am concern a separate historic matter at the site whereby deliveries were arriving a few minutes before 7am. This matter has subsequently been resolved by Aldi. There has been no suggestion of any equivalent condition breach in the evening period and Environmental Health evidently confirm that sleep would not be disturbed as a result of the increase in servicing hours to 21:00. Accordingly, the Environmental Health department raised no objection to the appeal scheme.

4.15 Despite the Council's Environmental Health Officer raising no objection to the planning application or disputing any submitted technical evidence, the Planning Officer recommended that the appealed planning application be refused on noise grounds in her Officer Report. The Planning Officer seemingly accepted that the maximum noise level from servicing activities, as indicated in the Environmental Noise Assessment, would not exceed recorded ambient levels or guideline limits for daytime hours. However, somewhat subjectively, she suggested that "heightened activity" at the site, immediately adjacent to residential properties, would be detrimental to the amenity for the occupiers, particularly those with gardens nearby. It was also stated that resident reports of noise

disturbance represented a factor in the decision making process. The recorded reason for refusal states that:

"The proposed extension of the servicing and delivery hours to allow servicing to take place until 21:00hrs Monday to Saturday, would, by reason of the close proximity of the servicing yard to residential properties, lead to an increase in noise nuisance and disturbance for the occupiers of residential properties, from the comings and going of vehicles and staff late at night, to the detriment of residential amenity, contrary to saved UDP policy DC26 and Core Strategy policies DM1 and SP1".

4.16 In the appellant's view, the conclusion reached by the case officer is flawed and is not supported by any substantive evidence. As the concluding paragraphs of the Noise proof of evidence highlights (Paragraph 8.1):

"The environmental health officer raises no objections with regard to the methodology or findings of the delivery noise assessment, and notes that the proposed period of the extension to delivery hours is not related to the complaints about deliveries made in the early morning."

4.17 It is clear from the agreed noise survey that there is no material difference in background sound levels when comparing the Monday to Saturday noise climate between the hours of 20:00 and 21:00. Predicted rating levels during the extended delivery period would be below these existing representative background sound levels, indicating that noise impact would be no worse than *'negligible'* in terms of their perception for local residents.

4.18 The case officer's view (as recorded in the reason for refusal) that an additional hour of servicing will lead to an *"increase in noise nuisance and disturbance"* has to be regarded as purely subjective and is not supported by any alternative technical evidence. The statement in the reason for refusal that this would be a consequence of the *"comings and going of vehicles and staff late at night"* is also questioned. This is given that the period to 21:00 is still regarded as 'daytime' based on noise impact methodology and this is confirmed in the comments provided by the EHO. There would therefore be no potential for an increase in sleep disturbance based on agreed technical evidence. Reference to an impact *"late at night"* is therefore again a wholly subjective view.

4.19 Finally, the decision reached by the planning officer in her report appears to have no regard to the fact that the foodstore can already trade until 22:00 and that it forms part of one of Manchester's defined district centres. Accordingly, even without the appeal proposal, it is unrealistic to think that noise and activity will not be taking place in and around the appeal site given its context and this is something the LPA has no control over. This is something that is very evident from the environmental noise survey.

4.20 Drawing the above together, it is the appellant's position that the proposed extension of the servicing and delivery hours to allow servicing to take place until 21:00hrs Monday to Saturday, would not lead to an increase in noise nuisance and disturbance for the occupiers of residential properties, with technical evidence demonstrating that this would not be the case. The change will also be of benefit to the operation of the Aldi foodstore and to the overall benefit of Aldi's customers and staff. The proposal is therefore considered to be compliant with saved UDP policy DC26 and Core Strategy policies DM1 and SP1, as well as the relevant policies contained within the Local Plan and NPPF which support economic growth and investment within defined district centres.

5. Conclusion

5.1 The appealed application seeks to vary a planning condition to allow the Aldi foodstore at 580 Altrincham Road, Manchester, M23 9SR to be permitted to allow deliveries for an additional hour, until 21:00 hours Monday to Saturday.

5.2 Given the timescales involved in the servicing procedure and the current restrictions imposed by Condition 5 of 110012/FO/2015/S2, at present it is often necessary for servicing vehicles to arrive at site by 19:00 (or sometimes earlier) for the day's final delivery so that they depart before 20:00. Aldi are seeking the variation of Condition 5 in order to permit an additional hour as this will make an important difference to the store's operation. Customer numbers inevitably drop off later into the evening, reducing the burden on sales floor staff and thereby making the delivery process more manageable. The car park will also be less busy, reducing the potential for servicing vehicle / private vehicle conflicts. These operational gains will be felt particularly during the Christmas and holiday periods, to the overall benefit of Aldi's customers and staff.

5.3 With regards the existing position at and surrounding the site, this Appeal Statement has highlighted that:

- Aldi's Baguley foodstore is situated just off the A560 Altrincham Road, which is an important and busy vehicular route connecting Altrincham and surrounding areas to the M60 / M56. Altrincham Road is also a busy bus corridor, with around six services an hour in each direction at peak times, with services running from before 6am until after 11pm.

- The foodstore store is located within an established retail area of Brookway Retail Park, which forms part of Baguley (West Wythenshawe) district centre according to Paragraph 10.46 of Manchester's Core Strategy, and has operated as an important retail destination for local residents for some time.

- The Aldi foodstore is already permitted to open until 22:00 on the days to which the one hour extension to the servicing hours are sought. Customers and their vehicles therefore already come and go from the site with frequency up until 22:00 Monday to Saturdays. As such, this appeal does not look to create any additional hours in which the overall site can be used.

- Between the servicing yard and nearest properties there are already acoustic boundaries alongside a range of noise management procedures (also required by the existing conditions). The noise management procedures include no reverse warning sounds, radios or revving of engines within the service yard, and also limiting the number of HGV deliveries permitted.

5.4 This appeal is supported by a Noise Impact Assessment, prepared by NSL (May 2023). The technical (quantitative) evidence clearly demonstrates that there will be no significant impacts on residential amenity by virtue of noise as a consequence of the proposal to extend by one hour the existing servicing hours during Monday to Saturday evenings. The change will evidently not lead to an increase in noise nuisance and disturbance for the occupiers of neighbouring residential properties by virtue of the fact that the noise from the servicing activities of vehicles and staff will not be perceptible above background noise levels.

5.5 The Environmental Health Officer's consultee response to the appealed application, raises no objections with regard to the methodology or findings of the delivery noise assessment and notes

that the proposed period of the extension to delivery hours is not related to past complaints about deliveries made in the early morning. Accordingly, the Environmental Health department raised no objection to the appeal scheme.

5.6 Despite the Council's Environmental Health Officer raising no objection to the planning application or disputing any submitted technical evidence, the Planning Officer recommended that the appealed planning application be refused on noise grounds in her Officer Report. However, this appeal statement has highlighted that the conclusion reached by the officer is subjective and not supported by any alternative technical evidence. It also has no regard to the fact that the foodstore can already trade until 22:00 and forms part of one of Manchester's defined district centres. Accordingly, even without the appeal proposal, it is unrealistic to think that noise and activity will not be taking place in and around the appeal site given its context and this is something the LPA has no control over. This evident from the findings of the Environmental Noise Survey which no party disputes.

5.7 In summary, the appellant's position is that the proposed extension to servicing and delivery hours to allow servicing to take place until 21:00hrs Monday to Saturday, would not lead to an increase in noise nuisance and disturbance for the occupiers of residential properties, with technical evidence demonstrating that this would not be the case. The change will also be of benefit to the operation of the Aldi foodstore and to the overall benefit of Aldi's customers and staff. The proposal is therefore considered to be compliant with saved UDP policy DC26 and Core Strategy policies DM1 and SP1, as well as the relevant policies contained within the Local Plan and NPPF which support economic growth and investment within defined district centres.

Appendix I

Planning App. Ref. 138866/JO/2023 – Decision Notice

MANCHESTER CITY COUNCIL

Town & Country Planning Act 1990 (as amended)

Refusal of Planning Permission

Applicant

Aldi Stores Limited
C/o Agent

Agent (if used)

Danny Cremen
Avison Young
11 York Street
Manchester
M2 2AW

Part 1 – Particulars of the application/development

Proposal: Variation of condition 5 (Servicing Hours) attached to planning permission reference 110012/FO/2015/S2 to allow amended servicing hours as follows: 1. No more than two deliveries by Heavy Goods Vehicles (HGV) per day between the hours of 07:00 to 09:00 Monday to Saturday and 08:00 to 09:00 Sundays and no more than two deliveries by HGV per day between the hours of 09:01 to 21:00 Monday to Saturday and 09:01 to 18:00 on Sundays. No more than one HGV delivery present at the site at any one time;
2. No more than 4 refuse collections per week;
3. No reversing warning sounds, radios or revving of engines within the service yard;
4. All other servicing, other than by HGV and refuse collection, must be carried out within the curtilage of the store car park.
No loading or unloading, within both the service yard and at the front entrance of the store, shall be carried out on the site outside the hours: Monday to Saturday 07:00 to 21:00, Sunday 08:00 to 18:00

Location: Aldi, 580 Altrincham Road, Manchester, M23 9SR

Date of application: 19 December 2023

Application number: 138866/JO/2023

Part 2 – Particulars of decision

Manchester City Council gives notice that the development referred to in Part 1 has been **Refused** in accordance with the application and plans submitted for the reason(s) listed below.

Article 35 Declaration

The local planning authority in making its decision has had due regard to paragraph 47 of the National Planning Policy Framework as well as the development plan, national planning policy and other material considerations and has refused the application for the reasons outlined in the delegated report.

Reason(s) for decision

1) The proposed extension of the servicing and delivery hours to allow servicing to take place until 21:00hrs Monday to Saturday, would, by reason of the close proximity of the servicing yard to residential properties, lead to an increase in noise nuisance and disturbance for the occupiers of residential properties, from the comings and goings of vehicles and staff late at night, to the detriment of residential amenity, contrary to saved UDP policy DC26 and Core Strategy policies DM1 and SP1.

Date: 6 February 2024

Signed: 

Julie Roscoe
Director of Planning, Building Control & Licensing

Manchester City Council, P O Box 532, Town Hall, Manchester M60 2LA

Notes

1. This decision relates only to that required under the Town and Country Planning Act 1990 does not include any consent or approval under any other enactment, byelaw, order or regulation.

2. If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, they may appeal to the Secretary of State in accordance with Section 78(1) of the Town and Country Planning Act 1990 within six months of the date of the notice of the decision. However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:

- 28 days from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
- 28 days from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).

The Planning Inspectorate have introduced an online appeals service that can be used to make appeals online. This service is available through the gov.uk website – www.gov.uk/appeal-planning-decision. The Inspectorate will publish details of your appeal on the internet. Alternatively If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State has power to allow a longer period for the giving of a notice of appeal but they will not normally be prepared to exercise this power unless there are special circumstances that excuse the delay in giving notice of appeal.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the City Council (planning@manchester.gov.uk) and the Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

3. The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely Sections 70(1) and 72(1) of the Act.

4. If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990

5. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to them. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

Contact details

Enquiries

Danny Cremen / Dan Brown
161 228 1001
danny.cremen@avisonyoung.com

Visit us online
avisonyoung.com

Avison Young

11 York Street, Manchester M2 2AW

Copyright © 2024. Avison Young. Information contained in this report was obtained from sources deemed reliable and, while thought to be correct, have not been verified. Avison Young does not guarantee the accuracy or completeness of the information presented, nor assumes any responsibility or liability for any errors or omissions therein. All opinions expressed and data provided herein are subject to change without notice. This report cannot be reproduced, in part or in full, in any format, without the prior written consent of Avison Young.