
2021/0753 – S73 Variation of Condition Application

Applicant: Aldi Stores Ltd

Description: Variation of condition 10 (delivery hours) of planning permission 2019/1234 - Erection of a foodstore with parking, landscaping and associated works

Site Address: Land south of High Street, Royston, Barnsley.

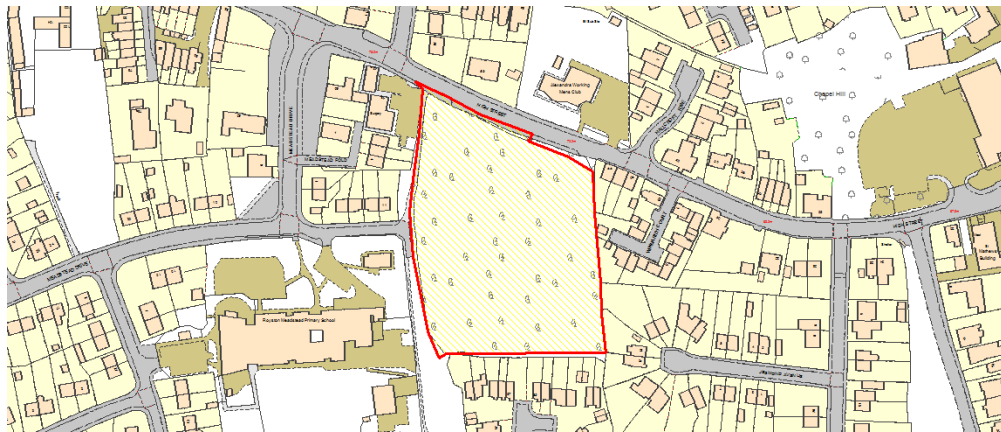
Site Location and Description

The site is located due west of Royston District Centre, it is a cleared employment site having until recent years supported the Royston Springs factory. It is rectangular in shape with a frontage to High Street, it measures approximately 1ha in size.

Levels fall across the site (West to East) by approximately 2.5m along the frontage to the highway, within the site they fall to the rear by up to 9m. The site has been cleared of any buildings and some provisional highways works appear to indicate that the development has begun. Vegetation is largely self-set although mature trees are found along the sites boundaries. The site is bound by a stone wall across the northern boundary fronting High Street, a mixture of permanent fencing, hedges and trees on the western boundary as well as a mixture of vegetation and wooden fencing on the eastern and southern boundaries.

The site is proximate to residential properties across Winmarith Court and Jesmond Avenue to the east, Cropton Road to the south and Meadstead Fold and Drive to the west. Meadstead Primary school is also located across the western boundary, a footpath links the school and nearby properties to High Street to the north where one residential dwelling and Alexandra Working Men's Club face the site over the highway forming High Street.

Development of the site, originally granted permission under application 2019/0289, is now complete and the Aldi store has been operational on the site for some time. The loading bay of the store is located upon its southern elevation and vehicles are required to reverse across the southern elevation into the loading dock which is at the south eastern corner of the site.



Proposed Development

The application has been submitted under section 73 of the Town and Country Planning Act [as amended] to vary condition 10 (Delivery Times) of decision notice 2019/1234 which requires the development approved under that application to be carried out and conducted strictly in accordance with the delivery time limits stipulated within that condition.

The purpose of the application is a minor amendment to the delivery times from the existing to the proposed wording set out below:

Current Wording:

Deliveries shall only take place between the hours of 0700 & 2300 Monday to Saturday and 0800 & 1800 on Sundays.

Proposed Wording:

Deliveries shall only take place between the hours of 0600 & 2300 Monday to Saturday and 0800 & 2000 on Sundays

Planning History (for current site use)

2014/0318 - Erection of a foodstore with parking, landscaping and associated works (Full) and erection of a residential development (Outline) including details of access – Approved with Conditions

2014/1528 - Erection of a foodstore with parking, landscaping and associated works. (Full – Smallscale Major Retail) – Approved with Conditions

2019/0289 - Variation of condition 2 (approved plans) of planning permission 2014/1528 - Erection of a foodstore with parking, landscaping and associated works to enable increased floorspace, revised roof design, car parking, tree layout and changes to external facing materials. – Approved with Conditions

2019/1234 - Variation of condition 1 (Approved Plans) and 8 (Construction Method Statement-CMS) of planning permission 2019/0289 to re-locate the plant area and provide details of the CMS - Erection of a foodstore with parking, landscaping and associated works – Approve with Conditions

2019/1312 - Display of 2 no. internally illuminated fascia signs, 1no vinyl sign sign and 1 no. internally illuminated totem sign to building – Approve with Conditions

2020/0426 - Details of conditions 9 (Boundary Treatments), 23 (Car Park Management Plan) and 24 (Security Lighting) of planning permission 2019/1234 -Erection of a foodstore with parking, landscaping and associated works as amended under app ref 2019/0289 – Discharged

2020/0509 - 1no internally illuminated fascia sign on foodstore – Approve with Conditions

2020/1125 - Display of 1 no internally illuminated freestanding totem sign - Refused

Policy Context

Planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making. The Local Plan is the borough's statutory development plan. It is supported by a series of adopted Supplementary Planning Documents and Supplementary Planning Guidance Notes, which are other material considerations.

Local Plan

The new Local Plan was adopted at the full Council meeting held 3th January 2019 after it was found to be sound by the appointed Planning Inspector following the examination process. This means that it now takes on full weight for decision making process in planning law terms as the development plan for the Borough, superseding the remaining saved policies from the Unitary Development Plan (adopted in the year 2000) and the Core Strategy (adopted in 2011).

Relevant Local Plan policies include:

GD1 – General Development – Development will be approved if there will be no significant adverse effect on the living conditions and residential amenity of existing and future residents.

D1 – High Quality Design and Place Making – Development is expected to be of a high quality design and will be expected to respect, take advantage of and reinforce the distinctive, local character and other features of Barnsley.

T4 – New Development and Transport Safety – New development will be expected to be designed and built to provide all transport users within and surrounding the development with safe, secure and convenient access and movement.

POLL1 – Pollution Control and Protection - Development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air, surface water, and ground water, noise, smell, dust, vibration, light or other pollution which could unacceptably affect or cause a nuisance to the natural and built environment.

National Planning Policy Framework

The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).'

SPD's

- Residential Amenity and Siting of Building's

Consultations

The following responses have been received from consultees:

Pollution Control: Satisfied that the hours proposed are acceptable subject to the implementation of the proposed mitigation measures.

Representations

The application has been advertised by way of a site notice and press notice. Properties within the vicinity have been consulted directly in writing. 4no. representations have been received setting out the following issues:

82 Cropton Road:

- Concern is the increase in consequential noise due to unloading activities from vehicle movement (engine noise) and associated ancillary items such as rattling of trailer doors, loading bay doors and equipment used to unload goods, eg rattling of hand pallet trucks and cage baskets.
- Please note such activities currently operating Monday to Saturday 7am -11pm and Sundays 8am - 6pm can already be heard but are tolerated. However, the prospect of earlier starts and later finishes to these activities and the associated noise is a cause for concern. This will undoubtedly create a negative effect by disturbing our sleep patterns and be distressing due extended periods of noise on peaceful Sunday evenings.

9 Winmarith Court:

- I would ask that the new proposal of changing the delivery times be denied. In the case they state that one hour earlier is not much of a change; however, with young children in the house, a delivery coming at 6am and waking them up is not an ideal situation. Also, if it isn't a huge change to the hours which they are allowed deliveries now then I would argue why they need changing at all, as a delivery at 7am allows for plenty of time to put away before an 8am opening. There were surely many reasons as to why the current delivery hours were put into place when the planning was granted, therefore I do not see why any changes should be made to the current restrictions.

Resident of Cropton Road – No Address

- This application to deliver all hours is another nail in the coffin, since the Aldi was built behind my home. I have been blighted by garden flooding which Aldi will not accept any responsibility for, and also had to tolerate noise from deliveries day and night at varying hours.

The loading bay is directly behind my home and the bedroom that myself and my very poorly husband sleep in. The noise from deliveries is already causing sleepless nights and has taken away the tranquility of sitting in my garden as it is now just so noisy, especially when the delivery wagons are there.

Any extension to the already horrendous delivery times would cause untold misery for me and my husband due to the noise, and is already causing a great deal of anxiety and stress.

I implore you to decline this application and consider us long term residents, something that you did not do what you did when accepting the initial application in the most unsuitable location and land.

49 Cropton Road

I am strongly opposed to this change in delivery hours. My house directly faces the delivery area for Aldi (address: 49 Cropton Road, Royston) and as it currently stands the delivery lorries do not stick to the delivery times they're supposed to so I feel like this extension would only cause the deliveries to take place even earlier and even later than the application suggests. At times the lorries and the process of unloading the deliveries can be very loud. They can clearly be heard in every room of my house and given that my bedroom faces the delivery area I feel the change in hours would cause even more disruption at even earlier and later hours than it already does.

Delivery lorries can often be heard from 6am onwards currently which is clearly outside of the current agreed hours for delivery. If Aldi are allowed to extend their hours and state that they would like to start delivering from 6am I feel this will give them leeway to start much earlier than this seen as they don't seem to stick to the original agreed delivery times anyway. The change would have an impact on the enjoyment of my home and sleeping patterns due to the loud noises often caused by the deliveries.

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To summarise the above representations, the concerns from local residents centre on the impact the extra delivery hours shall have on their sleep and the general enjoyment of their home particularly in respect of the noise that will be created from the delivery vehicles throughout the delivery process.

Assessment

Principle of development

The purpose of the assessment is not intended to revisit the principle of development which has been established through three previous full planning permissions covered under 2014/0318, 2014/1528 and 2019/0289. The assessment will be conducted specifically in relation to the minor material amendments proposed to condition 10 (delivery times) of extant permission 2019/1234 and any associated impacts the amendments may create.

The proposal simply relates to the alteration of the available delivery times of the Aldi store. This amendment is not determined to affect the principle of development given its minor variation of the original permission and shall thus be assessed in line with Local Policies to determine whether the amended delivery times will maintain acceptable levels of amenity for residents in closest proximity to the affected area of the site.

Residential Amenity

The issues raised by representors relating to the amendment to condition 10 of permission 2019/1234 centre on the extension of delivery times to the Aldi store in Royston both in the early morning (from 6am) Monday to Saturday and later in the evening (up to 8pm) on Sundays.

These concerns are understood and acknowledged by the LPA as tangible impacts which affect the quality of life of local residents through the extension of delivery hours which can be noisy and disturbing to residents sleep and the enjoyment of their property. That being said, the time extensions requested are modest, an extra hour in the morning Monday to Saturday and an extra two hours on Sundays.

Contextually, of the 51 neighbours consulted, only 4no. responses have been received by the LPA. Nevertheless it is appreciated that a large number of these addresses will be impacted significantly less than the addresses most proximate to the loading bay on the south eastern corner of the building. Indeed those properties which adjoin the Aldi store's curtilage at the northern end of Cropton Road and on the western side of Jesmond Avenue are those likely to be most affected, though it is not disputed that noise resulting from deliveries to the store will likely be heard at Winmarth Court. Nevertheless it is not felt, given the distance and foliage between the loading bay and addresses on this street, that impacts will be unacceptably high from an increase in delivery hours to those that are proposed.

In respect of Jesmond Avenue, the loading bay is angled away from this street and therefore the noise emanating from deliveries is likely to be shielded from these properties and their curtilages by the store building itself. It is considered that a lack of any representations from any addresses on Jesmond Avenue is reflective of this situation.

The most proximate addresses to the store are those likely to receive the most impact from the extension of delivery hours, hence the 2no. representations from both 49 and 82 Cropton Road. However this should be viewed contextually against the total of 11no. dwellings in the building line set below the Aldi Store, 9 of whom have not issued a representation to the LPA in relation to the extension of delivery hours. The site was previously a Spring Factory that was since cleared prior to the Aldi being developed. The site adjacent to Cropton Road has therefore been historically subject to high levels of activity and indeed a permission dating from 1995 (B/95/0295/RO) for an extension incorporating a warehouse, loading dock and offices had no controls relating to delivery times.

In the context of the planning balance that needs to be struck relating to the impacts cited by the representors on Cropton Road versus the needs of the Aldi store to have a flexible logistical system in place, the LPA are sympathetic to the concerns highlighted by those representors, especially given the fall outside the day time hours cited by the World Health Organisation. However the level of public benefit from the earlier hour of 6am Monday to Saturday for a delivery and the later hours up to 8pm on Sundays is considered to outweigh the issues experienced by the representors.

This is not an easy decision for the LPA to reach as the matter is understood to be sensitive to those who will be negatively affected by disturbance at an earlier time in the day throughout the week (and later on a Sunday) than they find acceptable. However the LPA's decision to allow an increase in this particular Aldi store's delivery times is predicated on the recent Ministerial Statement provided here: <https://questions-statements.parliament.uk/written-statements/detail/2021-07-15/hcws187> as well as the lack of complaints made about the operation of the site cited by Pollution Control colleagues in respect of noise nuisances emanating from the delivery of goods.

It is understood that the measures cited within the Ministerial Statement are temporary and that the change to the condition in this instance will be permanent. The application made by the applicant for flexibility of their delivery hours was made before the relaxation of the driver's hours rules and the Ministerial Statement relating to pragmatism in enforcement of planning conditions for delivery times. The LPA are therefore cognisant of the stresses within the distribution network and wish to support the satisfactory delivery of essential goods for the benefit of local people. Importantly the agent's cover letter states that no extra deliveries shall be made to the store, and this is understood to be legitimate as too many deliveries of goods could lead to waste and unacceptable costs to the retailer, therefore it is within their best interests to minimise deliveries to the store on cost grounds.

More practically, there is mitigation in place to further reduce the impact of noise on adjacent properties on Jesmond Avenue and Cropton Road in the form of the close-boarded acoustic fencing across the southern boundary which is likely to mitigate most sound creation that will emanate from delivery noise. Likewise the delivery practices set out within the agent's cover letter (i.e. no reversing beepers outside of store opening hours, refrigeration units turned off while a delivery vehicle is on site, delivery vehicle engines not left on idle for extended period, all unloading taking place internally.) Cumulatively these measures, alongside the acoustic fencing, are believed to be sufficient to ameliorate for the extended opening times which, as previously mentioned, are modest in scope.

It is consequently determined that the proposal will fall within acceptable limits based upon the submitted information in the cover letter and the response gained from Pollution Control colleagues, consequently amenity standards will not be compromised in line with Local Plan Policy GD1 and the SPD Residential Amenity and Siting of Buildings.

Highway Safety

An increased quantum of deliveries is not anticipated to take place from approval of this variation of condition 10 of 2019/1234 and the increased delivery hours may even prove beneficial to the congestion of the road network at peak hours, especially on Mondays. The alteration to the delivery times is consequently determined to be in line with LP Policy T4 New Development and Transport Safety.

Conclusion

The proposal amounts to a modest alteration to the operation of the foodstore in respect of its delivery hours. The amendment does raise issues on amenity grounds that, on balance, are outweighed by the public benefit in respect of the supply of essential goods to an important community retailer. Similarly, the store has not sustained any statutory nuisance complaints to Pollution Control colleagues and is also likely to prove beneficial to congestion on the highway network.

The amended plans are considered to accord with all relevant policies of the Local Plan as well as the principles of the NPPF. As such it is recommended that the amendments should be accepted.

Recommendation

Grant subject to conditions