



Appeal Decision

Site visit made on 23 January 2024

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2024

Appeal Ref: APP/R0335/W/23/3324481

Aldi, 390 Yorktown Road, College Town, Sandhurst GU47 0HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Aldi Stores Limited against the decision of Bracknell Forest Council.
- The application Ref 22/00732/FUL, dated 26 August 2022, was refused by notice dated 16 February 2023.
- The application sought planning permission to vary delivery hours and the Delivery Management Plan imposed under Conditions 1 and 2 of planning permission 20/00698/FUL, dated 15 February 2021.
- Conditions No 1 and No 2 state that:
 - 1) *No deliveries shall be taken at or dispatched from the site outside the hours of: Mondays to Saturdays - 07:00 hours until 22:00 hours; Sundays - 09.00 hours until 19.00 hours.*
 - 2) *The delivery hours hereby approved shall operate at all times in accordance with the Delivery Management Plan received 10 February 2021 by the Local Planning Authority.*
- The reason given for the conditions are: *In the interests of the amenities of the occupiers of nearby residential properties.*

Decision

1. The appeal is allowed and planning permission is granted for the variation of conditions 1 (delivery hours) and 2 (Delivery Management Plan) of planning permission 20/00698/FUL to alter delivery hours and the Delivery Management Plan at Aldi, 390 Yorktown Road, College Town, Sandhurst GU47 0HL in accordance with the terms of the application, Ref 22/00732/FUL, dated 26 August 2022, subject to the conditions set out in the schedule attached.

Background and Main Issue

2. Planning permission was granted at the appeal premises subject to a number of conditions including two which restricted deliveries to and from the site to specified hours.
3. The appeal seeks to vary conditions 1 and 2 of permission Ref: 20/00698/FUL to extend the permitted delivery hours to between 06:00 hours until 23:00 hours, Monday to Saturdays, and 07.00 hours until 19.00 hours on Sundays. The appeal also proposes a revised Delivery Management Plan.
4. This would in effect extend delivery hours by an extra hour both in the morning and in the evening Mondays to Saturdays and by an extra two hours on Sunday

mornings. It would also introduce additional measures to mitigate noise and disturbance.

5. Having regard to the appeal submissions and background, the main issue is the effect the proposed change in the hours would have upon the living conditions of neighbouring residential occupants with particular reference to noise and disturbance.

Reasons

6. All vehicles enter and leave the site from Yorktown Road via an access to the side of the existing store into the carpark. The delivery / service area is to the carpark side of the store and is partly enclosed by a combination of the store to two sides and a neighbouring building to a third side.
7. Residential occupiers are sited near to the appeal site including, but not limited to, Yorktown Road, Cavendish Park, Hogarth Close, Landseer Close, Fraser Mead and Cruikshank Lea.
8. The Council's Development Plan protects residents from unacceptable noise. The Noise Policy Statement for England 2010 also aims to ensure the effective management and control of noise, to avoid significant adverse impacts on health and quality of life. This is consistent with Paragraph 191 of the National Planning Policy Framework ("the Framework").
9. I have no doubt that controlling unacceptable noise is fundamentally necessary for health and wellbeing. It is therefore essential that the planning system balances the interests of residential occupiers with commercial concerns.
10. The proposed variation would extend into sensitive times during the early morning and late evening. The Environmental Noise Assessment ("the Assessment") submitted by the appellant, the findings of which I have no reason to dispute, recognises that noise levels such as deliveries and unloading would increase over background levels.
11. However, additional noise does not automatically translate into unacceptable harm. I appreciate that some additional noise could be perceptible under certain conditions such as when residential windows would be open. However, such impacts are shown in the Assessment to not have a significant adverse impact.
12. Furthermore, to mitigate potential noise impacts, the appellant's updated Delivery Management Plan identifies several measures to ensure deliveries and collections are undertaken in a quiet manner.
13. Given the updated Delivery Management Plan, and findings of the Assessment, it has not been objectively demonstrated that predicted noise levels from delivery activity would give rise to significant adverse impacts as identified in the Framework.
14. I have also considered the noise assessment submitted with the previous planning application, 20/00698/FUL, provided as Appendix 1 in the Councils Statement of Case. I note this previous report found an initial assessment of significant adverse impact.
15. However, this was reduced to no observed adverse impact with consideration of the context and the report concluded that the proposed delivery hours were

acoustically viable. The previous report, therefore, does not alter my findings on this main issue.

16. I acknowledge the points raised by interested parties in relation to the exploration of further mitigation measures such as acoustic boundary treatments. However, there is no evidence before me which confirms any additional mitigation beyond the updated Delivery Management Plan would be required.
17. Breaches of planning conditions would be a matter for the Council's Planning Enforcement Service. I have not been provided with robust evidence to suggest the appellant routinely disregards conditions. Even if this was the case, the Council has powers to investigate and secure such breaches. This therefore has limited bearing on my overall decision.
18. To conclude on this issue, on the basis of the evidence before me, the proposed variation of hours for deliveries would not have an unacceptable effect on the living conditions of neighbouring residential occupants with particular reference to noise and disturbance.
19. As such, it would not conflict with the relevant provisions of Policies EN20 and EN25 of the Bracknell Forest Borough Local Plan (2002) and the Framework. Which, amongst other things, seeks to ensure a satisfactory level of amenity for occupiers of neighbouring properties.

Conditions

20. The appellant and the Council have suggested wording for the modified conditions. I have considered these in light of the advice set out in both the Framework and the PPG. As the modifications relate solely to the variation of the delivery hours and the Delivery Management Plan, I have broadly used similar wording to the existing conditions.
21. To assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission unless they have already been discharged¹. As the conditions from the original planning permission are either regulatory/ongoing or standard conditions, they would be still relevant and therefore I have imposed all of them on this permission.

Conclusion

22. For the reasons given above and having had regard to all other matters raised, I allow this appeal and grant a new planning permission subject to the schedule of conditions listed.

N Praine

INSPECTOR

¹ PPG Paragraph: 015 Reference ID: 17a-015-20140306.

Schedule of Conditions (4 in total)

- 1) No deliveries shall be taken at or dispatched from the site outside the hours of:
 - i) Mondays to Saturdays - 06:00 hours until 23:00 hours;
 - ii) Sundays - 07.00 hours until 19.00 hours.
- 2) The delivery hours hereby approved shall operate at all times in accordance with the Delivery Management Plan (Quiet Delivery Scheme) dated August 2022.
- 3) The visibility splays shall be kept clear of all obstructions above a height of 0.6 metres.
- 4) The areas shown on the approved plans as parking, access, loading, unloading and manoeuvring areas shall be kept clear for these purposes and shall not be used for any storage, industrial or business purposes.

End of Schedule of Conditions