

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Case No: 23/00449/FUL
Proposal Description: Application Reference Number: APP/L1765/A/08/2081079 (08/00279/FUL) Date of Decision: 26/02/2023
To vary Condition 17 to allow the store to receive deliveries between 08:00 to 19:00 on Sundays and Public Holidays. Propose that the wording of the condition is amended as follows:
No deliveries shall be taken at or dispatched from the site except between the hours of 07:00 - 22:00 Mondays to Fridays, 07:00 - 10:00 and 12:00 - 22:00 on Saturdays, and 08:00 - 19:00 hrs on Sundays and Bank Holidays

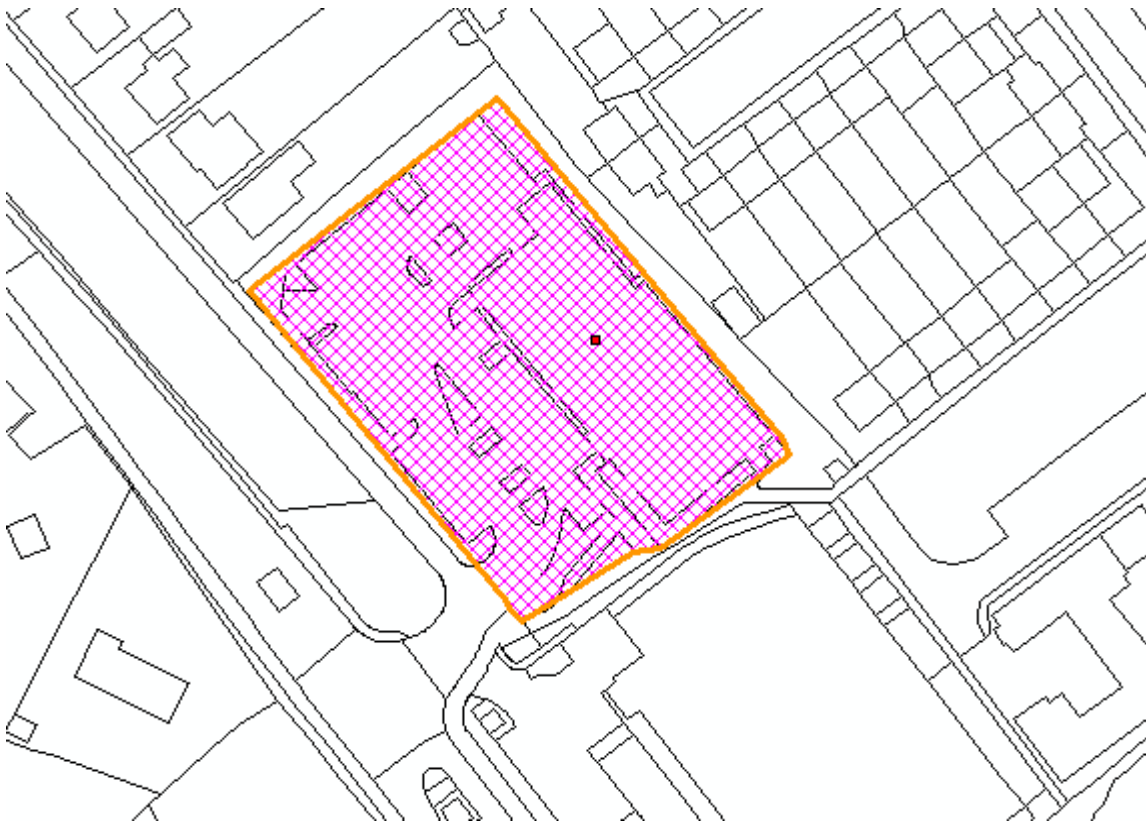
Address: Aldi Foodstore Ltd 2 Burnett Close Winchester Hampshire SO22 5JQ

Parish, or Ward if within Winchester City: St Barnabas

Applicants Name: Aldi Stores Limited
Case Officer: Sean Quigley
Date Valid: 21 February 2023
Recommendation: Permit
Pre Application Advice No

Link to Planning Documents

23/00449/FUL
<https://planningapps.winchester.gov.uk/online-applications/search.do?action=simple>



Case No: 23/00449/FUL

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

© Crown Copyright and database rights Winchester City Council Licence 100019531

Reasons for Recommendation

The development is recommended for permission as it is considered that whilst the proposed changes will have a have a level of impact that at times could be of some detriment in terms of noise on the residential amenities of nearby occupiers by lengthening the period during which deliveries are permitted, the harm is not so significant as to justify the refusal of planning permission. The proposal is in accordance with LPP1 policies DS1, WT1, CP8, CP9, CP13 and LPP2 policies DM7, DM16, DM17, DM18, DM19 and DM20.

General Comments

The application is reported to Committee because of the number of objections received contrary to the Officer's recommendation.

Amendments to Plans Negotiated

None

Site Description

The site is an existing Aldi supermarket (approximately 1305 sqm gross building area) on a site of approximately 5000sqm/0.5Ha with a vehicle and pedestrian access onto Burnett Close which runs along its western boundary. The site is part of the Weeke local centre - a cluster of town centre uses serving a wider suburban residential area in this location. The rectangular site is bounded on its northern and eastern boundaries by residential development on Burnett Close and Fromond Road.

The site is not in a conservation area and there are no other specific land-use constraints.

Proposal

The proposal is for the amendment of the existing condition 17 which controls when deliveries can occur on Sundays and bank holidays – currently restricted to between 08:00 and 16:00. The proposed change will extend that period to 19:00.

Relevant Planning History

08/00279/FUL for the Aldi supermarket was refused by the Council in June 2008. This decision was the subject of an appeal (APP/L1765/A/08/2081079) which was allowed. Condition 17, which controls delivery times, was attached to that permission and it is that condition which the applicant has applied to vary.

21/01365/FUL to vary conditions 17 and 18 (attached to permission APP/L1765/a/08/2081079) was refused by the Council in July 2021. The application sought to extend the delivery times from 7.00 to 22.00 on Saturdays, and 8.00 to 16.00 on Sundays and Bank Holidays to 6.00 to 23.00 Monday to Friday, and 7.00 to 18.00 on Sundays and Bank Holidays. The application also sought the removal of condition 18 which prohibits deliveries by articulated lorry while the store is open.

Case No: 23/00449/FUL

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Consultations

Service Lead – Public Protection (Environmental Health)

Environmental Health have no objection to this application. It is recommended that a condition is included requiring compliance with the quiet delivery scheme submitted as part of this application (as offered by the applicant)

Hampshire County Council (Highway Authority)

The Highway Authority have no objection to the proposed development allowing the Aldi store to receive deliveries between 08:00 to 19:00 on Sundays and Public Holidays.

Representations:

The City of Winchester Trust – the trust neither objected to or supported the application, noting that a previous application to extend delivery hours on Sundays/BH to 6p.m. was refused. We hope that neighbouring properties are aware of this application and any views are taken into account.

6 objecting representations received from different addresses citing the following material planning reasons:

- The unloading of heavy goods vehicles will be noisy, causing unacceptable disturbance to residents
- The arrival and departure of heavy goods vehicles will be noisy, causing unacceptable disturbance to residents
- The proposed extension of delivery times will create noise at times which are particularly precious to nearby residents - late afternoon/early evening on Sundays and bank holidays
- Increased heavy goods vehicle movements will make it difficult for vehicles using Burnett Close to access Stockbridge road.
- Increased heavy goods vehicles will increase the risk of accidents for pedestrians and cyclists
- The need for the extension of delivery times has not been demonstrated by the applicant
- The proposed change will make access to Stockbridge Road by car more difficult
- The existing level of disturbance from deliveries is already unacceptable
- The noise study and quiet delivery scheme details submitted with the application are incomplete, impractical and will not be adhered to.

0 supporting representations received from different addresses.

Relevant Government Planning Policy and Guidance

National Planning Policy Framework

Para 1 - Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

Case No: 23/00449/FUL

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Para 7 - The purpose of the planning system is to contribute to the achievement of sustainable development an environmental objective

Para 8 - Achieving sustainable development means that the planning system has three overarching objectives..... an economic objective, a social objective and an environmental objective.

Para 10 - at the heart of the Framework is a presumption in favour of sustainable development, an environmental objective

Para 11 - For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay

Para 56 - Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Para 81 - Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Para 86 - Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

National Planning Practice Guidance

Para 006 (21b-006-20190315) - To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise

The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application or appeal. This includes the presumption in favour of development found at paragraph 14 of the Framework.

Para 009 – (21b-009-20140306) - Provided regard is had to all material considerations, it is for the decision maker to decide what weight is to be given to the material considerations in each case.

Para 001 (30-001-20190722) - Noise needs to be considered when development may create additional noise, or would be sensitive to the prevailing acoustic environment

Para 003 - (30-001-20190722) - Plan-making and decision making need to take account of the acoustic environment and in doing so consider:

- whether or not a significant adverse effect is occurring or likely to occur;
- whether or not an adverse effect is occurring or likely to occur; and
- whether or not a good standard of amenity can be achieved.

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Para 001 - 2b-001-20190722 – for planning purposes, town centres as defined in the National Planning Policy Framework comprise a range of locations where main town centre uses are concentrated, including city and town centres, district and local centres

Winchester Local Plan Part 1 – Joint Core Strategy (LPP1)

DS1 – Development Strategy and Principles
WT1 – Development Strategy for Winchester Town
CP8 – Economic Growth and Diversification
CP9 – Retention of Employment Land and Premises

Winchester District Local Plan Part 2 – Development Management and Site Allocations

DM7 – Town, District and Local Centres
DM16 – Site Design Criteria
DM17 – Site Development Principles
DM20 – Development and Noise

Supplementary Planning Documents

National Design Guide 2019
High Quality Places 2015
Air Quality SPD September 2021

Other relevant documents

Carbon Neutrality Action Plan 2020-30

Statement of Community Involvement 2018 and 2020

Winchester District Economic Development Strategy 2010-2020

Planning Considerations

Principle of development

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and paragraph 47 of the National Planning Policy Framework (NPPF, 2021) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The principle of the use of the site for a retail supermarket has been established as the store is already in operation. The retail use is in accordance with the thrust of the Council's development strategy as set out in LPP1 policy DS1 which applies a "town centres first" approach to retail development proposals. The use is also in accordance with other local plan policies encouraging appropriate development in Winchester Town (WT1), economic development and diversification (CP8/CP9) and development in local centres (DM7)

In principle it is acceptable to vary a planning condition, subject to impacts. The most significant potential impacts of the proposed changes are those relating to noise given the proximity of existing homes, and those relating to the impact on the local road network. In

Case No: 23/00449/FUL

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

this context, the assessments of the Council's Environmental Protection Officer (EPO) and the Highway Authority are considered.

Assessment under 2017 EIA Regulations.

The development does not fall under Schedule I or Schedule II of the 2017 Environmental Impact Assessment Regulations, therefore an Environmental Impact Assessment is not required.

Impact on character and appearance of area

The application site defines the boundary between the Weeke local retail centre to the south and the established residential area to the north and east. The existing established use of the site is as a busy medium-sized supermarket serving the local and wider area. The proposed extension of delivery hours will not have a significant impact on either the character or appearance of area and therefore the proposal is in accordance with local plan policies CP13, DM16 and DM17.

Development affecting the South Downs National Park

The application site is located approximately 2km from the South Downs National Park.

Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and The National Planning Policy Framework (NPPF) updated 2021. The Circular and NPPF confirm that National Parks have the highest status of protection, and the NPPF states at paragraph 172 that great weight should be given to conserving and enhancing landscape and scenic beauty in national parks and that the conservation and enhancement of wildlife and cultural heritage are also important considerations and should be given great weight in National Parks.

In Conclusion therefore the development will not affect any land within the National Park and is in accordance with Section 11a of the National Parks and Access to the Countryside Act 1949.

Historic Environment

The development will have no impact on the historic environment. The works do not affect a listed building or a conservation area and there are no issues relating to archaeology or Non-designated Heritage Assets.

Neighbouring Amenity

Residential properties about the northern and eastern boundaries of the site. Whilst the vehicular entrance is in the south west corner of the site, away from houses, the loading bay and the area of car park in front of it where HGV's manoeuvre is much closer – approximately 15m to the rear gardens of houses to the east, and approximately 20m to the rear garden of the house to the north. It is these houses which will be most impacted by the proposed development. There are also houses on the opposite side of Stockbridge Road approximately 40m from the eastern boundary of the site.

Whilst the period of potential noise disturbance is proposed to be extended by 3 hours up to 19.00 on Sundays and bank holidays this is not considered to be significant and does not justify the refusal of planning permission. In reaching this conclusion the following points are material

Case No: 23/00449/FUL

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

- 19.00 pm is not considered to be an unsocial hour, whilst general activity in the area will tend to decline, it will still be evident
- The noise assessment submitted with the application demonstrates that, in the context of nationally recognised standards, noise levels from delivery activity up to 1900 hours on Sundays and bank holidays would not give rise to a significant adverse impact
- Deliveries operations will be conducted according to the Quiet Delivery Scheme submitted by the applicant. This includes limiting delivery to a 45-60 minute period, no waiting on site, no excessive breaking/engine noise, engines off during delivery, reversing alarm switched off, no goods transported outdoors, noise curtain in operation. In accordance with the wishes of the Environmental Protection Officer, a condition securing the operation of the Quiet Delivery Scheme will be attached to any permission.
- The extended delivery period will only apply on Sundays and bank holidays, not all week
- The extended delivery period will not give rise to any additional HGV deliveries over and above the existing situation - a maximum of 2 per day. This will be secured by a condition attached to any permission.

In conclusion, in respect of the impact of the development on the residential amenities of the occupiers of nearby houses, the application complies with local plan policies CP13, DM16, DM17 and DM20.

Sustainable Transport

Whilst the proposal will have marginal negative impact on air quality in the period currently unaffected by deliveries, because no additional deliveries are proposed, the overall air quality position is unaffected. The site is not within the Air Quality Catchment Area as identified in the Air Quality SPD.

The proposal will not have any impact on highway safety as confirmed by the Highway Authority. The application therefore complies with local plan policies CP10, DM18 and DM19

Ecology and Biodiversity

The application site is already in use as a supermarket and the proposal does not give rise to any issues relating to ecology or biodiversity. The application therefore complies with LPP1 policy CP16.

Equality

In assessing planning applications, due regard should be given to the Equality Act 2010: Public Sector Equality Duty. Public bodies need to consciously think about the three aims of the Equality Duty as part of the process of decision-making. The weight given to the Equality Duty, compared to the other factors, will depend on how much that function affects discrimination, equality of opportunity and good relations and the extent of any disadvantage that needs to be addressed. The Local Planning Authority has given due regard to this duty and the considerations do not outweigh any matters in the exercise of its duty.

Case No: 23/00449/FUL

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Planning Balance and Conclusion

Currently, residents are not subjected to noise rising from HGV deliveries to the site beyond 1600 on Sundays and bank holidays as deliveries are prohibited by conditions attached to the extant planning permission. Whilst the proposed change will result in noise associated with deliveries extending into the period between 1600 and 1900 on Sundays and bank holidays, this will not be significant and does not justify the refusal of planning permission. The extension of delivery times is limited to Sundays and bank holidays and will not result in additional deliveries – the current number of deliveries will take place within a longer time period and will be undertaken according to a Quiet Deliver Scheme. The development accords with relevant local plan policies and is therefore recommended to be approved.

Recommendation

Approve subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

2. No deliveries shall be taken at or dispatched from the site except between the hours of 07:00 - 22:00 Mondays to Fridays, 07:00 - 10:00 and 12:00 - 22:00 on Saturdays, and 08:00 - 19:00 hrs on Sundays and Bank Holidays

Reason – to protect the amenities of the area.

3. No deliveries by articulated lorry shall be made to the site whilst the store is open for business.

Reason – to protect the amenities of the area.

4. The use hereby permitted shall not be open to customers outside the following times 08:00 and 22:00 Monday to Saturday and as permitted by law on Sundays.

Reason – to protect the amenities of the area

5. Deliveries by HGV to the site will be limited to no more than 2 per day.

Reason – to protect the amenities of the area and prevent traffic congestion

6. Deliveries will be undertaken in accordance with the Quiet Delivery Scheme (Aldi Stores Limited, Burnett Close, Winchester – uploaded 21 Feb 2023) submitted with planning application 23/00449/FUL.

Reason – to protect the amenities of the area

Informatives;

Case No: 23/00449/FUL

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

1. This permission is granted for the following reasons:

The development is in accordance with the Policies and Proposals of the Development Plan set out below, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

2. The Local Planning Authority has taken account of the following development plan policies and proposals:-

LPP1 policies DS1, WT1, CP8, CP9, CP13 and LPP2 policies DM7, DM16, DM17, DM18, DM19 and DM20.

3. In accordance with paragraph 38 of the NPPF, Winchester City Council (WCC) take a positive and proactive approach to development proposals focused on solutions. WCC work with applicants/agents in a positive and proactive manner by;

-offering a pre-application advice service and,

-updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.