

APPLICATION REPORT – 19/00060/FULMAJ

Validation Date: 26 January 2019

Ward: Astley And Buckshaw

Type of Application: Major Full Planning

Proposal: Section 73 application to vary condition no.17 (delivery and servicing hours) of planning permission ref: 15/00089/FULMAJ (which was for erection of food-store (Use Class A1), community centre (Use Class D2), flexible use divisible unit (Use Classes A2, A4 or A5) with vehicular access, car parking, servicing area, and hard and soft landscaping) to allow unrestricted delivery and servicing hours of the Aldi store.

Location: Land North of Units A1- A4 Buckshaw Link Ordnance Road Buckshaw Village

Case Officer: Caron Taylor

Applicant: Aldi Stores Limited

Agent: GVA HOW Planning

Consultation expiry: 6 March 2019

Decision due by: 27 April 2019

RECOMMENDATION

1. It is recommended that planning permission is granted subject to conditions.

SITE DESCRIPTION

2. The application site is a development within Buckshaw Village that was granted planning permission in June 2015 and has now been built. It comprises an Aldi food store along with a community centre and smaller units now occupied by Costa Coffee, Betsid Ltd and Domino's Pizza.

DESCRIPTION OF PROPOSED DEVELOPMENT

3. This is a Section 73 application that seeks planning permission to vary condition no.17 (delivery and servicing hours) of planning permission ref: 15/00089/FULMAJ (which was for erection of food-store (Use Class A1), community centre (Use Class D2), flexible use divisible unit (Use Classes A2, A4 or A5) with vehicular access, car parking, servicing area, and hard and soft landscaping) to allow unrestricted delivery and servicing hours of the Aldi store.
4. The delivery and servicing hours of the other units would remain the same.

REPRESENTATIONS

5. No representations have been received.

CONSULTATIONS

6. Waste & Contaminated Land – Have confirmed that they have no comments to make.

7. Regulatory Services - Environmental Health – Have no objections.
8. Euxton Parish Council - No comments have been received.
9. CIL Officers – Comment that this application does not involve any uplift in floor space from the original permission. CIL Liability dealt with under permission 15/00089/FULMAJ and is not superseded by this application.

PLANNING CONSIDERATIONS

10. Condition 17 of the original permission states:

Deliveries, servicing and collections to and from the retail units hereby permitted, including waste collections, shall not take place outside the following hours:

06:00 to 23:00 – Monday to Saturday

08:00 to 18:00 – Sundays

Where exceptional circumstances require deliveries/servicing/collections to take place outside these stated hours, full written permission will firstly be sought from the Local Planning Authority.

Reason: Based upon the submitted information and to safeguard the amenities of the occupiers of nearby residential accommodation.

11. Aldi wish to have unrestricted hours for servicing and deliveries. If permitted the condition would be varied to allow this to happen but the hours restriction would remain in force for the other units.
12. The issue is whether unrestricted delivery and servicing hours for Aldi would be acceptable in terms of noise/neighbour amenity. The Council's Environmental Health Officer has been consulted for advice on this matter. They state they have reviewed the planning application in relation to the potential for a statutory noise nuisance to arise if the delivery and servicing hours for Aldi are unrestricted. The nearest noise sensitive dwellings are over 90 metres away from the delivery bays and there are intervening premises between those reducing any noise impact. The occupiers of these residential properties have been notified of the application and have not submitted any objections. Environmental Health have not received any noise complaints regarding noise from the Aldi store. Aldi implement delivery practices which minimise noise through the use of a roll-on, roll-off palette system. This system should be maintained to reduce the likelihood of noise disturbance to local residents. It is not predicted that the proposed application would cause a statutory noise nuisance, therefore, they have no objection to Aldi's hours for delivery and servicing being unrestricted. However, they feel it is necessary to continue with the originally restricted hours for the additional units due to the proximity of them to the nearest noise sensitive dwellings. In the event of noise complaints regarding deliveries to the Aldi store being received by Environmental Health, a noise investigation in accordance with the Council's Noise Nuisance procedure would be carried out.
13. Considering the Environmental Health Officer's comments, and that the Aldi food store is further away from the nearest residential properties on Hard Field Close and Plantation Close than the other smaller units, and the separation distance involved, it is considered acceptable to vary the condition to allow Aldi to have unrestricted servicing and delivery times. As the other units are nearer to the residential properties it is considered necessary to retain the original hours restriction for these units.

CONCLUSION

14. It is recommended that condition 17 of the original permission is varied to read as follows (please note this condition will be updated to reference a plan that has been requested from the agent and will be updated on the committee addendum):

Hours of deliveries, servicing and collections (including waste collections) to and from the food store (as labelled XX on plan ref: XXX) shall be unrestricted. Deliveries, servicing and collections (including waste collections) to and from the retail units (as labelled XX on plan ref: XXX) shall not take place outside the following hours:

06:00 to 23:00 – Monday to Saturday

08:00 to 18:00 – Sundays

Where exceptional circumstances require deliveries/servicing/collections to take place outside these stated hours, full written permission will firstly be sought from the Local Planning Authority.

Reason: Based upon the submitted information and to safeguard the amenities of the occupiers of nearby residential accommodation.

15. As this is a section 73 application the other original conditions need to be imposed where still relevant and necessary.

RELEVANT POLICIES: In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan (the Central Lancashire Core Strategy, the Adopted Chorley Local Plan 2012-2026 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposal has had regard to guidance contained within the National Planning Policy Framework (the Framework) and the development plan. The specific policies/guidance considerations are contained within the body of the report.

RELEVANT HISTORY OF THE SITE

Ref: 15/00089/FULMAJ **Decision:** PERFPP **Decision Date:** 2 June 2015

Description: Erection of food store (Use Class A1), community centre (Use Class D2), flexible use divisible unit (Use Classes A2, A4 or A5) with vehicular access, car parking, servicing area, and hard and soft landscaping.

Ref: 15/00106/SCE **Decision:** PESCEZ **Decision Date:** 12 February 2015

Description: Request for Screening Opinion Pursuant to Regulation 5 of The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 for the erection of food store, community centre and flexible use divisible unit

Ref: 15/00725/DIS **Decision:** PEDISZ **Decision Date:** 21 August 2015

Description: Application to discharge condition 26 (legal contract) attached to planning approval 15/00089/FULMAJ

Ref: 15/00751/ADV **Decision:** PERADV **Decision Date:** 25 September 2015

Description: Application for advertisement consent to erect 3 No. internally illuminated fascia signs on building, 1 No. Vinyl sign on building, 1 No. internally illuminated Poster case in front of the building and 2 No. internally illuminated Totem signs on the main access and boundary.

Ref: 15/01095/MNMA **Decision:** PEMNMZ **Decision Date:** 24 November 2015

Description: Application for minor non-material amendment to planning approval 15/00089/FULMAJ to amend the approved landscaping scheme

Ref: 15/01199/MNMA **Decision:** PEMNMZ **Decision Date:** 7 January 2016

Description: Application for minor non-material amendments to planning approval 15/00089/FULMAJ to vary the approved materials and elevational treatments

Ref: 15/01204/DIS **Decision:** PEDISZ **Decision Date:** 11 January 2016

Description: Application to discharge conditions 5 (Construction Method Statement), 29 (surface water drainage- community centre), 30 (foul drainage- community centre), 31 (surface water drainage- divisible retail units) and 32 (foul drainage- divisible retail unit) attached to planning approval 15/00089/FULMAJ

Ref: 16/00148/MNMA **Decision:** PEMMAZ **Decision Date:** 16 March 2016
Description: Minor non-material amendment application to planning approval 15/00089/FULMAJ in respect of the approved Aldi store to amend the approved landscaping scheme including removing 4 staff parking spaces and including an additional area of landscaping

Ref: 16/01064/CLPUD **Decision:** PERPUD **Decision Date:** 9 January 2017
Description: Application for Lawful Development Certificate for use as a Cafe (Class A3)

Ref: 16/01086/DIS **Decision:** PEDISZ **Decision Date:** 1 February 2017
Description: Application to discharge condition 7 (travel plan) attached to planning permission 15/00089/FULMAJ for the erection of food-store (Use Class A1), community centre (Use Class D2), flexible use divisible unit (Use Classes A2, A4 or A5) with vehicular access, car parking, servicing area, and hard and soft landscaping.

Ref: 16/00148/MNMA **Decision:** PEMMAZ **Decision Date:** 16 March 2016
Description: Minor non-material amendment application to planning approval 15/00089/FULMAJ in respect of the approved Aldi store to amend the approved landscaping scheme including removing 4 staff parking spaces and including an additional area of landscaping

Ref: 16/00961/DIS **Decision:** PEDISZ **Decision Date:** 10 January 2017
Description: Discharge of conditions 8 (Validation Completion Report) and 12 (BREEAM Achievement) re 15/00089/FULMAJ (Erection of food-store (Use Class A1), community centre (Use Class D2), flexible use divisible unit (Use Classes A2, A4 or A5) with vehicular access, car parking, servicing area, and hard and soft landscaping).

Ref: 16/01086/DIS **Decision:** PEDISZ **Decision Date:** 1 February 2017
Description: Application to discharge condition 7 (travel plan) attached to planning permission 15/00089/FULMAJ for the erection of food-store (Use Class A1), community centre (Use Class D2), flexible use divisible unit (Use Classes A2, A4 or A5) with vehicular access, car parking, servicing area, and hard and soft landscaping.

Suggested conditions

1. The car park and vehicle manoeuvring areas shall not be used for any purpose other than the parking of and manoeuvring of vehicles.

Reason: To ensure adequate on site provision of car parking and manoeuvring areas.

2. Fences and walls shall thereafter be retained in accordance with the approved details at all times.

Reason: To ensure a visually satisfactory form of development and to protect the amenities of occupiers of nearby property.

3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the earlier, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interest of the appearance of the locality.

4. The food-store hereby permitted shall be restricted to opening hours of between:

- 08:00 to 22:00 Monday to Saturday and
- 09:00 to 18:00 on Sundays.

Reason: To safeguard the amenities of local residents and in accordance with the submitted information.

5. Hours of deliveries, servicing and collections (including waste collections) to and from the food store (as labelled XX on plan ref: XXX) shall be unrestricted. Deliveries, servicing and collections (including waste collections) to and from the retail units (as labelled XX on plan ref: XXX) shall not take place outside the following hours:

06:00 to 23:00 – Monday to Saturday

08:00 to 18:00 – Sundays

Where exceptional circumstances require deliveries/servicing/collections to take place outside these stated hours, full written permission will firstly be sought from the Local Planning Authority.

Reason: Based upon the submitted information and to safeguard the amenities of the occupiers of nearby residential accommodation.

6. Provision for cycle parking shall be retained at all times.

Reason: To ensure adequate on site provision for cycle parking.

7. The development hereby permitted shall accord with the recommendations contained within the Noise Impact Assessment. In particular there should not be any use of a PA system in the service yard area, apart from in emergencies. The recommendations shall be fully implemented in accordance with the approved details and retained in perpetuity.

Reason: To safeguard the amenities of the neighbouring residents.

8. The divisible retail unit hereby approved shall be used for Use Classes A2, A4 or A5 and for no other purpose (including any other purpose in Class A of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order).

Reason: To protect the vitality and viability of the nearby local centre and in accordance with the submitted supporting information.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any Order revoking or re-enacting that Order, no internal alterations involving the erection of internal dividing walls which would result in the creation of more than 2 units shall be carried out in respect of the divisible retail unit to which this permission relates without the prior submission to and approval in writing by the Local Planning Authority.

Reason: To restrict the number of retail units which can be provided on the site in the interests of the vitality and viability of the nearby local retail centre.

10. The surface water drainage scheme for the food-store hereby permitted shall incorporate surface water discharge to the public sewerage system at run-off rates not exceeding those set out in the agreed Partington and Associates Limited drainage strategy drawing 2377-14 and shall be completed, maintained and managed in accordance with the approved details.

Reason: In the interests of the proper drainage of the site.

11. In the event that any of the divisible retail units hereby permitted are occupied by an A4 occupier the unit(s) shall be restricted to the following hours:

- Between 8am and 12am (midnight) on Monday to Thursday,
- Between 8am and 1am Friday and Saturday and
- Between 9am and 12am (midnight) on Sundays.

- On the following dates the use hereby permitted shall be restricted to the hours between 8am and 1am:

New Year's Day; Valentine's night; Burns night; St David's Day; St Patrick's Day; Good Friday; Easter Sunday; Easter Monday; Boxing Day, Halloween and Bank Holiday Mondays.

- On the following dates the use hereby permitted shall be restricted to the hours between 8am and 2am:
Christmas Eve and New Year's Eve.
- On the following dates the use hereby permitted shall be restricted to the hours between 9am and 1am:
The three Sundays of the year prior to the two bank holidays in May and the one bank holiday in August.

The use hereby permitted shall be restricted to the hours listed.

Reason: To safeguard the amenities of local residents and in accordance with the submitted information.

12. In the event that any of the divisible retail units hereby permitted are occupied by an A5 occupier the unit(s) shall be restricted to the following hours:

- between 8am and 12am (midnight) on Monday to Thursday,
- between 8am and 1am Friday and Saturday and
- between 9am and 12am (midnight) on Sundays.

Reason: To safeguard the amenities of local residents and in accordance with the submitted information.

13. Foul sewerage for the food-store shall be drained on a separate system. The food-store approved foul drainage scheme shall be maintained and managed in accordance with the approved details.

Reason: In the interests of the proper drainage of the site.

14. The surface water drainage scheme for the community centre shall incorporate surface water discharge to the public sewerage system at run-off rates not exceeding those set out in the agreed Partington and Associates Limited drainage strategy drawing 2377-14. The development shall be maintained and managed in accordance with the approved details

Reason: In the interest of the proper drainage of the site.

15. Foul sewerage for the community centre shall be drained on a separate system. This development shall be maintained and managed in accordance with the approved details

Reason: In the interests of the proper drainage of the site.

16. The surface water drainage scheme for the divisible retail units shall incorporate surface water discharge to the public sewerage system at run-off rates not exceeding those set out in the agreed Partington and Associates Limited drainage strategy drawing 2377-14. The development shall be maintained and managed in accordance with the approved details.

Reason: In the interests of the proper drainage of the site.

17. Foul sewerage for the divisible retail units shall be drained on a separate system. This development shall be maintained and managed in accordance with the approved details.

Reason: In the interests of the proper drainage of the site.