

Full planning permission is sought to vary conditions 8, 9 and 10 of planning permission 05/00127/FUL relating to opening hours and deliveries at the store.

The application site is located within the urban area of Kidsgrove, as indicated on the Local Development Framework Proposals Map.

The 13 week period for determination of the planning application expires on 6th May 2024.

RECOMMENDATION

PERMIT the variation of conditions 8, 9 and 10 of planning permission 05/00127/FUL as follows:

8. There shall be no opening of the store to the public other than between the hours of 8.00 am and 10.00 pm Monday to Saturday and 10.00 am hours to 4.00 pm hours on Sundays.

9. On Sundays, deliveries to the site are only permitted between 7.00 am and 11.00 pm.

10. On Sundays, refrigeration vehicles shall not be parked on the site with cooling equipment in operation outside the hours of 07.00 am and 11.00 pm, unless the cooling equipment is connected to a functioning mains electric hook up.

and subject to the imposition of all other conditions attached to the permission that remain relevant at this time.

Reason for Recommendations

Subject to the additional information and acoustic reports addressing Environmental Health comments, it is considered that the proposed variation of conditions relating to opening hours and deliveries at the store will not result in a significant adverse impact on adjoining residential amenity.

Statement as to how the Local Planning Authority has worked in a positive and proactive manner in dealing with the planning application

Additional information has been submitted, and the proposal is now considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework.

Key Issues

This proposal seeks full planning permission to vary conditions 8, 9 and 10 of planning permission ref: 05/00127/FUL relating to opening hours and deliveries at the existing Aldi store.

The existing and proposed wording of the conditions is as follows:

Condition 8:

Existing - There shall be no opening of the store to the public hereby permitted other than between the hours of 8am to 8pm Monday to Saturday, and 10am to 4pm on Sundays.

Proposed - There shall be no opening of the store to the public other than between the hours of 8.00 am and 10.00 pm Monday to Saturday and 10.00 am hours to 4.00 pm hours on Sundays.

Condition 9:

Existing - Delivery and collection vehicles shall not access the site before 7am or after 9pm Monday to Saturday and before 9am or after 6pm on Sundays. Delivery and collection vehicles shall not leave the site any later than 9pm Monday to Saturday or 6pm Sundays.

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Proposed - On Sundays, deliveries to the site are only permitted between 7.00 am and 11.00 pm.

Condition 10:

Existing - Refrigeration vehicles shall not be parked on the site with cooling equipment in operation between the hours of 9pm and 7am Monday to Sunday inclusive unless the cooling equipment is connected to functioning mains electric hook up.

Proposed - On Sundays, refrigeration vehicles shall not be parked on the site with cooling equipment in operation outside the hours of 07.00 am and 11.00 pm, unless the cooling equipment is connected to a functioning mains electric hook up.

The application seeks to vary condition 8 on the original planning permission to enable the store to open longer on weekdays and Saturdays. A section 73 application was granted under 12/00245/FUL to vary condition 8 to extend the weekday and Saturday opening hours from 8pm to 10pm; thus the requested variation to condition 8 has already been agreed.

In the case of conditions 9 and 10, there are currently restrictions on the hours on weekdays and Saturdays, as well as Sundays. The proposal seeks to remove any restrictions on hours of deliveries/collection and refrigeration vehicles on weekdays and Saturdays and to extend the hours on Sundays in both conditions.

The established supermarket and associated parking and small service yard/deliveries point to the rear, is located off the main A50 Liverpool Road through Kidsgrove, with residential properties located to north and south and a wooded area to east. Planning permission has been granted for further residential development to the east of the supermarket (ref: 22/00964/FUL). An acoustic report has been submitted with the application with regard to the proposal and existing housing to the north and south; and additional information has now been submitted for consideration regarding the potential impacts on the new development to the east of the site.

The main issues to consider are the impact of the proposal on residential amenity and highway safety.

Impact on adjoining residential amenity

Paragraph 135 (f) of the NPPF states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Furthermore, paragraph 191 of the NPPF outlines that there must be consideration of the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. At part (a), it states that proposals 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 the quality of life.

The application has been accompanied by acoustic reports which assess the impact of the amended hours on the occupiers of the housing to the north and south of the site, and following a request from Environmental Health, additional information has been submitted in relation to the potential impact on the future occupiers of the new development to the east.

The applicant sets out that the following measures are undertaken to minimise any audible impacts of delivery activity that is generated outside of store trading hours –

- Delivery drivers will switch off refrigeration units and the vehicle's engine, during the loading and unloading process.
- Delivery drivers will disable reversing warning signals.
- Loading and unloading will only be carried out within the designated delivery bay.

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The delivery bay utilises a delivery ramp, sheltered canopy and dock leveller to reduce external noise during deliveries. This process effectively enables loading and unloading to only take place internally within the building, therefore significantly reducing the extent that noise could be heard at any nearby receptors.

The store receives on average 3 to 4 deliveries per 24-hour period, as well as daily deliveries of milk, bread, and fresh produce by local suppliers, usually using a medium sized goods vehicle.

The Noise Impact Assessment states that when taking the site's context into consideration where delivery noise is below representative background levels from Monday to Saturday daytime and nighttime, and Sunday daytime, it has been demonstrated that any noise generated would have little or no impact on the nearest noise sensitive receptor.

Subject to the Environmental Health team raising no objections to the proposed variation of conditions, and in light of the additional information, the proposal is considered acceptable and would not result in harm to residential amenity of existing and future occupants of adjoining properties, in terms of undue noise and disturbance resulting in harm to health and quality of life. Furthermore, measures can be taken to minimise noise and disturbance from the delivery vehicles, such as turning off vehicle engines and reversing alarms. These noise management techniques would be added to the reworded conditions.

Therefore, it is considered that the proposal would conform to the relevant criteria in the National Planning Policy Framework.

Highway Safety

The proposed revisions to the hours of opening, deliveries and refrigeration vehicles to the existing Aldi store would not result in an adverse impact on highway safety and the Highway Authority has raised no objections to the application for the variation of conditions. Accordingly, the proposal is considered acceptable in highway terms.

Reducing Inequalities

The Equality Act 2010 says public authorities must comply with the public sector equality duty in addition to the duty not to discriminate. The public sector equality duty requires public authorities to consider or think about how their policies or decisions affect people who are protected under the Equality Act. If a public authority hasn't properly considered its public sector equality duty it can be challenged in the courts.

The duty aims to make sure public authorities think about things like discrimination and the needs of people who are disadvantaged or suffer inequality, when they make decisions.

People are protected under the Act if they have protected characteristics. The characteristics that are protected in relation to the public sector equality duty are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

When public authorities carry out their functions the Equality Act says they must have due regard or think about the need to:

- Eliminate unlawful discrimination

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- Advance equality of opportunity between people who share a protected characteristic and those who don't
- Foster or encourage good relations between people who share a protected characteristic and those who don't

With regard to this proposal it is considered that it will not have a differential impact on those with protected characteristics.

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APPENDIX

Policies and Proposals in the approved Development Plan relevant to this decision:-

[Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy \(CSS\) 2006-2026](#)

Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy

[Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

N/A

Other Material Considerations include:

[National Planning Policy Framework \(NPPF\) \(2023\)](#)

[Planning Practice Guidance \(NPPG\) \(2019\)](#)

[Supplementary Planning Documents \(SPDs\)](#)

[Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document \(2010\)](#)

Relevant Planning History

05/00127/FUL Demolition of existing industrial building and construction of a food retail store and associated car park – Permitted

12/00245/FUL Variation of condition 8 of planning consent 05/00127/FUL to permit opening until 10.00 pm on Mondays to Saturdays – Permitted

12/00414/FUL Variation of condition 1 of permission 12/00245/FUL to allow trading on Sundays between the hours of 10:00 to 18:00 during the London Olympic Games - Permitted

19/00075/FUL Installation of new refrigeration plant - Permitted

Views of Consultees

The Highway Authority has no comments to make on the proposal.

The Environmental Health Division has requested that the acoustic survey is updated to take account of new development which has not yet commenced to the east of the application site. This development is closer to the unloading bay, so the applicant needs to demonstrate there would be no adverse impact, particularly at night.

Furthermore, noise management techniques referred to by the applicant, such as turning off refrigeration plant and reversing alarms and turning off vehicle engines when stationary should be conditioned.

No comments have been received from **Kidsgrove Town Council** and given that the period of comment has ended, it must be assumed that they have no comments to make.

Representations

None received.

Background Papers

Planning files referred to

Planning Documents referred to

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Date report prepared

11 April 2024

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