

REFERENCE: P/20/898/RLX

APPLICANT: Aldi Stores Limited
c/o Planning Potential Ltd, 13-14 Orchard Street, Bristol BS1 5EH

LOCATION: Aldi Unit 1, Llynfi Walk, Llynfi Road, Maesteg CF34 9DS

PROPOSAL: Vary condition 1 of P/14/65/RLX to allow the store to unload deliveries for a longer period

RECEIVED: 12 November 2020

UPDATE SINCE DC COMMITTEE MEETING OF 4 MARCH 2021

The application which was considered by Development Control Committee on the 4th March was to permanently vary the delivery times to the Aldi Unit at Llynfi Walk to 5am to 10 pm. The report from the Group Manager – Planning and Development Services recommended that consent be granted for 6 months only for the hours 6am to 10pm Monday – Saturday and 7am to 8pm on Sundays and Bank Holidays to enable the Authority to review the effect of early morning deliveries on the existing residential amenities of the neighbouring properties. However, Committee considered that due to ongoing and unnecessary noise pollution at anti-social times, the proposal would result in an unacceptable impact on the residential amenities of the neighbouring properties. Therefore, Committee was minded to refuse the application and, in accordance with the agreed protocol for dealing with applications where the Committee is minded to refuse an application, which has been recommended for approval, consideration of the application was deferred to this meeting so that reasons for refusal could be properly considered.

Since the last Committee meeting, the applicant's agent has agreed to amend the description of development in line with the Council's recommendation as follows:

“The variation of condition 1 of planning permission ref. P/14/65/RLX to allow deliveries to the store between the hours of 06:00 hours – 22:00 hours Monday to Saturday and 07:00 hours – 20:00 hours on Sundays and Bank Holidays for a period of 6 months.”

This will allow the applicant to record the delivery information throughout the summer, and enable the Local Planning Authority to review the effect of early morning deliveries on the residential amenities of the neighbouring properties.

Members were asked to provide their reasons for refusal of the application and they are as follows:

Cllr Baldwin

My comments at the meeting concerned extending the opening hours to 5am 7 days a week would cause ongoing and unnecessary noise pollution at anti-social hours. This would equate to having the recycling lorry waking you up every day of the week with no respite. This noise pollution will have a negative and detrimental impact on the mental health and well-being of residents living near the store. The grounds for the application were being brought forward to account for Covid19 and to limit potential food shortages in store. However, this is being requested as we move towards the lifting of restrictions and isn't timely.

Cllr Spanswick

I voted against as I felt that the delivery time in the morning currently set at 7.00a.m should not be changed to an earlier time due to the unacceptable impact I felt that would have on nearby residential properties. I was however prepared to accept the later time in

the evening being moved from 8.00p.m. to 10.00p.m. Hope this helps and many thanks for working on this with Planning officers.

Cllr Stirman

I voted against because I am aware there is a lot of residential housing very close to the site. All very well others saying there is early morning noise from other sites but I honestly believe that a 05:00 am start would be putting unreasonable pressure on surrounding homes. The noise from the reversing lorries warning systems alone would have an adverse impact on nearby homes in my opinion. As someone else mentioned they have more than enough time within current hours especially as this store is not particularly immense.

Cllr J Lewis

My objection is to the noise at that time of morning and its effect on the people living near there.

Members were advised by Officers at the last DC Committee meeting that whilst the proposed 5am start was considered unacceptable, the Local Planning Authority proposed granting a temporary Planning permission so that deliveries to the store could only be made between 6am and 10pm for a limited period of 6 months (Mon-Sat).

This would allow the applicant to record the delivery information and enable the Local Planning Authority to review the effects of the early morning deliveries on the residential amenities of the neighbouring properties after this 6 month time period however, Members voted to refuse the application.

Officers agree with Members that 5am deliveries are unacceptable however, it is considered that a 6 month temporary permission to allow deliveries to the store between 6am - 10pm (Mon - Sat) would be appropriate. This would allow the applicant to gather additional evidence of any impact on the neighbouring amenities over the Summer period as currently there is no evidence to demonstrate that the proposal would have an unacceptable impact on the neighbouring properties. The applicant has now changed the description of their application to confirm that they are applying for extended delivery times to the store from 6am – 10pm Monday to Saturday for a period of 6 months only. In view of this, if Members are still minded to refuse the application then they are advised that the applicant can submit an appeal to the Planning Inspectorate against the condition for a 6am start for deliveries to the store for a 6-month temporary time-period.

If members are minded to refuse the application, the suggested reason for refusal of this application for Members to consider is:

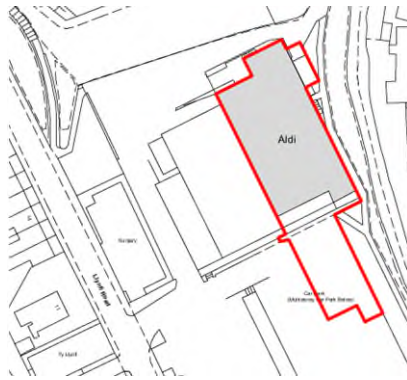
The proposed relaxation of the hours of operation for a temporary period of 6 months to allow deliveries from 6am in the morning (Mon-Sat) would have a detrimental impact on the residential amenities of neighbouring residential occupiers by way of noise pollution during anti-social hours contrary to Policy SP2 of the Bridgend County Borough Council Local Development Plan 2013 and advice contained within Planning Policy Wales 11 (February 2021).

Reproduced below is a copy of the original report:-

APPLICATION/SITE DESCRIPTION

This application seeks to vary condition 1 of P/14/65/RLX to allow the store to unload deliveries between the hours of 05:00 and 22:00 daily at Aldi, Unit 1 Llynfi Walk, Llynfi Road, Maesteg.

Figure 1 - Site Location Plan:



Condition 1 of P/14/65/RLX states:

The unloading of delivery vehicles to the Aldi store shall not take place outside the following times:-

07:00 hours and 20:00 hours

Reasons: In the interest of residential amenities and for the avoidance of doubt as to the scope of the consent.

The applicant's agent has advised that in response to the demand for greater operational flexibility in the hours of unloading deliveries at the store and to meet the needs of the customer, the application now seeks permission to vary condition 1 to allow the store to unload deliveries between the hours of 05:00 and 22:00 daily.

The application site is located within the settlement boundary of Maesteg as defined by Policy PLA1 of the BLDP(2013) and is located within the retail and commercial centre of Maesteg as defined by Policy REG 9 of the BLDP(2013). The application site is located within a retail area surrounded by other similar uses which are served by a large car park with a number of residential properties located opposite the site along Llynfi Road.

RELEVANT HISTORY

P/20/217/FUL Approved (with conditions) – 14/07/2020.

Minor extension to food store; a reconfiguration of the car park; new replacement plant and minor external works and alterations

P/14/65/RLX Approved (with conditions) – 07/03/2014

Amend Condition 11 of 95/215 to read no unloading between hours of 20.00 and 07.00.

P/12/671/RLX Approved (with conditions) – 11/01/2013

Vary Cond 11 of P/95/215/FUL to permit unloading times of delivery vehicles between 07:00 & 20:00 hours.

P/95/215/FUL Approved (with conditions) – 11/04/1995

Erection of retail stores and associated service yard and car park deck

PUBLICITY

Neighbours have been notified of the receipt of the application.

The period allowed for response to consultations/publicity expired on 22 December 2020.

CONSULTATION RESPONSES

Cllr R Thomas (Local Ward Member) – Objects to the proposal due to the detrimental impact on local residents.

Maesteg Town Council – Objects to the proposed development due to the close proximity to the residential area where there are current issues with noise and traffic.

Transportation Officer (Highways) – No objection.

Head of Public Protection (Noise) – Raises concerns regarding the proposal for a variation in the times to start at 05:00 however states that a temporary permission for a 12-month period for deliveries between the hours of 06:00 to 22:00 to assess the impact on the existing amenities of the neighbouring properties would be acceptable.

REPRESENTATIONS RECEIVED

10 Llynfi Road, Maesteg – objects due to the close proximity to bedroom window and damage to walls due to number of heavy vehicles entering the car park.

COMMENTS ON REPRESENTATIONS RECEIVED

The majority of concerns raised have been addressed within the appraisal section of this report however, damage to walls and property is a private matter and not a material Planning consideration.

Local Policies

The Development Plan for the area comprises the Bridgend Local Development Plan (LDP) 2006-2021 which was formally adopted by the Council in September 2013 and within which the following Policies are of relevance:

- Strategic Policy SP2 – Design and Sustainable Place Making
- Strategic Policy SP3 – Strategic Transport Planning Principles
- Policy PLA1 – Settlement Hierarchy and Urban Management
- Policy REG9 – Development Sites in Retailing and Commercial Centres

National Planning Policy and Guidance

National Planning guidance in the form of Planning Policy Wales (Edition 11, February 2021) (PPW) and Future Wales – the National Plan 2040 (Feb. 2021) is of relevance to the determination of this application.

Technical Advice Notes:

The Welsh Government has provided additional guidance in the form of Technical Advice Notes and Technical Advice Note 11 – Noise (1997) is relevant to the determination of this application.

Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with sustainable development principles to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5).

The well-being goals identified in the Act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of wellbeing goals/objectives as a result of the proposed development.

APPRAISAL

The application is referred to Committee to enable consideration of the objections received from the Town Council, local Ward Member and local resident.

The main issues to consider in this application are the impact on the neighbouring amenities and highway safety.

Impact on neighbouring amenities

With regard to the impact of the proposed change in delivery times on the existing residential amenities of the neighbouring properties, the application was supported by a Noise Report prepared by Sharps Redmore Acoustic Consultants. The Council's Noise Officer has assessed the Report and requested further information. In view of this, a technical note was submitted by Sharps Redmore demonstrating that Aldi has regularly been having deliveries to the store between 05.00 and 07:00 hours during the relaxation period permitted by Welsh Government because of the current pandemic, between 14 November and 12 December 2020. Whilst this has not resulted in any noise complaints to date, the absence of complaints does not necessarily mean that the deliveries as early as 05:00 hours would not cause any disturbance to the residents. It should be noted that during the winter months it would be reasonable to assume that the residents at Llynfi Road are likely to have had their windows closed and therefore may not have been disturbed by the noise from those deliveries during that time. As a result, the Council's Noise Officer requested the delivery schedule between April and July to determine how often Aldi may have been having early morning deliveries during the warmer weather. Unfortunately, this information was unavailable as Aldi has not kept the records going back that far and they were only able to advise that *Whilst deliveries may not have been regularly received as early as they are at present, deliveries were made to the store before 0600 hours on occasions.*

Although the Acoustic Report shows that the noise levels from the deliveries themselves should not cause an adverse impact during the arriving and unloading of goods at the rear of Aldi, it does not take into account the impact that the deliveries would have on the residential property located on Llynfi Road opposite the turning into Aldi as a result of a delivery vehicle pass-by. In the additional technical note that was submitted by Sharps Redmore however, the Consultant acknowledges that *it is accepted that there will be peak noise levels associated with the delivery vehicle passbys on Llynfi Road as they approach and depart from the Aldi store. Although not directly assessed at this store, delivery vehicle passby noise could be expected to be in the region of 70 to 75 dB LAmax at the properties on Llynfi Road. This is above the WHO peak noise guideline value of 60 dB LAmax.* The Public Protection Noise Officer agrees with these predicted levels.

The Consultant goes on to say *although it is worth noting that the WHO guideline noise value of 60 dB LAmax is the level at which sleep disturbance may occur.. this does not mean that a person may awake when the noise level reaches this level, rather the process of restorative sleep may be affected, for example, the depth of sleep varies or eyelids may move.* Whilst the Public Protection Noise Officer does not disagree with this statement, she indicates that the fact remains that the vehicle pass-by could be in the region of 70 to 75 dB LAmax so there could be an impact. It should be noted that whilst the Council's Public Protection Department would have jurisdiction over noise from deliveries taking place at a premises which is causing a nuisance, the Department cannot take action for statutory nuisance when it is from a vehicle pass-by going to or leaving from Aldi when it is on a public road in a residential area. Therefore, this matter has to be

considered at the Planning stage as if the delivery itself does not impact on this property, statutory nuisance legislation could not be used to resolve any complaints received in relation to delivery vehicles passing and turning into the premises if it only disturbs the occupants at that point.

The Noise Officer considers that deliveries until 22:00 hours (as long as the vehicles have delivered the goods and departed by that time) should not cause any unnecessary disturbance and there is no objection to this however, the Noise Officer is concerned that as the store has not been able to demonstrate that deliveries have frequently occurred between 05:00 hours and 07:00 hours during the Spring and Summer months when the weather was warmer and residents were likely to have had their windows open, extending the hours as early as 05:00 hours would have an unacceptable impact on the property opposite the turning to Aldi.

Nevertheless, Aldi has advised that *deliveries were made to the store before 06:00 hours on occasions* and consequently, if the application is being recommended for approval, the Noise Officer requests that the permission is granted on a temporary basis (not exceeding 12 months) so that any impact can be monitored and that the proposed timings are no earlier than 06:00 hours Monday- Saturday and are kept to 07:00 hours on a Sunday. One of the reasons Aldi has requested the extended hours is so that they can take deliveries and stock goods in the store during their quieter periods and outside times when the store is open which is important during this pandemic. The opening hours for the store on a Sunday are reduced to 10am - 4pm (10:00 hours – 16:00 hours) as opposed to 8am - 8pm (08:00hours – 20:00 hours) on other days and therefore, there is no reason why deliveries need to occur at 06:00 hours on a Sunday. If extending the hours until 22:00 hours, it should also be made clear that the vehicles need to have unloaded their goods and have departed by 22:00 hours.

In view of the above and to address the concerns raised by the local resident, it is considered that the originally proposed extension to delivery hours of 05:00 to 22:00 hours is excessive in view of the limited information available to demonstrate the impact on the existing amenities of the neighbouring properties.

Whilst the Council's Noise Officer has suggested a temporary 12 month permission, following further consideration of the application by the Local Planning Authority and in view of the restrictions imposed by the pandemic, it appears that a 6 month temporary permission would be more appropriate in order to allow the applicant to gather the additional evidence required over the summer period.

Therefore, it is considered that a temporary 6 month permission (March – September) to allow deliveries to the site between the hours of 06:00 hours – 22:00 hours Monday to Saturday and retain the current hours for deliveries to the store of 07:00 hours – 20:00 hours on Sundays and Bank Holidays is more acceptable.

This will allow the applicant to record the delivery information and enable the Local Planning Authority to review the effect of early morning deliveries on the residential amenities of the neighbouring properties which accords with Policy SP2(8) and SP2(12) of the BLDP(2013).

Impact on Highway Safety

The Transportation Officer has assessed the submitted details and has considered the transportation implications of the proposal.

Whilst the Transportation Officer has noted that the applicant is seeking to extend the hours of delivery to the food store from 7am to 8pm to 5am to 10pm (revised to 6am to

10pm for a period of 12 months) and that there have been some concerns raised with regards to noise, as the extension of delivery time is outside of the peak network hours for traffic in this area, he considers that the proposal would not be detrimental to the free flow of traffic. As such, the proposal is considered acceptable in highway safety terms and therefore it accords with Policy SP2(6) of the BLDP(2013).

CONCLUSION

In view of the nature of the objections received, it is considered that the issue of noise and disturbance is a material Planning consideration and the impact on nearby residents must be taken into account. However, it is also noted that the impacts of the current pandemic may have placed greater pressures on the supply chain resulting in different delivery patterns and non-compliance with normal conditions. Welsh Government has indicated that during the current crisis Local Planning Authorities (Ministerial letter dated March 2020) should take a pragmatic view on enforcing time conditions specifically in relation to food retail.

On balance and given that the restrictions imposed by the pandemic are still in place, this application can be recommended for approval for a temporary 6 month period to allow deliveries to the site between the hours of 06:00 hours – 22:00 hours Monday to Saturdays and retain the current hours for deliveries to the store of 07:00 hours – 20:00 hours on Sundays and Bank Holidays to enable the Local Planning Authority to review the effect of early morning deliveries on the existing residential amenities of the neighbouring properties.

RECOMMENDATION

(R11) That permission be GRANTED subject to the following condition(s):-

1. The development shall be carried out in accordance with the following approved plans and documents:

Site Location Plan and Noise Report prepared by Sharps Redmore Acoustic Consultants received on 12 November 2020 and additional Technical Noise Note prepared by Sharps Redmore Acoustic Consultants received on 14 January 2021.

Reason: To avoid doubt and confusion as to the nature and extent of the approved development.

2. Deliveries shall not be taken at or dispatched from the site outside the hours of 06:00 to 22:00 Monday to Saturday and 07:00 to 20:00 on Sundays and Bank Holidays.

Reason: In the interest of residential amenities and to accord with Policy SP2 of the Bridgend Local Development Plan 2013.

3. This permission to extend the hours for unloading delivery vehicles shall be for a temporary period expiring on 30 September 2021 at which time the permitted hours for unloading delivery vehicles shall revert to between 07:00 hours and 20:00 hours.

Reason: To enable the Local Planning Authority to review the effect of early morning deliveries in the interest of residential amenities and to accord with Policy SP2 of the Bridgend Local Development Plan 2013.

4. There shall be no open storage of materials other than in the compactor area.

Reason: To ensure that the visual amenities of the area are protected and to accord with Policy SP2 of the Bridgend Local Development Plan 2013.

Janine Nightingale
CORPORATE DIRECTOR COMMUNITIES

Background Papers
None