

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H16-0904-19 **Applicant:** Aldi Foodstore

Proposal: Class A1 retail foodstore with associated car parking and landscaping -
Modification of Condition 8 of H16-1202-99 to extend delivery hours

Location: Aldi Foodstore Winsover Road Spalding

Terminal Date: 18th December 2019

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02 Development Management
03 Design of New Development
30 Pollution
24 The Retail Hierarchy

National Guidance

National Planning Policy Framework 2019

Section 12 - Achieving well-designed places

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
SHDC INTERNAL	0	0	0	1
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is an application to modify Condition 8 of H16-1202-99 to extend the current permitted delivery hours at Aldi, Winsover Road, Spalding.

Condition 8 of H16-1202-99 specifies that goods deliveries shall only take place between the hours

of 0600 - 2200 Monday to Saturday and between the hours of 0900 - 1600 on Sundays and Bank Holidays.

The applicant is seeking approval to:

- Extend Monday to Saturday delivery hours to allow 0600 to 2300 (1 hour extra in the evening); and
- Extend Sunday delivery hours to allow 0800 to 2000 (1 hour extra in the morning and 4 hours extra in the evening).

Site Description

The site is located part within and part outside the Spalding Town Centre Boundary as shown in the South East Lincolnshire Local Plan, 2019. The store, with the exception of the recently constructed extension, is within that boundary.

The supermarket fronts on to Winsover Road with access being provided for customers and delivery vehicles from St Thomas's Road. The delivery bay is located on the south-western elevation of the building. There is a mixture of commercial uses and residential properties in the surrounding area.

Relevant History

H16-0843-16 - Demolish 3 retail units and construct an extension to existing Aldi store, alongside an uplift in car parking and store improvements (approved October 2016)

H16-1202-99 - Class A1 retail foodstore with associated car parking and landscaping (approved February 2000)

Consultation Responses

SHDC Environmental Protection - No objection.

Public (1 comments) -

- Demolition of three buildings previously permitted carried out between 10pm and 4am over three consecutive nights due to no working hours being stipulated causing excessive noise;
- Works on the associated car parking and landscaping should be conditioned so it can only take place between the hours of 8am to 10pm Monday to Saturday including Bank Holidays and between the hours of 10am and 4pm Sunday including Bank Holidays. Should also state no works of any kind should take place between 10pm and 8am Monday to Saturday including Bank Holidays and 4pm Sunday to 8am on Monday;
- There are currently at least two overnight deliveries between midnight and 6am;
- Noise is generated by lorry engines, refrigerator motors (some drivers do not turn these off) and pallets being wheeled on and off the lorries; and
- Query how the stated delivery times will be enforced.

Planning Considerations

Given that the site already benefits from an extant planning permission for the present use, the key issue in this case is whether the proposed extension to the permitted hours for deliveries would be acceptable in terms of the likely impact on the amenity of nearby residents.

The site is on the fringe of Spalding Town Centre and although it is adjoined by and in close proximity to retail and other commercial uses, there are also residential properties in the locality. Residential properties front on to the western side of St Thomas' Road as well as adjoining the north-western corner of the site.

One representation has been received which, although not considered to amount to an objection, does raise relevant issues. With regard to how the stated delivery times will be enforced, the Council is unfortunately unable to directly monitor every site with such restrictions due to the resources available and does rely on businesses self-policing. The Council does, however, have a Planning Enforcement team who actively investigate any potential breaches of conditions when reported and seek to resolve these where necessary. Noise issues relating to the delivery process are noted and have been reported back to the agent/applicant. Conditions can be used to manage this. However, the points raised regarding the demolition undertaken and car parking and landscaping works approved under application ref. H16-0843-16 are not matters that can be addressed as part of this current application.

SHDC Environmental Protection have been consulted on this application and have no objections. In the absence of an objection from Environmental Protection, it is considered that it would be unreasonable to refuse the application on the grounds of impact on residential amenity.

Conclusion

Taking the above into consideration, the proposal is considered to accord with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan (2019) as well as Section 12 of the National Planning Policy Framework (2019).

The recommendation is therefore for a delegated approval.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.