



12 April 2024

Our Ref: 02C400588

Woking Borough Council
Civic Offices
Gloucester Square
Woking
Surrey
GU21 6YL

Dear Sir / Madam

Section 73 of the Town and Country Planning Act 1990 (As Amended)

Application for the Variation of a Condition Following Grant of Planning Permission

Aldi, Unit 5 Lion Retail Park, 151 Oriental Road, Woking, Surrey, GU22 8BD

We write on behalf of our Client, Aldi Stores Ltd, to submit an application under Section 73 of the Town and Country Planning Act 1990 (As Amended) in relation to the variation of a condition following the grant of planning permission **PLAN/2022/0910** by Woking Borough Council.

Application Package

This application comprises this covering letter, a site plan, the completed application form and an Environmental Noise Report prepared by Sharps Redmore. The application fee of £293.00 plus £70.00 Planning Portal administration fee will be paid online.

Background

Planning permission Ref. **PLAN/2022/0910** was approved on the 23rd November 2022 at Unit 5, Lion Retail Park, 151 Oriental Road, Woking for the following:

Variation of Conditions 03, 04 and 05 of PLAN/2022/0250 (Proposed external alterations, service bay amendments (to create a single unit between Units 4 and 5), extension of delivery and opening hours and associated works (Amended Plans)) to allow for a rearrangement of the public realm in front of the shop including a net loss of parking spaces and extension/alteration of opening and delivery hours.

A total of 14 conditions were placed on the determination, of which Condition 4 is of most relevant to this submission:

Condition 4 - There shall be no deliveries taken to or dispatched from the site outside of the hours 06:00 to 22:30 Monday to Friday, 07:00 to 22:30 Saturdays and, 08:00 to 18:00 Sundays. The hours of delivery hereby permitted shall be discontinued and the delivery hours restored to those approved under PLAN/2022/0250 on or before 12 months from the date of the unit,

subject of this application, is brought into use unless permission is otherwise secured from the Local Planning Authority.

Reason: To safeguard the amenities of the environment and amenities of the occupants of neighbouring properties.

Proposal

This application seeks a variation to Condition 4 of the approved planning permission **PLAN/2022/0910** to reword the condition as follows:

“There shall be no deliveries taken to or dispatched from the site outside of the hours 06:00 to 22:30 Monday to Friday, 07:00 to 22:30 Saturdays and, 08:00 to 18:00 Sundays. The hours of delivery hereby permitted shall be discontinued and the delivery hours restored to those approved under PLAN/2022/0250 on or before 12 months from the date of the unit, subject of this application, is brought into use unless permission is otherwise secured from the Local Planning Authority.

The Aldi store opened on 7th September 2023 and has been receiving deliveries in accordance with the extended deliveries hours permitted by Condition 04 of PLAN/2022/0910.

The delivery hours permitted under the extant planning consent (Reference **PLAN/2022/0250**) are 06:00 –22:30 (Monday to Friday); 07:00 –18:00 (Saturdays) and 08:00 –18:00 (Sundays). Therefore, the only additional period being sought is the 18:00 to 22:30 on Saturday evenings.

To further support matters, an Environmental Noise Report has been prepared by Sharps Redmore and should be read in conjunction with this covering letter. The purpose of this report is to consider the impact of noise from delivery activity during the Saturday evening period on neighbouring noise sensitive properties, including the residential properties in Maybury Road to the north of the site on the opposite side of the railway line which forms the northern boundary of the site.

Having assessed the impact of noise against objective criteria in the wider site context and lack of complaints received from local residents, The Environmental Noise Report concluded that deliveries can continue to be received during the hours currently permitted by Condition 04 of **PLAN/2022/0910** without causing impact to local residents in line with national and local policy aims.

Principle of a Section 73 Application

Section 73 of the Town and Country Planning Act 1990 (as amended) allows for applications to vary or remove conditions associated with planning permission. Section 73 of the Act is set out in the following terms (not extensive):

73. Determination of applications to develop land without compliance with conditions previously attached.

(1) This section applies, subject to sub-section (4) to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

(2) On such an application the local planning authority shall consider only the question of conditions subject to which planning permission should be granted, and-

(a) If they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) If they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

(4) This section does not apply if the previous planning permission was granted subject to a condition as to the time within which the development to which it related was to be begun and that time has expired without the development having been begun.

(5) Planning permission must not be granted under this section for the development of land in England to the extent that it has effect to change a condition subject to which a previous planning permission was granted by extending the time within which-

(a) a development must be started;

(b) an application for approval of reserved matters (within the meaning of section 92) must be made.

Summary

In summary, the proposed variation to Condition 4 is required to optimise the operation of the site and is supported by the Environmental Noise Report completed by Sharps Redmore. We trust that this application pack contains sufficient information to validate the application on receipt and we look forward to receiving your decision. However, should you require any further information, please do not hesitate to contact me.

Yours faithfully,

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For and on behalf of Avison Young (UK) Limited