



Leeds
CITY COUNCIL

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Report of the Chief Planning Officer

SOUTH AND WEST PLANS PANEL

Date: 4TH December 2014

Subject: PLANNING APPLICATION 14/04720/FU– Variation of condition 3 (range of goods sold) of approval 12/03748/FU, to allow the sale of magazines and national newspapers.

At Aldi Store, Stanningley Road, Bramley, Leeds, LS13 3LY

APPLICANT
Aldi UK

DATE VALID
8th August 2014

TARGET DATE
5th December 2014

Electoral Wards Affected:

Bramley and Stanningley

Yes Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

DEFER AND DELEGATE approval to the Chief Planning Officer, subject to the signing of a revised Section 106 agreement within three months from the date of the resolution to ensure the following: -

- **Travel Plan, Travel Plan Coordinator and monitoring fee of £2,500;**
- **Store to be a discount supermarket only; and**

and subject to the following conditions:

1. **3 year time limit;**
2. **In accordance with the approved plans;**
3. **Restriction on good which can be sold, no tobacco, lottery, dry Cleaning, in store counters etc**

4. **Visibility splays of 2.4m x 90m in each direction onto Stanningley Road to be retained**
5. **Travel Plan Measures;**
6. **Store Opening Hours;**
7. **Store Delivery Hours only between hours of 07:00 and 21:00;**
8. **Duty to comply with approved Delivery Scheme;**
9. **Delivery by HGV's over 7m in length to be made outside opening hours but not between 21:00 and 07:00;**
10. **Retention of acoustic barrier along boundary opposite service yard**
11. **Provision of facilities for storage and disposal of litter;**
12. **Landscape maintenance and implementation;**
13. **Replacement planting within 5 years;**
14. **Root Protection of existing TPO trees (on adjacent land);**
15. **Secure the car park outside opening hours;**

1.0 INTRODUCTION:

- 1.1 This application is brought before Plans Panel, in the interests of democracy and transparency due to the high level of local representation received to the application

2.0 PROPOSAL:

- 2.1 The proposal seeks to vary Condition no 3 of Planning Application 12/03748/FU. This condition is worded in full below.

Notwithstanding the provisions of the Town and Country (Use Classes) Order 1987, as amended by the Town and Country (Use Class) (Amendment) Order 2005 (or any order revoking and re-enacting that Order with or without modification) the 'discount food retail' unit hereby permitted shall not be used for the retail sale of any of the following goods and services:

- * Tobacco and smoking products*
- * Loose confectionary*
- * Lottery tickets or scratch cards.*
- * Fresh meat and fresh fish counter (excluding pre-packed meat and fish)*
- * Delicatessen counter*
- * Pharmacy (dispensary)*
- * Dry cleaning service*
- * Photo-shop*
- * Post office services*
- * Cash machine*
- * In store bakery (other than the use of a single oven for the reheating of part baked rolls and similar products)*
- * In store café*
- * Magazines or national newspapers*

* *Greeting cards*

In the interests of the highway and pedestrian safety and the vitality and viability of the nearby Town Centres of Armley and Bramley, in accordance with adopted Leeds UDP Review (2006) policies S2, S5, T2 and T24.

- 2.4 This condition seeks to remove the reference to Magazines or National newspapers, to enable Aldi to sell these products.

3.0 SITE AND SURROUNDINGS

3.1 The application site consists of a modern Aldi store which was opened in 2013. The building is predominately brick built, with some element of cladding, with a pitched roof. A car park is located to the west of the building and is enclosed by a stone wall and elements of landscaping. The site is located on the northern side of Stanningley Road, to the west of the roundabout at Bramley Town End. Until 2007 there was a substantial complex of traditional industrial buildings on the site.

3.2 The surrounding area is predominantly residential in nature. To the north exists a modern residential development comprising 3 storey flats and 2 storey town houses at Windsor Court. There are substantial trees adjacent to the application site boundary within the rear gardens of the flats; these trees are protected by a TPO. To the east lies Osbourne Court, a modern 2 storey flat development. There is a terrace of houses on the opposite side of Stanningley Road to the south with open space on either side. To the south west on the other side of Ashby Avenue is the rear of a 2 storey café at the Stanningley Road junction with 2 storey brick terrace houses behind.

4.0 Relevant Planning History:

- 4.1 12/03748/FU: Revised siting of detached retail unit (Aldi store) with car parking. Approved 6th November 2012
- 4.2 11/03417/FU: Detached retail unit (Aldi store) with Car Parking. Approved 4th May 2012
- 4.3 08/03221/FU: Change of use of mill to offices and erection of 3 storey office block and part 3 and part 4 storey office block, with car parking. Refused on 'out of centre' and parking grounds. Dismissed at appeal in February 2009.
- 4.2 07/01516/FU: Change of use including part demolition of mill and 2 storey roof extension to 39 flats and erection of part 3 part 4 storey block of 21 flats and 3 storey block of 6 three bedroom terrace houses and 6 one bedroom flats on the combined Springfield and Craven Mills site. Approved March 2010.

- 4.3 06/04274/OT: Outline application to erect residential development on the Springfield Mills site only Approved 30 January 2007. All matters are reserved for future approval.
- 4.4 06/00579/FU: Demolition of mills, laying out of access road and erection of 58 flats in 3 blocks with car parking on the combined Springfield and Craven Mills site refused on 18 May 2006. The reasons for refusal concerned the proposed massing, the lack of an adequate building presence along the Stanningley Road frontage, the positioning of the development in close proximity to 19-37 Osbourne Court and the lack of useable amenity open space. An appeal lodged against this refusal was dismissed on 23 February 2007.
- 4.5 24/552/03/OT: Outline application to erect residential development on the Craven Mills site only approved 24th March 2004. This permission has since expired.

5.0 HISTORY OF NEGOTIATIONS / PRE-APPLICATION COMMUNITY INVOLVEMENT

- 5.1 Officers are not aware of any engagement by the applicants with local residents prior to the submission of the application. Similarly there was no pre-application discussion with Officers.

6.0 PUBLIC/LOCAL RESPONSE

- 7.1 The application was publicised by 6 site notices which were posted adjacent to the site on 22nd August 2014. An advert was also placed in the local press on 21st August 2014. Ward Members were personally informed of the application by e-mail.

- 7.2 In total the responses received to the application are highlighted below.

- Three individual letters of objection
- A petition containing approximately 394 signatures
- Objections from two Bramley Ward Members
- An objection from a Ward Member from the adjacent Armley ward.

- 7.3 The points raised in the individual objections are highlighted below:-

- Aldi have misled local residents on their true intentions with regard to selling newspaper and magazines. They 'sold' their concept on not competing with existing local shops when the original application was submitted.
- The proposal would impact upon trade of an existing local newsagent.
- If the data submitted by Aldi is correct with regard to the projecting sales of newspapers (which is minor) it does not seem value for money submitting this application.

- This could be the first of many applications to vary their existing permission and conditions.
- The proposal will have a detrimental effect on the locality.
- We should be supporting local small businesses and not assisting in their demise.
- The data submitted by Aldi on projecting magazine/ newspaper sales compares with other stores, which are not comparable with this site. It is unlikely these stores are located so close to an existing newsagents.
- The list of magazines they wish to sell is vast, and cannot be described as 'restricted'.

7.4 The petition received is based on the following objections:-

- Aldi mislead people who supported the original application by stating they would not sell newspapers and magazines.
- Aldi 'sold' their scheme stating their presence would compliment the retail offer, offered by existing small local stores.
- Aldi have already breached Condition no 3, by selling magazines and newspapers – although this has now ceased.
- There no need for them to sell selling magazines and newspapers.
- The proposal will have an significant adverse impact on nearby local shops.

7.5 Bramley Ward Members, Councillors Hanley and Ritchie have objected to the application. The specific points raised by Councillor Ritchie are highlighted below:-

- The proposal has been a great asset to the locality, despite delivery hours being breached.
- The proposal would impact upon local a newsagent which is sited very near to the site.
- It is disingenuous to attempt to alter the existing consent when there has been no change in local provision.

7.6 Councillor McKenna, whose Armley Ward boundary lies directly opposite the site has objected to the application. He has raised concerned regarding assurances Aldi previously gave the local community with regard to the range of goods they stated they would sell.

7.7 Following the initial draft of this report, Councillor McKenna has suggested that the application is approved for a temporary 12 month period only, to allow a monitoring period on the impact on existing newsagents. This suggestion has been supported by fellow Ward Member Councillor Lowe, and Bramley Ward Member Councillor Gruen. It is not considered this approach could be practically adopted, as there is no mechanism to monitor the impact on existing stores. Such a condition would not meet the 5 key tests on the use of Conditions, contained in Circular 11/95 in respect of conditions being necessary, relevant, enforceable, precise, reasonable.

8 CONSULTATION RESPONSES

8.1 Highways

No objection subject to standard conditions. The additional traffic and subsequent parking demand at the site due to the proposal is unlikely to be significant.

8.2 Local Plans

No objection. The submitted Impact Assessment shows the impact on the existing store to be marginal.

9 PLANNING POLICIES

9.1 NPPF

Para 19 Supporting sustainable economic growth
Para 20 Meeting the needs of a business and supporting an economy
Para 24 Sequential test for out of center retail development

9.2 Leeds Core Strategy 2014

GP5 General Planning Considerations
SP2 Spatial Approach to Retailing
P8 Sequential and Impact Assessments

MAIN ISSUES

- Principle of Development / Impact
- Highway Safety
- Other Issues

10.0 APPRAISAL

- 10.1 The principle of this application is concerned with allowing an increased range of goods namely newspapers and magazines, to be sold from an Aldi supermarket, which lies in an 'out of centre' location. The decision to grant the previous consent for the Aldi supermarket was not dependent on the fact newspapers and magazines were not sold by Aldi. However based on the objections now received, it does appear local residents supported the original application on the basis Aldi publicised that they sold a restricted range of goods (not including newspapers and magazines) and would therefore complement rather than compete with the existing local retail offer.

- 10.2 Aldi have supported this application with an 'Impact Assessment', which was requested by Officers, in-line with the policy guidance of policy P8 of the adopted Leeds Core Strategy, which requests such assessments on new proposals for out on center retail developments. Agents acting for Aldi have stated that newspapers are sold daily but people don't shop at Aldi daily, and therefore customers who buy newspapers locally elsewhere would only not buy a newspaper from their other regular local store, only on the day they visited Aldi to food shop. They have supported the application with a survey of shoppers who were buying newspapers and magazines from their store in 'Wath upon Dearne'. The Impact Assessment is based on this survey and assumes the people at the Bramley store will have the same previous shopping habits of people at the Wath upon Dearne store.
- 10.3 This Impact Assessment, based on the cost of the newspaper and magazine sold, over the different 7 days of the week, and based equally on the lost trade from the 21 newsagents which exist in the LS13 postcode, states that each of the 21 newsagents will lose £1.12 a day on newspaper sales and 66p on magazine sales. In reality however it is unlikely each of the 21 newsagents in LS13 would lose an equal amount of trade, however it would be difficult to quantify this by numerical values. The Impact Assessment assumes an average, which equates to a total of £23.52 a day on newspapers sales and £13.86 on magazines sales.
- 10.4 It is clear from the information provided that Aldi's decision to sell newspapers and magazines from their stores will have a marginal negative impact upon local newsagents, by diverting sales from these existing local stores. However, the level of diversion, whilst material, is considered to be below the level at which a refusal of this variation of condition would be justified. Whilst the impact on other local shops is a cause for concern, this is not considered to be a significant enough level of trade diversion to justify refusal on the grounds of a detrimental impact upon designated centres.
- 10.5 Highways
Parking demand at this store, during peak times has previously been observed to be almost full to capacity. The applicant has stated that the majority of customers will only pick up magazines/ papers on their usual shop in the store. If there are additional visits to the store to pick up papers then these are likely to be in the morning when it has been observed that the car park has ample available parking for an increase in parking demand. Taking this into account and that the Aldi store is anticipated to sell a relatively small number of magazines/ papers, Highways Officers have confirmed it would be difficult to sustain a reason for refusal, and therefore the proposals are on-balance acceptable.
- Other Issues
- 10.6 The fact Aldi seek to vary a previously imposed condition, has no bearing on the outcome of this application which has to be judged on its own planning merits. This approach would be taken to any further applications upon this site, should any future applications be submitted to amend the current

planning restrictions upon this store. Similarly the lack of perceived 'need' for the increased retail offer does not warrant grounds to refuse the application.

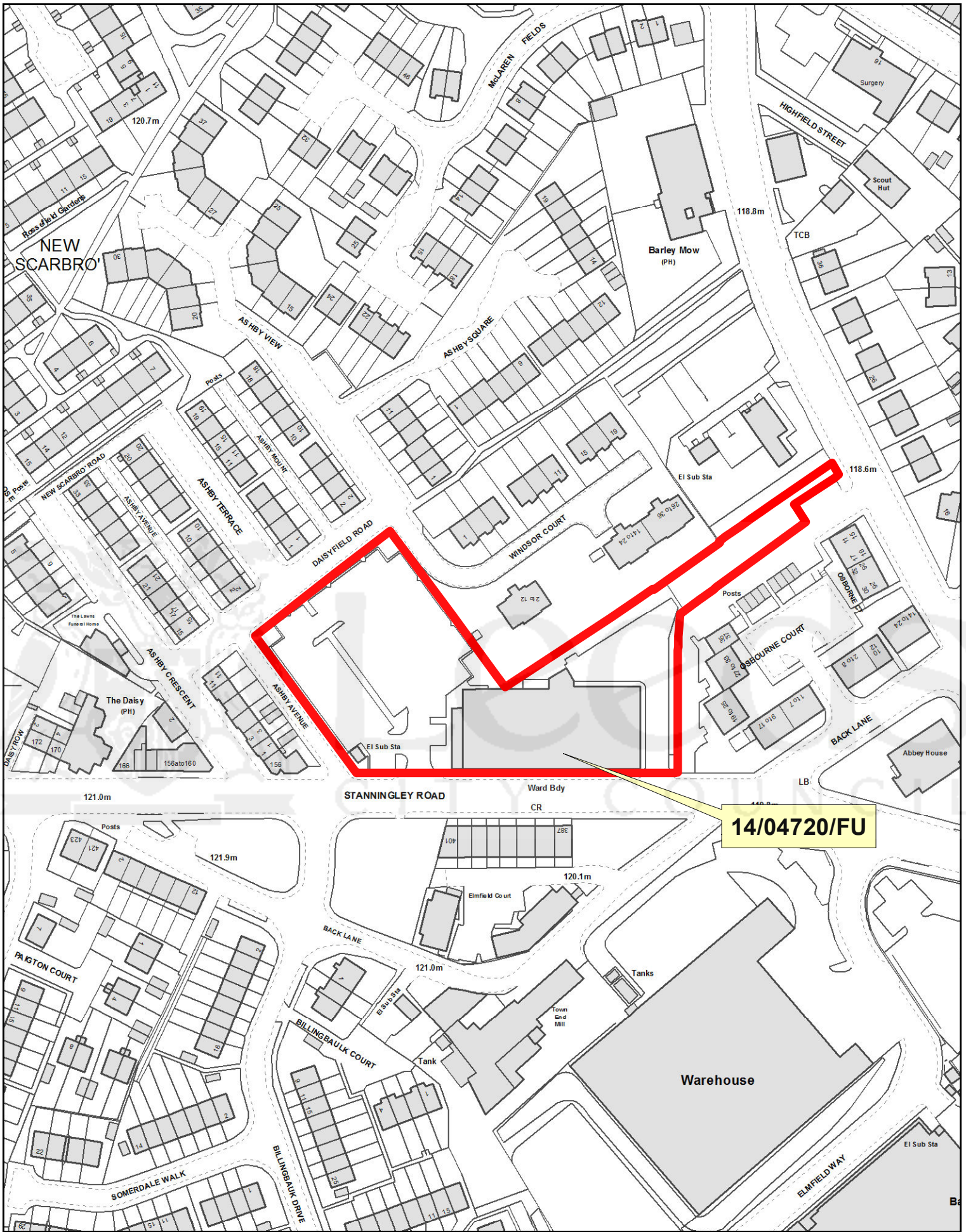
- 10.7 The fact that the Aldi store has previously breached conditions relating to the sale of goods, and delivery hours is not relevant to the outcome of this application. Competition between businesses is also not a material planning consideration.

CONCLUSION

- 11.1 Although the proposal would have a marginal negative impact upon local newsagents, the level of diversion, whilst material, is considered to be below the level at which a refusal of the variation of condition would be justified.

Background Papers:

File Planning Application 12/03748/FU



SOUTH AND WEST PLANS PANEL

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