



Report of the Chief Planning Officer -

SOUTH AND WEST PLANS PANEL

Date: 4th June 2015

Subject: Application 14/04467/FU Demolition of existing buildings and construction of Single storey supermarket with associated works, car parking and landscaping on land at Marsh Street Rothwell LS26 OAG

APPLICANT

Aldi Stores Limited

DATE VALID

6th August 2014

TARGET DATE

09.06.2015

Electoral Wards Affected:

Rothwell

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

DEFER AND DELEGATE to the Chief Planning Officer for Approval , subject to the specified conditions and following completion of a Section 106 Agreement to cover the following matters :

- Metro Live bus information (bus stop number 10535) total of £10,000
- Travel Plan Fee of £2,500
- Local employment

In the circumstances where the Section 106 has not been completed within 3 months of the resolution to grant planning permission the final determination of the application shall be delegated to the Chief Planning Officer.

Conditions

1. Development to be begun within 3 years of the date of this permission.
2. Development in accordance with the approved plans
3. Materials to be made available on site
4. Surfacing materials to be agreed
5. Opening hours of the Aldi store to be restricted to 08.00hrs till 22.00hrs Mondays to Saturdays and any six hours between 10.00hrs and 17.00hrs on Sundays and Bank Holidays in line with current Sunday trading restrictions.

6. Delivery hours to the Aldi store by HGV vehicles and refuse vehicles shall be restricted to between the hours of 07.30hrs till 21.00hrs Mondays to Saturdays and between 0900hrs till 1800hrs on Sundays and Bank Holidays.
7. Requirement for the submission of a delivery management plan.
8. Net retail floorspace shall be restricted to **1108m₂**. No further mezzanines or other internal floorspace to be created.
9. Car park to be completed prior to opening and retained thereafter.
10. The car park shall remain open and free of charge to the public for a minimum period of three hours per day.
11. Motorcycle parking.
12. Cycle parking provision in accordance with approved plan.
13. Laying out of car park areas to manage surface water.
14. Provision of electric recharging points.
15. Vehicular access gradient.
16. Shower/changing facilities within the Aldi store.
17. Details of materials.
18. Landscape scheme.
19. Lighting to be switched off at least between the hours of 2200 and 0730.
20. Litter management plan.
21. No operation of a tannoy system.
22. Details of lighting within the car park.
23. Noise level restrictions – during demolition, construction and fixed plant machinery.
24. Hours of restriction during demolition and construction
25. Statement of construction practice, including delivery hours.
26. Car Park Management Plan (To cover anti –social behaviour)
27. Restrict use of reversing horns on delivery vehicles
28. Details of acoustic barrier to be submitted
29. The building shall employ sustainable principles achieve a BREEAM rating of “very good”.
30. Phase II remediation required.
31. Remediation works to be carried out in accordance with remediation statement.
32. Strategy if variation from approved remediation strategy.
33. Surface water discharge.
34. Off-site highway improvement works in accordance with approved plan.

1.0 INTRODUCTION

- 1.1 This application is brought to Plans Panel following a request from Ward Members Councillor Bruce, Councillor Nagle and Councillor Golton.
- 1.2 Councillors Bruce and Nagle have raised the following concerns
 - The hours of opening and delivery
 - The highways impact on local traffic
 - All impacting on the residential amenities of neighbours.
- 1.3 Councillor Golton has raised the following concerns:-
 - The extended delivery hours till 23.00hrs
 - The potential level of vehicular traffic at a junction that already suffers severe congestion at key points in the day
 - The impact of the loading bay and disturbance caused by this to neighbouring properties.

2.0 PROPOSAL:

- 2.1 This is a full planning application submitted by Aldi Stores for the demolition of the industrial buildings which currently operate as Class B1/B2/B8 and the construction of a new food store operating within Class A1(shops). The proposed Aldi extends to a net useable sales area of 1108 sqm and 1705sqm gross internal area .Proposed is a total number of 110 customer and staff car parking spaces including 7 disabled spaces, 8 parent and child spaces, 2 motorcycle and 10 cycle spaces. The submitted Design, Access, Site Waste Management and Sustainability Report states that Aldi is a food store with predominantly their own labelled brands. It states that they do not have an in-store bakery, butcher, fishmonger or café nor do they sell national newspapers, magazines, cigarettes or lottery tickets
- 2.2 The proposed Aldi is to be sited on the edge of Rothwell Town Centre boundary within the designated Rothwell Conservation Area. Number 2 Marsh Street is located directly opposite the site and is a Grade II listed building. The proposed entrance to the supermarket being approximately 30m from the defined Rothwell Town Centre boundary and 240m from the defined Primary shopping frontage. The total development site area is approximately 1.78 acres (0.72ha) in size. Located along Carlton Lane/ Marsh Lane facing the junction of Butcher Lane, which provides vehicular access to the Rothwell Town Centre. The proposed store presents a 30 metre frontage to Carlton Lane set back 17m from the highway.This frontage is a glazed façade with gabled features and a flat roofed attachment in red brick accommodating staffing requirements. The front elevation of the store of 55m overlooks the internal car park area, having a brick elevation with high level windows. The store entrance is a glazed feature with canopy on the northwestern corner of the building.A flat roof is proposed above the glazed gabled features with a mansard roof along the front elevation. A landscaping scheme is proposed to the frontage with a low level brick wall along the site frontage.
- 2.3 The delivery yard for the proposed food store will be located on the southern boundary of the site, immediately adjoining the stores footprint. The service yard incorporates a loading bay with a self levelling dock, roller shutter access doors and a sheltered canopy system. The Planning and Retail Statement advises that the HGV vehicles conducting the deliveries will share the same access from Carlton Lane/Marsh Street as the customers visiting the store. Given the levels on site retaining walls are required around the store and servicing yard resulting in the development being set below the adjoining residential properties on Maple Rise.The level changes result in the delivery yard area being located at a lower level by 3m and has a 2m high acoustic fence. A vegetation boundary which forms an embankment has a width of 9m 10m and 12m.The statement further advises that the store will receive approximately 2 articulated lorry deliveries per day plus a single delivery from a local milk supplier. Aldis stock are delivered on Palletts which are rolled into the warehouse using an automated dock levelling system such that the majority of the stock movement takes place within the store.
- 2.4 The site is located within the designated Rothwell Conservation Area. The application site is identified as an “opportunity for enhancement” site and neighbours a number of buildings identified within the Conservation Area Appraisal as “positive buildings”. These include The Grade II Listed buildings, 2 Marsh Street (List entry number 1184702) which is located directly opposite the site. The former Rothwell Infants School (List entry number 1389126) located towards the west of the site along Carlton Lane and the former Poorhouse on Prospect Place (List entry number 1135683). The nearest Grade II Listed building is directly opposite namely 2 Marsh Street. The

design, materials and layout of the building have been revised to reflect the character of the designated Conservation Area. The unit is brought forward to enhance the frontage with a brick wall with landscaping to be implemented along this frontage to provide a soft landscaping feature.

2.5 The hours of operation requested by applicant are:-

Opening Hours

- **Monday to Saturday (including Bank Holidays) 08.00hrs till 22.00hrs.**
- **Sundays any 6 hours in line with current trading restrictions between 10.00hrs and 18.00hrs.**

Delivery hours

- **Monday to Saturday 07.00hrs till 23.00hrs**
- **Sundays 09.00hrs till 17.00hrs.**

2.6 Taking into consideration the proximity of residential dwellings on balance the following hours of operation are considered reasonable by Officers

Opening hours

- **Monday to Saturday 08.00hrs till 22.00hrs**
- **Sundays and Bank Holidays 10.00hrs till 17.00hrs**

Delivery hours

- **Monday to Saturday 07.30hrs till 21.00hrs**
- **Sundays and Bank Holidays 09.00hrs till 18.00hrs**

2.7 Local Ward members Councillors Bruce and Nagle have raised strong objections to both the opening and delivery hours above. Stating that they initially supported the proposal on the basis that the hours of both opening and delivery is 8am till 8pm. (Lidl has planning approval to extend the opening hours till 9pm)

2.8 Local Ward member Councillor Golton is objecting to the proposed hours of opening, stating that it should be limited to 8pm.

2.9 The Lidl Store on Aberford Road in Woodlesford has the benefit of planning permission (Application 10/01246/FU) for the following opening and delivery hours:-

Opening hours

- **Monday to Saturday 08.00hrs till 21.00hrs**
- **Sundays 11.00hrs till 17.00hrs**

Delivery hours

- **Monday to Saturday 07.00hrs till 21.00hrs**
- **Sundays and Bank Holidays 10.00hrs till 16.00hrs**

3.0 SITE AND SURROUNDINGS:

3.1 The application site of approximately 1.78 acres (0.72ha) in size is located in Rothwell, approximately 6 miles south east of Leeds City Centre. The application site is currently occupied by "Ashleigh Signs" which constitutes commercial and industrial units and hardsurfacing for both parking and storage. The site fronts Carlton Lane and occupies an edge of centre retail location, directly adjoining the town centre boundary of Rothwell. Rothwell Town Centre and much of the surrounding area lies within the Rothwell Conservation Area. The site is identified as an "opportunity for enhancement" in the Conservation Area Appraisal (2010) for Rothwell and is within the setting of a Grade II Listed Building (Number 2 Marsh

Street) .The application site is bounded by the existing road network namely Carlton Lane and Marsh Street to the North with existing residential , commercial ,retail properties, Rothwell library ,British Oak Public House and Rothwell Council Services building along Carlton Lane. Beyond Carlton Lane and Marsh Street lies Rothwell Town Centre. Immediately towards the south, east and west are residential developments. The site rises 4.8m from Carlton Lane and Marsh to the rear boundary with a rise from the north east to south west boundary of 3.3m.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 07/05/20/ADV 1 non illuminated post sign to works
Refused 10.08.2007
- 22/141/95/FU External flue pipe
Approved 12.07.1995
- 22/53/93/FU Erection of boundary fences to height of 1.95m
Approved 12.03.1993

Hours of operation – no planning history restricting the hours of operation of Industrial use on site or restriction of existing business (Ashleigh Signs)

The existing business operates

- 5.45am to 07.30pm Monday to Friday
- 6am till 12pm on Saturdays
- Occasional working on a Sunday
- Deliveries are continual during this period

5.0 HISTORY OF NEGOTIATIONS:

5.1 Preapplication Advice given April 2014.

Advice given in relation

- principle of development and policy
- Technical advice given in relation to highways ,

5.2 Officers have had a number of meetings and discussions to negotiate the following:-

- Hours of operation
- Layout
- Design of the building to reflect the character of The Rothwell Conservation Area
- Highways- Access, offsite highway works in regards to trip generation

6.0 PUBLIC/LOCAL RESPONSE:

6.1 Community Consultation

Public exhibition was carried out locally by Aldi on 10th June 2014

6.2 The application has been advertised by site notice posted on site 15.08.2014 and advertised within the Yorkshire Evening Post on 13.08.2014. The following representations in the form of petitions and individual households have been received:-

- 30 representations of objections

- 49 representations of support
- 2 general comments that neither support or object
- Ward Member Comments
- Rothwell Neighbourhood Forum representation

The comments are summarised as follows:-

Objections

- Detrimental development of Town Centre, draining trade away from existing shops. Already empty shop units in Morrisons and units located in Commercial Street
- Impact on traffic using Carlton Lane, Butcher Lane junction is already narrow and dangerous and increase in cars using this junction will cause delays and pollution affecting the environment
- Needs to be safer for children to walk to school
- Site ideal for housing would improve traffic problems
- Lower footfall in Rothwell will mean that more traders will suffer with increased number of empty units
- Noise generated to nearby houses in particular to the residents along Maple Rise to the rear
- Hours of opening, at public meeting 8 till 8pm Mondays to Fridays and shorter hours on Saturday and Sunday
- Constant noise to residents all day and to an unacceptable hour in the evening
- No noise outside of normal working hours from current Ashleigh Signs.

Support

- Creation of jobs and low cost store helps people on low fixed incomes
- Bringing choice and healthy competition to Morrisons
- To get to cheaper supermarkets have to go either in a car or by bus. Will be able to walk to a cheaper store
- Fresh fruit and vegetables daily is very appealing

Representation from Peacock and Smith Solicitors (Morrisons)

- Morrisons is within a defined Centre and is the retail anchor, sustains vitality and viability of the centre
- Proposed store is edge of centre in retail policy terms
- Site is unallocated, Policy EC3 of Adopted Core Strategy provides guidance in relation to safeguarding existing employment land and industrial areas. Rothwell lies in an area with no identified shortfall in employment land. So only Part A applies
- The Planning Statement does not assess the scheme against the provisions of Policy EC3. No information as to where Ashleigh Signs will relocate. Consider application is deficit and request further information be submitted by applicant to demonstrate that requirement of Policy EC3 have been met
- Retail planning considerations not met. Applicants retail assessment considered inappropriate and have serious implications for the retail impact assessment
- Planning application should be subject of a full retail impact assessment as would be expected from any of the main foodstore operations
- Concern that trade draw analysis shown does not correspond with the primary catchment area
- Underestimated impact on Rothwell Town Centre
- Application proposal will have significant and harmful effect on Rothwell Town Centre

- Revised tables submitted by applicant to demonstrate the above. Conclude that Application has not submitted any information demonstrating that the provisions of Adopted Core Strategy Policy EC3 have not been met to justify the loss of employment land and the impact on Rothwell Town Centre.
- The application should be refused.

Rothwell Neighbourhood Forum

In principle the Forum would support the proposed change of use of the site to retail, however have a number of concerns:-

- Surrounded by residential areas, the proposed extended opening hours are inappropriate, alongwith all the activities involved with the operation of the store including deliveries which in the present position of the service area will intrude on the privacy of adjoining residents.
- Proximity to adjoining residential dwellings and the noise and disturbance this will generate
- Potential for car park to be used for antisocial behaviour when closed
- Boundary treatment should be improved to protect privacy
- Forum requests Carlton Lane be widened at the junction with Butcher lane. Allowing improved turning circle for larger vehicles turning left into the site and also improved space for the middle lane for vehicles turning right into Butcher Lane
- Present traffic light controlled junction does not work partly due to volume of traffic. Difficult to imagine how the junction will be improved by adding a further 100 cars from the new store into the equation.
- Car park will increase demand on the junction further
- Need to take a long term view of this junction and the distribution of traffic around the town centre area.

Local Ward Members representations

Councillor Bruce

- In principle in favour of an Aldi on site , extending Town Centre ,provides competition to Morrisons, providing choice to residents
- Have received lots of comments, most are positive but concerns need to be addressed
- Proposed extended opening hours are inappropriate
- Noise and disturbance to residents on Maple Rise
- Disturbance to elderly occupants of bungalows on Windmill Green
- Opening times should be 8am to 8pm similar to Lidl and the delivery times should be the same
- Properties to the rear on Maple Rise should be protected from noise and visually.Proposed boundary is not sufficient.Residents should be protected
- Residents concerned that these proposals will effect Carlton Lane
- Points raised by Rothwell Neighbourhood Forum regarding widening the road and review of current traffic light system are questions I would like to see answers to.

(These points were raised by Chair of Neighbourhood Forum in case officer briefing with Ward Members Councillor Bruce , Nagle and Mr Garside Chair of Forum)

Councillor Nagle

- Endorses comments made above by Councillor Bruce, with prime concern being road safety for pedestrian and drivers.

Councillor Golton

- Concerns from residents about potential levels of vehicular traffic at a junction that already suffers severe congestion at key points in the day and also has concerns about the properties adjacent to the loading bay and disturbance caused to them from vehicle movements.

7.0 CONSULTATION RESPONSES:

7.1 Contaminated Land

No objection subject to conditions and Directions.

Public Transport Team

The proposal has been assessed and additional trips will have to be accommodated on the public transport network. Result in a contribution of £47,272.

(This Public Transport contribution will now controlled with the CIL contribution)

Sustainability Nature Team

No significant nature conservation issues

Environmental Protection Team

The submitted noise report has been assessed with the following conclusion

- Mitigation measures are recommended to protect the amenity of nearby residents as suggested in report. The installation of a 2m high solid acoustic barrier at specified locations. Details of construction method, how the height has been determined and what mitigation it offers needs to be submitted.
- Delivery management plan in regard to noise control needs to be submitted

The following conditions recommended:-

During construction

- Specified activity and delivery hours during construction 08.00hrs to 1800hrs Monday to Friday, 08.00hrs Saturdays with no demolition construction on Sundays
- Statement of Construction Practice to be submitted
- Noise and dust control

During operation of supermarket

- Opening hours restricted to 08.00hrs to 22.00hrs Monday to Saturday and 10.00hrs to 1800hrs on Sundays and Bank Holidays
- Deliveries and collections restricted to 07.00hrs to 2300hrs Monday to Saturday and 0900hrs to 1800hrs on Sundays and Bank Holidays
- Cumulative noise levels from fixed plant at premises in accordance with BS4142:2014
- Delivery and collections not to operate until a scheme to control noise emitted from plant and machinery has been agreed
- A delivery Management Scheme to be submitted within 1 month of decision

Metro

Residents would benefit from "live" bus information display at bus stop number 10535 at a cost of £10,000 (including maintenance)

Travelwise

Conditions recommended with a Travel Plan evaluation fee of £2,500 to be part of the S106 Agreement.

Highways

(first consultation dated 15.09.2014)

The proposal cannot be supported as submitted. Additional information and revised Transport Assessment/ Travel Plans, and a revised layout and off site highway works plan are required for a full assessment of the proposals.

Negotiations with highways have taken place over a period of time to address the above, resulting in revisions showing

- The plans being revised to widen both Marsh Street and Carlton Lane by approximately 1.5m on the southern side
- The layout and capacity modelling of the signalized Marsh Street/Butcher Lane junction has been revised
- Amendments to the access layout with the car park exit widened to provide two lanes at the stop line.

(Final highway consultation response dated 15.05.2015)

The revisions on the latest set of submitted plans is now considered acceptable and address the highway concerns raised.

Forward Planning and Implementation- Retail

(First consultation dated 23.09.2014)

Following an assessment of Rothwell, the most appropriate site to allow for the expansion of Rothwells retail offer is the application site. This is a reflection of the lack of suitable in centre alternatives. Therefore no objection to the principle of retail on this site. However not at the expense of the vitality and viability of the existing town centre. The level of impact projected upon the Morrison store is a serious concern and the applicant needs to provide further more detailed evidence that the Morrison store is indeed overtrading and is capable of withstanding the high level of impact projected upon it. Further work needs to be undertaken to justify the applicants claims that linked trips will result in no adverse impact upon Rothwells vitality and viability.

(Second consultation dated 10.12.2014)

As stated above the applicant has provided further information that shows Morrisons is trading well above its benchmark level. This level of overtrading would therefore suggest that the store would be able to withstand trade lost to the Aldi store without suffering any significant adverse impact.

Applicant has adequately demonstrated that the scheme will not have a significant adverse impact upon Morrisons store or the wider centre. Therefore all sequential and Impact issues have now been addressed.

(Further consultation in response to Morrisons representation dated 03.02.2015)

Morrisons challenge some of the assumptions made by Aldi, but likewise the applicants response is a robust one. It isn't in doubt that the scheme will have an impact upon Rothwell , what is in doubt is whether that impact would be significantly adverse. Rothwell is a vibrant centre that is performing strongly. Whether the impact is circa 8% as Applicant suggests or circa 15% as Morrisons project, the impact upon Rothwell would not be significantly adverse.

Forward Planning and Implementation –Policy

Loss of employment land

The site is located within Outer South which is not an area of shortfall. Accordingly, Part A of Policy EC3 applies which states:-

Proposals for a change of use on sites which were last used or allocated for employment to other economic development uses including town centre uses or to non employment uses will only be permitted where:

(i) The proposal would not result in the loss of a deliverable employment site necessary to meet the employment needs during the plan period (employment needs are identified in Spatial Policy 9)

Or

(ii) Existing buildings and land are considered to be non –viable in terms of market attractiveness, business operations, age, condition and /or compatibility with adjacent uses

Or

- (iii) *The proposal will deliver a mixed use development which continues to provide for a range of local employment opportunities and would not undermine the viability of the remaining employment site*

.Criterion (i) is relevant which relates to sites needed to meet the Core Strategy requirements up to 2028 as identified in the Site Allocations Plan. As no part of the site is proposed as an employment allocation the proposal satisfies the criteria of the policy .No objection to the proposal under Core Strategy Policy EC3.

Sustainability –Conservation (First consultation dated 03.09.2014)

Concerns raised as the proposal fails to preserve or enhance the Rothwell Conservation Area or the setting of the listed buildings.

(Second consultation dated 7th May 2015)

The visual appearance in terms of the design has been substantially improved and is satisfactory. However the amount of highway infrastructure required to serve this store remains a concern. To move the store forward creating a street frontage here could lessen the impact of the highway on the Conservation Area and the direct setting of the listed building.

8.0 PLANNING POLICIES:

- 8.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.

Development Plan

- 8.2 The development plan for Leeds is made up of the adopted Core Strategy (2014), saved policies from the Leeds Unitary Development Plan (Review 2006) (UDP) and the Natural Resources and Waste Development Plan Document (DPD), adopted January 2013.

- 8.3 The site is unallocated in the UDP. The following UDP policies are relevant to the consideration of the application:

- GP5 – General planning considerations
- N25 – Development and Site Boundaries
- BD5 – General amenity issues
- LD1 – Landscaping Schemes.

- 8.4 The following DPD policies are also relevant:

GENERAL POLICY 1 – Presumption in favour of sustainable development.

Core Strategy

- 8.5 The Executive Board considered the Inspector's Reports into the Core Strategy and the CIL examinations reports on 17th September 2014 with a view to the Core Strategy being referred to full Council for formal adoption on the basis that the Inspector had considered the plan and subject to the inclusion of the agreed Modifications, found it to be legally compliant and sound. Full Council considered these reports on 12th November 2014 and confirmed the adoption of the Leeds Core Strategy. Accordingly, the policies in the Core Strategy can now be afforded full weight

Relevant Policies from the Core Strategy are as follows:

- SP1 – Location of development in main urban areas on previously developed land.
- SP2 - Hierarchy of Centre and Spatial Approach to Retailing, Offices Intensive Leisure and Culture ` states
- P1 – Town Centres
- P2 – Acceptable Uses in and on the edge of Town Centres
- P5 – Approach to Accommodating New Food stores across Leeds
- P10 – High quality design.
- P8 – Sets out the catchments for undertaking Sequential and Impact Assessment
- P12 – Good landscaping.
- T2 – Accessibility.
- G8 – Biodiversity improvements.
- EN5 – Managing flood risk.
- ID2 – Planning obligations and developer contributions.

Supplementary Planning Guidance and Documents

8.6 The following SPD documents are relevant to the consideration of this application:

Travel Plans – Supplementary Planning Document (2012)
Public Transport Improvements and Developer Contributions (2008)
Building for Tomorrow: Sustainable Design and Construction (2010) (SPD)
Sustainable Urban Drainage (2004) (SPD)

National Planning Policy

- 8.7 The National Planning Policy Framework (NPPF), published on 27th March 2012, and the National Planning Practice Guidance (NPPG), published March 2014, replaces previous Planning Policy Guidance/Statements in setting out the Government's planning policies for England and how these are expected to be applied. One of the key principles at the heart of the Framework is a presumption in favour of Sustainable Development.
- 8.8 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.
- 8.9 With regard to retail development, the NPPF advises at Paragraph 23 that planning policies should be positive and promote competitive town centre environments. In drawing up Local Plans, the NPPF advises that local planning authorities should provide customer choice and a diverse retail offer and which reflect the individuality of town centres. The Local Authority should also allocate a range of sites to meet the scale and type of retail and leisure that are needed in town centres and allocate appropriate edge of centre sites for main town centre uses that are well connected to the town centre where suitable and viable town centre sites are not available. Only where development outside of town centres is proposed, which are not in accordance with an up-to-date Local Plan, should local planning authorities require

an impact assessment if the development is over a proportionate, locally set floorspace threshold.

- 8.10 Section 7 of the NPPF relates to the requirement for good design and confirms that good design is a key aspect of sustainable development, is indivisible from good planning. It advises at Paragraph 58 that development should function well and add to the overall quality of the area, respond to local character, be visually attractive and create safe and accessible environments.
- 8.11 With regard to meeting the challenge of climate change, the NPPF confirms that planning plays a key role in securing radical reductions in greenhouse gas emissions and providing resilience to the impacts of climate change. Paragraph 94 of the NPPF advises that local planning authorities must adopt proactive strategies to mitigate and adapt to climate change whilst Paragraph 96 advises that in determining applications, local planning authorities should expect new development to comply with adopted Local Plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable.
- 8.12 Finally, with regard to transport, Section 4 of the NPPF relates to promoting sustainable transport and confirms at Paragraph 32 that all developments that generate significant amounts of traffic should be supported by a Transport Assessment. Paragraph 34 confirms that Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

9.0 MAIN ISSUES

1. Principle of the demolition of the industrial buildings
2. Principle of retail development on this site
3. Highways
4. Design
5. Impact on residential amenities
6. S106 matters and CIL
7. Response to representations

10.0 APPRAISAL

Principle of demolition of the industrial buildings

- 10.1 This application proposes the demolition of the existing industrial buildings. Since April 2011, the demolition of a building such as the application buildings constitutes development such that it forms part of the consideration of this application. The application site consists of numerous commercial units occupied by "Ashleigh Signs" (Use class B1/B2/B8 with associated areas of hardstanding, currently utilised for car parking and storage. Ashleigh signs are relocating, as the business operations have outgrown the site. The site no longer meets the needs of the business and understand that they are relocating to Wakefield in 2015. The site lies within the Rothwell Conservation Area and is within the immediate setting of one Grade II Listed building (Number 2 Marsh Street).

The site is in close proximity to existing residential properties and the demolition of the units will have to be carefully managed to protect the amenity of adjoining residents, particularly in regard to noise and dust. The demolition also requires compliance with the Building Act 1984 and in issuing a Demolition Notice, it is the case that a number of conditions normally have to be complied with during the demolition works necessary to maintain public safety and public amenity such that this issue of amenity in relation to demolition is a matter further dealt with under other legislation.

Principle of retail development

- 10.2 The proposal is for an edge of centre Aldi with a gross Internal area of 1,705 sqm on an existing employment site just outside of Rothwell Town Centre boundary. The NPPF states that proposals such as this should be subject to a Sequential Test (and subject to a local size threshold) an Impact Assessment, if the proposals are for town centre uses but outside of the designated centre and not in accordance with the Local Plan. As this proposal is outside of the Primary Shopping Area of Rothwell and is a floorspace over the 1,500sqm threshold established within Policy P8 of the Core Strategy, this application requires a Sequential Test and Impact Assessment.

The Applicant has submitted a Sequential Test which demonstrates that there are no alternative sites that are sequentially preferable to the application site, and are suitable to accommodate the development as proposed. This reflects the lack of suitable in centre alternatives. In addition to the Sequential test the applicant must also demonstrate that the development would not result in a significant adverse impact upon designated centres, or planning investment within those centre alternatives. The Impact Assessment details evidence that the Morrisons Store is overtrading. This level of overtrading suggests that the store is able to withstand trade lost to the Aldi store without suffering any significant adverse impact. This adequately demonstrates that the proposal will not have a significant adverse impact upon Morrisons store or the wider centre. Consequently it is considered that the Sequential Test and Impact Assessments have been satisfied and therefore there is no retail policy objection to this proposal.

Loss of employment Land

- 10.3 The site is located within Outer South which is not an area of shortfall. Accordingly, Part A of Policy EC3 applies which states:-

Proposals for a change of use on sites which were last used or allocated for employment to other economic development uses including town centre uses or to non employment uses will only be permitted where:

- (iv) *The proposal would not result in the loss of a deliverable employment site necessary to meet the employment needs during the plan period (employment needs are identified in Spatial Policy 9)*

Or

- (v) *Existing buildings and land are considered to be non –viable in terms of market attractiveness, business operations, age, condition and /or compatibility with adjacent uses*

Or

- (vi) *The proposal will deliver a mixed use development which continues to provide for a range of local employment opportunities and would not undermine the viability of the remaining employment site*

.Criterion (i) is relevant which relates to sites needed to meet the Core Strategy requirements up to 2028 as identified in the Site Allocations Plan. As no part of the site is proposed as an employment allocation the proposal satisfies the criteria of the policy. Therefore there are no objections to the proposal under Core Strategy Policy EC3.

The site is located within Outer South which is not an area of shortfall. Accordingly, Part A of Policy EC3 applies. Criterion (i) is relevant which relates to sites needed to meet the Core Strategy requirements up to 2028 as identified in the Site Allocations Plan. As no part of the site is proposed as an employment allocation the proposal satisfies the criteria of the policy. Therefore there is no objection to the proposal under Core Strategy Policy EC3. The principle of the development is therefore considered acceptable.

Highways

- 10.4 Highways raised concerns initially regarding the layout and capacity modelling originally submitted as part of the proposal to incorporate the Aldi access into the signalized Marsh Street/Butcher Lane junction. The applicant amended the drawings to show the requested widening of both Marsh Street and Carlton Lane by approximately 1.5m on the southern side. Concerns were also raised about the size of the store. Surveys at similar Aldi Stores, including sites in Leeds, indicated that there would be insufficient capacity with the proposed access and that there would be a significant likelihood of excessive queuing. They indicated that a smaller store would be acceptable. However the applicant submitted an amended access layout with the car park exit widened to provide two lanes at the stop line. The layout and revised modelling were reviewed by both Urban Traffic Control and Road Safety officers and are considered acceptable. The provision of 110 car parking spaces is adequate. The location of the service delivery area to the rear of the unit and the operation of the service delivery is considered acceptable in highway terms.

Design and Impact on Conservation Area

- 10.5 The proposal is within the Rothwell Conservation Area and is within the immediate setting of a Grade II listed building (number 2 Marsh Street directly opposite). The initial design of the building was the standard template for Aldi Stores being flat roofed and using brick and rendered materials. Negotiations have taken place to improve the design, location and materials of the store to better reflect and enhance the Conservation Area. The materials proposed are red brick with a glazed gabled frontage and a mansard roof on the elevation facing the car park. The unit has been brought forward which removes some of the car parking to the front, with only disabled bays remaining. A low red brick wall is proposed to the front with landscaping along the frontage. This setback and landscaping softens the impact of the unit to the streetscene. The red brick material and improved design reflects the character of the Conservation Area. This has been agreed by Officers in consultation with Ward members and The Neighbourhood Forum.

The highway improvements to address the highway concerns raised (above section) have increased the amount of hard surfacing within this junction and to the front, along with the surfacing to the access. To mitigate the hard surfacing

Conservation have requested that the unit be brought further forward close to the frontage in line with neighbouring residential units numbers 3 and 5 Bennetts Yard. To achieve this would cause further highway and residential impact issues. Having a landscaping scheme to the front with a low wall and setting the building back achieves on balance the highway requirements without impacting on the residential amenities of the prementioned dwellings. Surface materials that reflect the conservation area are recommended within the access and crossing areas within the site. This will contribute towards enhancing and preserving the character of the Conservation Area soften the impact on the Conservation Area.

Impact on residential Amenities

- 10.6 The application site is surrounded with residential dwellings. To the rear towards the south are dwellings on Maple Rise, the western side is adjacent to Swithens Street dwellings and Carlton Lane. To the eastern side are dwellings along Windmill Gardens and Carlton Lane.

Existing Use

The site is currently occupied by "Ashleigh Signs" a long established B1/B2/B8 (General Industrial/Storage and Distribution/Business and related office use) use. The use currently operates from a number of commercial units across the site. Car parking provision is towards the front of the site facing Carlton Lane/Marsh Street. Vehicular access is from Carlton Lane /Marsh Street. The business has been established on the site for a number of years with no restriction on operating hours. The business operations have outgrown the site with the need to relocate.

The site rises from the frontage (Marsh Street) to the rear (dwellings on Maple Rise) resulting with the proposed unit being 3m lower than the dwellings to the rear. This creates an embankment which is proposed to be landscaped with a vegetation buffer ranging from 9m to 14m in width is proposed along this boundary., with the existing wall being retained. A further 2m high boarded fence is proposed along this boundary. The service point is located along this elevation with a 2m high acoustic fence to be constructed alongside this service delivery area.

The Aldi store operates a delivery system of one articulated lorry delivery per day of mixed goods and two local fresh bread and milk deliveries made by small vans. The service delivery point is designed to unload internally with deliveries being unloaded without any external activity in the form of forklift trucks etc..

Hours of operation

- 10.7 The applicant originally submitted the application requesting the following hours:-

Opening Hours

- **Monday to Saturday (including Bank Holidays) 08.00hrs till 22.00hrs.**
- **Sundays any 6 hours in line with current trading restrictions between 10.00hrs and 18.00hrs.**

Delivery hours

- **Monday to Saturday 07.00hrs till 23.00hrs**
- **Sundays 09.00hrs till 17.00hrs.**

Ward members have raised concerns regarding these opening and delivery hours (as laid out in report above representations received in paragraph 2.7 above). Environmental Health have advised that the original operating and delivery hours above are acceptable. The applicant has further reduced the delivery hours till 2100hrs Monday to Saturday in response to the representations

The opening and delivery hours of Lidl on Aberford Road Woodlesford are as follows:-

Opening hours

- **Monday to Saturday 08.00hrs till 21.00hrs**
- **Sundays 11.00hrs till 17.00hrs**

Delivery hours

- **Monday to Saturday 07.00hrs till 21.00hrs**
- **Sundays and Bank Holidays 10.00hrs till 16.00hrs**

On balance the following hours of operation are considered reasonable:-

Opening hours

- **Monday to Saturday 08.00hrs till 22.00hrs**
- **Sundays and Bank Holidays 10.00hrs till 17.00hrs**

Delivery hours

- **Monday to Saturday 07.30hrs till 21.00hrs**
- **Sundays and Bank Holidays 09.00hrs till 18.00hrs**

10.8 The existing general industrial use operates with no hours of restriction and currently operates the following hours:-

- **5.45am to 07.30pm Monday to Friday**
- **6am till 12pm on Saturdays**
- **Occasional working on a Sunday**
- **Deliveries are continual during this period**

10.9 Environmental Health have not raised any concerns to the proposal and recommend conditions are attached. The service delivery point is located 3m below the dwellings at Maple Rise and a landscaping buffer of 9m to 14m is proposed. It is considered that the change in levels and the buffer provides adequate screening and protects these residents from the delivery and general activities of the store. A landscaping buffer along the western boundary consists of a width of 8m, 6m and 3m at its nearest point. Similarly a buffer of 6m is proposed along the eastern boundary. On balance taking into consideration the current situation where the existing industrial use is operating with unrestricted hours and the proposed landscaping buffers, the proposed hours of operation and delivery are considered acceptable. Overall the change of use from a general industrial use to a foodstore with the recommended conditions is on balance considered acceptable.

S106 Contributions and Community Infrastructure Levy (CIL)

10.10 The development is CIL liable and in accordance with the CIL Regulations (2010) no CIL amount is due. As the proposed gross internal floor area of the store is less than the existing internal floor area of the industrial/ commercial units.

10.11 The following contributions remain the subject of the S106 Legal Agreement

- Metro Live Bus information (bus stop number 10535) total of £10,000
- Travel Plan monitoring fee of £2,500

The following are non pooled contributions

- The offsite highway works subject of S278 Agreement
- Local Employment
- Any related access works

- 10.12 The offsite highway works and any related access works are conditioned as the subject of S278 Agreement.

Representations received

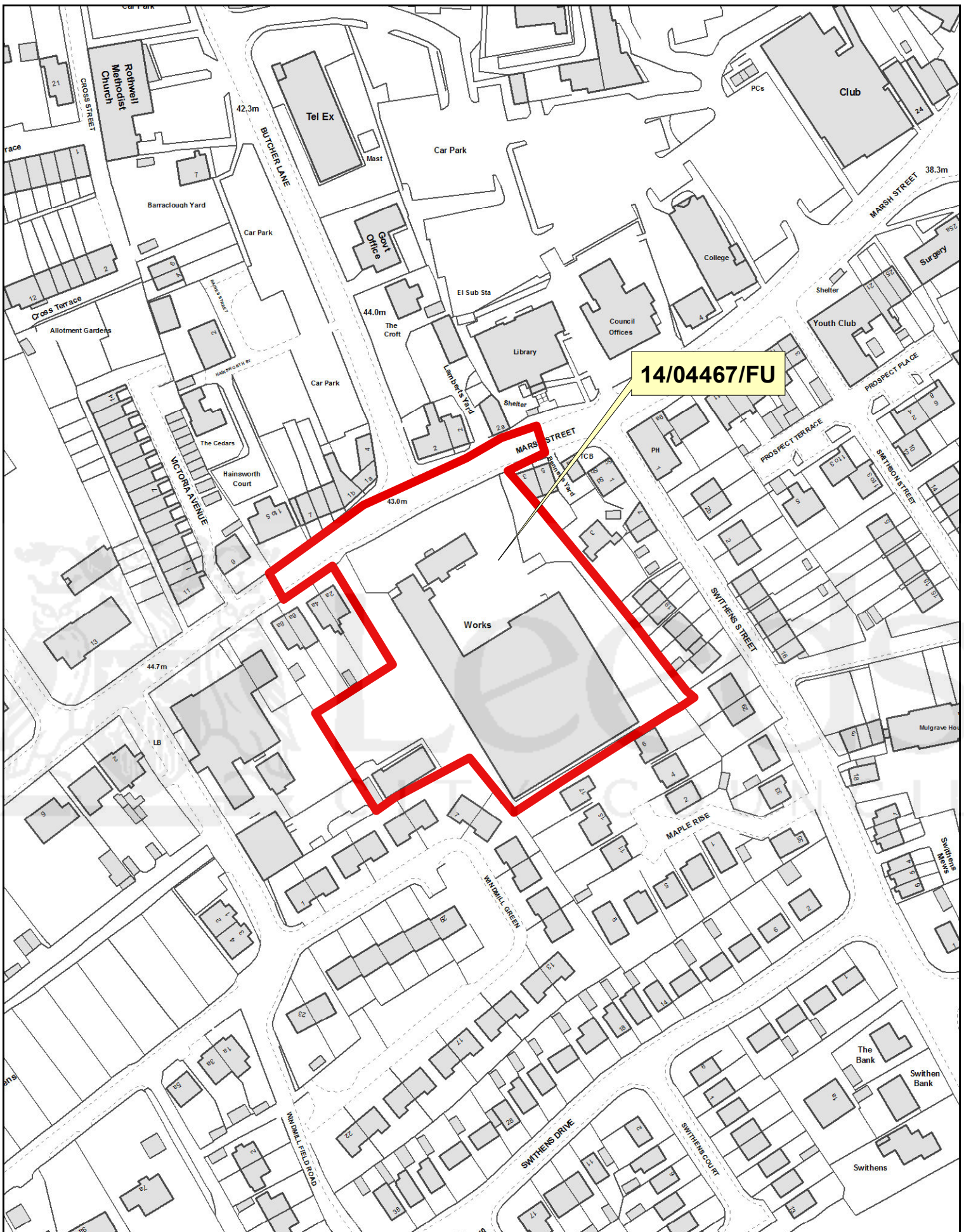
- 10.11 49 Representations of support have been received and 30 representations of objections. The concerns raised through local representations and by Local Ward members are around the principle of development (addressed in section 10.2 of the report), highways concerns (addressed in section 10.4), opening hours (Section 10.7) and the impact of this on residential amenities (Section 10.6).

11.0 CONCLUSION

- 11.1 The proposal replaces the existing industrial units on the site and is considered an improvement to the character of the Rothwell Conservation Area. The proposal passes the Sequential Test and Impact Assessment in accordance with Policy P8 of the Core Strategy. The hours of operation are considered reasonable and the scheme is not considered to have a negative impact on the highway network.
- 11.2 Overall the scheme is considered compliant with current local and national planning policy and provides wider regeneration benefits. Having regard to Section 38 of the Planning and Compulsory Purchase Act 2004 and Paragraph 12 of the NPPF, the application is therefore on balance recommended for approval subject to conditions and a section 106 Agreement.

Background Papers:

Application and history files
Certificate of ownership



SOUTH AND WEST PLANS PANEL

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SCALE : 1/1500

