

REPORT UPDATE

Application No: AW/197/20/PL

Reason for the Update / Changes

Reason for Update/Changes:

Aldwick Parish Council (APC) wish it to be known that the comment at the top of page 65 in the agenda: "The changes make no difference to residential amenities of neighbouring properties" is not quite correct. In fact what APC said was that: "Members considered that the earlier delivery time and the size of the delivery vehicle in relation to condition 8 of AW/211/14/PL make no appreciable difference to the residential amenities of neighbouring properties". APC state that this was in reference to deliveries by van and that their response went on to state the very considerable problems with the application. The rest of the APC response is set out below:

"However, in relation to condition 10, the size of vehicles and the number of deliveries during other times of the week have increased markedly - particularly relating to the use of a large articulated lorry making deliveries up to 4 times weekly. Total deliveries now number up to 35 a week whereas condition 10 of the original document cites a conditional number of 21 with a maximum delivery vehicle length of 10.35, now proposed as 14.320. Diagrams of vehicles passing delivery vehicles in the "delivery loading bay" omit to show that the parking spaces in front of Tudor buildings and opposite "the loading bay" are often totally occupied by cars of customers to the 2 hairdressers, newsagents, garage and others. Members considered that the reason given for using a larger, more frequent vehicle is related to the company's distribution centre's strategy and not to any reason of efficiency of local delivery, as it will no doubt increase their costs. Therefore Members strongly object to the proposed application on the grounds that increased delivery intervals and the size of the vehicles does not accommodate the efficient delivery of goods and services {Arun Local Plan 2011- 2031 SP1 (I)} and because it would have a significantly negative impact upon vehicles and more frequent deliveries by vehicles whose means of propulsion have not been specified. (Policy QE SP1 - Quality of the Environment). Members further considered that the larger vehicles and the existing parking situation increases the hazard for pedestrians, the elderly and/or those with mobility /sight problems crossing the road from the footpath to the entrance to the shop in contravention of Policy T SP1f (v). Moreover, Members were concerned about the health and safety implications to the public of unloading these large vehicles at the roadside. Members also considered that the application is in contravention of the Aldwick Parish Council Parish Design Statement which identifies existing parking problems on Aldwick Street/Fish Lane and states that 'any new parking provision should be designed to cause minimum impact on the street scene.' (Page 11) and that because of the narrowness of the road, strict control should be exercised over any increase in vehicular access (Page 67)"

Officers Comment: There are no changes to the recommendation or conditions.

Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report.

Recommendation Report for Planning Permission

REF NO: AW/197/20/PL

LOCATION: The Former Ship Inn
Aldwick Street
Aldwick
PO21 3AP

PROPOSAL: Variation of conditions 8-concerning hours of deliveries & 10- types of vehicles making deliveries following AW/211/14/PL. This application is in CIL Zone 4 (Zero Rated) as 'other development'.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

The application seeks permission to vary the existing conditions which specify the number of deliveries and the delivery hours. These conditions are as follows:

(8) There shall only be one delivery of newspapers/magazines between 06:00 and 08:00. The other two deliveries to the site shall be made between the hours of 07:00 and 21:30.

(10) There shall be no more than three deliveries to the site per day comprising of: (a) one newspaper/magazine delivery via a transit van or similar size vehicle of less than 7m in length; and (b) up to two deliveries by a larger vehicle (a rigid HGV up to 10.35m in length).

The proposed Delivery Management Scheme states:

- Maximum 4 deliveries per week from the One Stop Stores Limited Distribution Centres in Nursling typically to the existing roadside loading bay using articulated lorries with an overall length of 14.32m but occasionally 16.58m (no vehicle will exceed a gross train weight of 28 tonne);
- Maximum 6 deliveries per week from an combined Chilled & Frozen distributor to the existing roadside loading bay using an 18 tonne rigid vehicle (10.4m long);
- Maximum 6 deliveries per week from an outsourced Milk distributor to the existing roadside loading bay using 26 Tonne rigid refrigerated vehicles (11.4m long);
- Maximum 12 Deliveries a week (two per day, including local & regional supplies) from an outsourced Bread distributor to the existing roadside loading bay using 18 tonne rigid vehicles (10.4m long);
- Maximum 7 Deliveries a week from an outsourced News supplier to the car park using Transit vans; and
- All deliveries will take place between the hours of 7am - 9pm with exception of the News supplier that will deliver to a holding box between the hours of 5am - 7am.

This application has been submitted to make minor changes to the delivery schedule and to provide clarity over vehicle movements in/out of the site. The changes to the schedule

concern the chilled/frozen deliveries and mean less overall movements than the refused application but a greater number of larger vehicles. The following is a comparison of the changes.

AW/237/19/PL - 5 per week from 3.5t (refrigerated); 3 p/w from 18t (frozen); 5 p/w from 26t (refrigerated) - total chilled type 13 p/w.

AW/197/20/PL - 6 p/w from 18t (refrigerated/frozen); 6 p/w from 26t (milk) - total chilled type 12 p/w.

SITE AREA

0.11 Hectares.

RELEVANT SITE HISTORY

AW/237/19/PL	Variation of conditions imposed on planning reference AW/211/14/PL relating to condition 8 - delivery times & Condition 10 - delivery of goods serving the store in accordance to the Delivery Management Schedule	Refused 03-06-20
AW/211/14/PL	Change of use from Public House (Class A4 Drinking Establishment) to a Food Shop (Class A1 Retail), including the erection of a 39 sqm extension, an external freezer store, resurfacing and reconfiguration of the car park, installation of an ATM and all other associated works.	ApproveConditionally 17-12-14

Permission was granted for change of use from public house to a retail store in 2014 (AW/211/14/PL).

A previous application for the variation of conditions 8 & 10 was refused at the Development Control Committee in June 2020 for the following reason:

"The significant increase in the frequency of deliveries and the increase in the size of vehicles, would give rise to an increased level of safety risk to motorists, pedestrians and cyclists travelling along Aldwick Street by virtue of increased congestion. The proposals would therefore conflict with policy T SP1 of the Arun Local Plan and with the guidance in the NPPF."

REPRESENTATIONS

Aldwick Parish object with the following comments:

- The changes make no difference to residential amenities of neighbouring properties;
- Changes result in increased larger vehicles;
- Diagrams of vehicles passing delivery vehicles in the "delivery loading bay" omit to show the parking spaces opposite are often occupied by other cars;
- The reason for using larger vehicles is related to the distribution strategy not to the efficiency of local deliveries therefore in conflict with Arun Local Plan policy T SP1;

- Increased hazards for pedestrians; and
- Conflict with Aldwick Parish Council Parish Design Statement which identifies parking problems on Aldwick Street/Fish Lane and requires new parking provision be designed to cause minimum impact on the street scene.

One letter of support:

- Want the site cleaned up and restored into a useful use;
- A convenience store would be welcomed by many local people who can access on foot;
- The site does not create any problems; and
- If the application is not accepted, then likely that it will be replaced by residential dwellings.

Two letters of objection:

- (1) Harm to amenities of residents from noise and air pollution;
- (2) Illegal parking on double yellow lines outside the store;
- (3) Already an existing convenience store opposite;
- (4) Unclear how many deliveries proposed;
- (5) Unclear whether articulated or rigid vehicles;
- (6) Delivery Management Schedule shows more deliveries than the total; and
- (7) Deliveries to the store will be unsafe for pedestrians.

COMMENTS ON REPRESENTATIONS RECEIVED:

The following comments are made in response to the Parish Council objection:

- Environmental Health have no objection to the proposal. They previously considered the impacts of the delivery changes in respect of pollution (noise/air) would not result in harmful impacts to local residents. The changes proposed by this application would not materially affect the previous advice;
- Tracking plans show the full extent of the parking bays and it is not necessary for vehicles to be shown in these as it would make no difference to the tracking drawings B101 and B202. These drawings indicate some parked cars in these bays;
- Policy T SP1 requires development is designed to accommodate the efficient delivery of goods and supplies. Whether the changes are required for efficiency purposes or not, the site has permission as a retail store with parking area and delivery arrangements;
- WSCC Highways considered the impacts of the changes on the safety of all users of the highway and find no severe impact; and
- No new parking provision is proposed by this application.

The comments of the supporter are noted. The following comments are made in response to objectors:

- (1) Environmental Health officers previously considered that the impacts of the delivery changes in respect of pollution (noise/air) would not result in harmful impacts to local residents. The changes proposed would not materially affect the previous advice;
- (2) Vehicles parked on double yellow lines can be reported to the relevant authority;
- (3) Permission exists for retail so it is not possible to consider if retail is required here;
- (4) & (5) Notwithstanding the application form, this is made clear on the Delivery Management Scheme;
- (6) It is acknowledged the Delivery Management Scheme stated there will be a total of 12 deliveries per week to the car park but that the 12 total is made up of only 7 newspaper deliveries. This has been corrected and the total now states 7; and
- (7) WSCC Highways raise no objection on safety grounds.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

WSCC HIGHWAYS - no objection with the following comments:

- The proposal is to allow for a higher number of deliveries to the store;
- Whilst numbers may vary this can be equated to around 4 main deliveries, and 1 newspaper delivery per day;
- The location for the loading and unloading will be directly outside the site on Aldwick Street, a 'C' classified 30mph road;
- The site benefits from double yellow lines, along the northern carriageway thus restricting parking and keeping this area clear for loading;
- The delivery entrance is located next to the unloading end of the vehicle which avoids the need for delivery drivers to use the highway to 'walk' pallets round to the front of the store;
- This will keep workers safe and reduce conflict with pedestrians;
- Swept path diagrams show a combination of movements and vehicle types to demonstrate that a rigid or articulated vehicle can load & unload in the highway without causing any significant harm to the operation of the highway network;
- The largest vehicle used in the delivery management plan would be an articulated vehicle with dimensions of 2.6m in width and up to 16m in length but this will only be used on rare occasions and given the street dimensions would still allow a car or refuse truck to pass freely;
- Based on the highway plan which shows the dimension of the road at three points, it is confirmed that a 2.6m wide articulated lorry parked on the highway would still leave 3.6m available for one vehicle to pass safely;
- Waiting in the highway for cars to pass, is a common occurrence and considered acceptable in most locations but is especially common outside busy locations such as shops. During busier periods where waiting may occur, as per the NPPF this would not cause any significant or severe highway issues; and
- The LPA may wish the delivery management schedule to be given a unique number and date to include in the condition in order to identify which schedule we are referring to.

ADC ENVIRONMENTAL HEALTH - no objection.

ADC ECONOMIC DEVELOPMENT - state no comments.

COMMENTS ON CONSULTATION RESPONSES:

WSCC HIGHWAYS - The Delivery Management Scheme has a specific date so it will not be confused with the one submitted with the previous application.

POLICY CONTEXT

Designations applicable to the site:

Within the Built Up Area Boundary;
 Pagham Harbour Zone B;
 Class C Road;
 Tree Preservation Order;
 No Public Sewer;
 Asset of Community Value;

Area of Special Character; and
Building of Special Character.

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

HERDM2	HER DM2 Locally Listed Buildings or Structures of Character
QESP1	QE SP1 Quality of the Environment
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
RETDM1	RET DM1 Retail development
TSP1	T SP1 Transport and Development

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD10	Aldwick Parish Design Statement
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POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

There is currently no Aldwick Neighbourhood Development Plan.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that the changes to the delivery details would not have a materially adverse effect on the safety of the local highway, on the ability of customers to visit the site or on the amenities of nearby residential properties and people passing the site at any given time.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

PROPOSAL:

The application seeks permission to vary the existing conditions which specify the number of deliveries and the delivery hours. These are as follows:

(8) There shall only be one delivery of newspapers/magazines between 06:00 and 08:00. The other two deliveries to the site shall be made between the hours of 07:00 and 21:30.

(10) There shall be no more than three deliveries to the site per day comprising of: (a) one newspaper/magazine delivery via a transit van or similar size vehicle of less than 7m in length; and (b) up to two deliveries by a larger vehicle (a rigid HGV up to 10.35m in length).

It is proposed to have these conditions referring to the submitted delivery scheme which sets out that:

- Maximum 4 deliveries per week from the One Stop Stores Limited Distribution Centres in Nursling typically to the existing roadside loading bay using articulated lorries with an overall length of 14.32m but occasionally 16.58m (no vehicle will exceed a gross train weight of 28 tonne);
- Maximum 6 deliveries per week from an combined Chilled & Frozen distributor to the existing roadside loading bay using an 18 tonne rigid vehicle (10.4m long);
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- Maximum 7 Deliveries a week from an outsourced News supplier to the car park using Transit vans; and
- All deliveries will take place between the hours of 7am - 9pm with exception of the News supplier that will deliver to a holding box between the hours of 5am - 7am.

PLANNING HISTORY:

During determination of the previous application, there was a request by members for an independent Road Safety Audit (RSA) and tracking diagrams to show what would happen if two refuse collection vehicles were travelling in opposite directions when a delivery was being made. These were provided and the RSA identified issues which the applicant responded to in a Designers Response (DR).

WSCC Highways reviewed the documents and raised no objections. It was considered all issues could be resolved through the discharge of condition 7 (Servicing Management Plan) or the S.278 Agreement process. The RSA and DR have not been resubmitted with this application but are available on AW/237/19/PL.

PRINCIPLE:

The store benefits from permission (AW/211/14/PL) granted in October 2014. This application is to be determined as to whether the change to the number and timing of deliveries adversely affects the safety & convenience of the local highway and the amenities of the local area.

HIGHWAY SAFETY:

ALP policy T SP1 seeks to ensure that development: provides safe access on to the highway network;

contributes to highway improvements & promotes sustainable transport. In respect of highway safety, it states: "The Council will support transport and development which: explains how the development has been designed to: (i) accommodate the efficient delivery of goods and supplies; (ii) give priority to pedestrian and cycle movements and have access to high quality public transport facilities; (iii) create safe and secure layouts for traffic, cyclists and pedestrians whilst avoiding street clutter."

Para 108 of the NPPF states: "In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users". Regard should be had to para 109 which states: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

The existing permission allows for 21 deliveries per week (3 per day). The proposal is for 35 deliveries a week and this equates to 5 deliveries per day (an increase of 2). There will be a greater number of larger vehicle deliveries than before but that does not represent a significant or severe impact on the road network.

The application has been assessed by WSCC Highways who raise no objection to any implications of the proposal on highway safety, convenience or parking provision. They considered the potential of cars waiting to pass a HGV, loading/unloading in the highway, cars having to wait in the highway whilst a HGV reverses into the current car park and the number of vehicles, their sizes & delivery timings. AW/237/19/PL was not refused on the grounds of adverse impacts from noise and disturbance.

The proposal complies with ALP policy T SP1 as there is already safe access from/to the site, pedestrian improvements will be provided and enforced through a condition, goods & supplies can be safely delivered to the site and that visibility is good such that there will be no harm to any pedestrians walking along the northern side of Aldwick Street (although it should be noted that the pedestrian pavement is on the south side). The proposal accords with the NPPF as impact on the local highway would not be unacceptable or severe. The proposal accords with the policies of the development plan and the guidance within the NPPF.

AMENITY IMPACTS:

ALP policies QE DM1 (Noise Pollution) and QE DM3 are not relevant as no new noise or odour/fume generating development is proposed (vehicles are not considered to be development). However, ALP policy QE SP1 is important as it states: "The Council requires that all development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity".

The store is permitted to open between 6am & 11pm and deliveries are currently allowed between 6am and 9.30pm. The change to these timings is to allow 1 delivery of newspapers per day in a transit van to an on-site holding box from 5am onwards. The addition of 1 vehicle between 5 and 7 a.m. is not considered significant and will not result in any noticeable impact in noise disturbance in the vicinity of the site. The Delivery Management Scheme states there will be no deliveries after 9pm, half an hour earlier than allowed by AW/211/14/PL.

Additional deliveries through the day result in noise disturbance and will increase engine fumes in the vicinity. Given the numbers of vehicles involved (5 vehicles - an increase of two per day), it is not considered this will be a significant impact or one that will be particularly noticeable to local residents/people in the area particularly given the presence of a road alongside the site and other commercial properties opposite.

Environmental Health raise no objections and the number of deliveries is decreasing by 1 from the refused application, plus deliveries will finish half an hour earlier. The changes are such that there will not be a material increase in harm to local residents. The proposal complies with ALP policy QE SP1.

CONDITIONS:

As this is a variation of condition application, it is good practice to not only vary the conditions applied for (8 & 10) but to ensure any other conditions from the original decision which remain relevant are imposed again. There is case law which states that the Local Authority can at the same time amend/delete other conditions.

As the original permission was implemented, conditions 01 (time limit for implementation), 02 (plans condition), 04 (details of plant) and 05 (materials of the extension) are no longer relevant. Of the remaining original conditions, it is necessary to amend these slightly to ensure the reasons reflect the current development plan and to ensure the drainage condition is reworded to state "prior to occupation". Conditions 08 and 10 are amended to require the number and times of deliveries are in accordance with the approved version of the Delivery Management Scheme.

CONCLUSION:

The changes to the delivery arrangements are such that there will be neither conflict with the policies of the Local Plan / national planning guidance, nor material harm to highway safety or the amenities of local people. It is recommended permission be granted subject to the following conditions.

HUMAN RIGHTS ACT

The Council in making a decision 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 Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, 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 interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The shop premises shall not be occupied unless and until details of the window detailing (including details of the proposed resolutions) to the front elevation has been submitted to and approved by the Local Planning Authority and the new windows so approved shall be constructed in accordance with approved details and retained thereafter.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity and the character and appearance of this Building of Special Character in accordance with policies D DM1 and HER DM2 of the Arun Local Plan and the National Planning Policy Framework.

- 2 The shop premises shall not be occupied until such time that arrangements for the future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site has been submitted and approved in writing by the Local Planning Authority. No construction is permitted, which will restrict current and future land owners from undertaking their riparian maintenance responsibilities of any watercourse on or adjacent to the site.

Reason: To ensure that the duties and responsibilities, as required under the Land Drainage Act 1991, and amended by the Flood and Water Management Act 2010, can be fulfilled without additional impediment following the development completion.

- 3 Notwithstanding Part 7, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) no extensions other than those approved by this application shall be erected without an application in that behalf to the Local Planning Authority.

Reason: To protect the amenities of the area and the character of the building in accordance with policies D DM1 and HER DM2 of the Arun Local Plan and the National Planning Policy Framework.

- 4 The timing of deliveries to the store shall be in accordance with the Delivery Management Scheme dated 10/09/20. There shall be no deviation from this Schedule other than with the written approval of the Local Planning Authority.

Reason: In the interests of the residential amenities of neighbouring properties in accordance with policies QE SP1, QE DM1 & QE DM2 of the Arun Local Plan.

- 5 The premises hereby permitted shall only be open to the public between the hours of 06:00 and 23:00.

Reason: To safeguard the amenities of the neighbouring properties in accordance with Arun Local Plan policies QE SP1, QE DM1 & QE DM2.

- 6 Deliveries of goods to the store shall be in accordance with the Delivery Management Scheme dated 10/09/20 and the following accompanying tracking diagrams. There shall be no deviation from the Schedule other than with the written approval of the Local Planning Authority.

"Highway details with Vehicle Tracking: Articulated Delivery Vehicles" dwg B202;
"Vehicle Tracking: Rigid Vehicle" dwg B203
"Vehicle Tracking: Cars Passing Delivery Vehicles" dwg B204; and
"Vehicle Tracking: Refuse Trucks Passing Delivery Vehicles" dwg B205.

Reason: To safeguard the amenities of the neighbouring properties in accordance with

policies QE SP1, QE DM1 & QE DM2 of the Arun Local Plan.

- 7 The shop premises shall not be occupied until such time as a Servicing Management Plan has been submitted and approved in writing by the Local Planning Authority. This shall set out the arrangements for the loading and unloading of deliveries in terms of location within the site and frequency (within the limits set by condition 06), and set out arrangements for the collection of refuse. Once occupied the use shall be carried out only in accordance with the approved Plan.

Reason: to safeguard the operation of the public highway in accordance with policy T SP1 of the Arun Local Plan and the National Planning Policy Framework.

- 8 Within 2 months of the variation of condition planning permission hereby granted, the applicant shall enter into negotiations with the local planning authority to identify a scheme of pedestrian improvements on Aldwick Street in the vicinity of the application site and once the scheme has been agreed in writing with the local planning authority, the applicant is required to enter into a Section 278 agreement with the local highway authority and implement the works in full within a timescale to be agreed.

Reason: In the interests of road safety in accordance with policy T SP1 of the Arun Local Plan and the National Planning Policy Framework.

- 9 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 10 INFORMATIVE: The applicant is advised to contact the Highway Licensing team (01243 642105) to obtain formal approval from the highway authority to carry out the site access works on the public highway.