

Application No: 13/1531N

Location: Site of The Earl, Nantwich Road, Crewe, CW2 6BP

Proposal: Construction of new Foodstore with associated car parking, servicing facilities and landscaping, Condition 7 to be varied (12/4107)
To extend the delivery period by one hour in the morning.

Applicant: G Brown, Aldi UK

Expiry Date: 03-Jun-2013

SUMMARY RECOMMENDATION:

APPROVE subject to conditions

MAIN ISSUES:-

Residential Amenity

REFERRAL

The application has been called in the Cllr Hogben for the following reasons:

- *Impact on residential amenity.*
- *The permitted delivery hours already extend to late in the evening (2200 hours Monday to Saturday), subject to review within 12 months of the first occupation of the retail store. There is no need to extend them so they start at 0600 weekdays and Saturdays. Even if there were, in the interests of consistency this would have to be subject to the same review of the impact on residential amenity as is referred to within the planning permission for 12/4107N.*

1. DESCRIPTION OF SITE AND CONTEXT

The site of the proposed development lies on the south side of Nantwich Road and comprises land formerly occupied by the Earl of Crewe public house, a “pay and display” car park, a range of outbuildings and vacant land formerly occupied by garaging.

The Earl of Crewe was an imposing Victorian building which fronted on to Nantwich Road and had a sizeable mature garden between its east flank and a frontage to Sherwin

Street. Within the car park there is a two storey range of outbuildings, and an attached single storey range formerly used as lock up garages. The public house was included on the local list of buildings of historic and architectural interest.

Land uses along Nantwich Road in the vicinity of the site are predominantly commercial, with a mix of shops, financial and professional services, hot food takeaways, restaurants, cafes and public houses. Once away from the main road the area is almost entirely residential.

Members may recall that on 22 March 2012 Southern Planning Committee granted full planning permission for the demolition of all the buildings within the site and the construction of a food store of 960sq.m sales area and 1,348sq.m gross internal area at ground floor level. Customer car parking was to be located to the western and southern parts of the site and at total of 85 spaces will be provided. 4no. DDA compliant spaces, 2 no. parent and child spaces along with cycle parking facilities for customers and staff were also to be provided. Servicing facilities and plant would be located to the southern elevation of the store.

A revised application to alter the layout and footprint of the approved store was subsequently approved by southern planning committee on 12th December 2013.. Rather than the store being constructed so that the main length of the building fronts Nantwich Road, the revised store was oriented so that its front elevation faces Nantwich Road. The long blank elevation of the building would therefore front Sherwin Street.

The approved store would have a gross floor area of 1592 square metres (17,137 sq ft) and a net sales area of 1125 (12,109 sq ft). Servicing and car parking are to be provided to the side and rear. There are a total of 75 spaces being proposed including 4 spaces for mobility impaired users and 10 parent and child spaces, together with cycle storage facilities.

Vehicular access is again to be taken from the western corner of the site onto Nantwich Road. This new access will also accommodate service vehicles with manoeuvring space incorporated within the development to facilitate access to the loading/back up area to the rear of the building.

The building is to be constructed primarily from brickwork, with contrasting courses, together with areas of glazing and steel under a pitched tiled roof and is similar in style to the previously approved store.

Work on site to construct the new foodstore is now well advanced.

2. DETAILS OF PROPOSAL

Condition 7 of planning permission 12/4107N related to delivery hours. The condition requires that:

“There shall be no deliveries to the site except between the following times 0700 – 2300 Monday to Saturdays and 0800 to 2200 Sundays for the first 12 months from first occupation of the retail store. These delivery hours shall be discontinued on or before that date and shall revert to Monday – Friday

08.00hrs – 20.00hrs; Saturday 08.00hrs – 20.00hrs; Sunday 10.00hrs – 17.00hrs unless a further permission to amend those opening hours has first been granted on application to the Local Planning Authority.”

Aldi seek full permission to extend the delivery period by one hour in the morning from 06:00 hrs to 23:00 hrs Monday to Saturdays in order that fresh deliveries to the store can be made and be laid out for display purposes before the store opens to the public at 08:00 hrs.

3. RELEVANT HISTORY

09/1304N	Demolition of existing building and construction of new foodstore with associated parking – Withdrawn
09/4043N	Demolition of existing building and construction of new foodstore with associated parking –Refused 18 th February 2010.
11/4149N	Demolition of existing buildings and construction of new foodstore with associated car parking and servicing facilities – Approved 22 March 2012
12/1829N	Variation of Conditions 3 and 7 on Planning Application 11/4149N Relating to Opening and Delivery Hours – Approved 2 nd August 2012
12/4107N	Construction of new Foodstore with associated car parking, servicing facilities and landscaping. – Approved 13 th December 2013

4. PLANNING POLICIES

Local Plan

BE1 (Amenity)

5. OBSERVATIONS OF CONSULTEES

Environmental Health

The following conditions are recommended to be added to the application.

- The acoustic fence shall be erected, as detailed in the information submitted by the applicant, prior to the first delivery taking place.
- The extended delivery times shall be limited to 12 months from the first occupation of the store, to allow an assessment of the impact of early morning deliveries on residential amenity.
- Vehicles making deliveries to the store between the hours of 06.00 to 07.00 shall refrain from using reversing bleeper and an alternative method utilised.

United Utilities

No objection to the proposal providing that the following conditions are met:-

- This site must be drained on a total separate system just prior to communicating with the combined network, with surface water flows restricted to a maximum discharge rate of 40 L/S

6. VIEWS OF THE PARISH / TOWN COUNCIL

N/A

7. OTHER REPRESENTATIONS

1 representation of objection has been received making the following points:

- The occupiers of 7 & 9 Sherwin Street strongly object to deliveries being made an hour earlier as it will increase the parking problem they already have in the street, as well as increasing the risk that refuse vehicles will be unable to turn out of the alley into the road-it will increase noise pollution early in the morning and increase congestion on Nantwich Road. They also consider that a successful application at this stage will give Aldi a perceived precedent for further changes at the other end of trading to accept deliveries later at night.

8. APPLICANT'S SUPPORTING INFORMATION:

- Covering letter.
- Noise Impact Assessment

9. OFFICER APPRAISAL

The main policy consideration in the adopted Crewe and Nantwich Replacement Local Plan, is Policy BE1 (Amenity) which states that proposals for new development will be permitted provided that the following criteria are met:

- they are compatible with surrounding land uses;
- do not prejudice the amenity of future occupiers or the occupiers of adjacent property by reason of overshadowing, overlooking, visual intrusion, noise and disturbance, odour or in any other way;
- do not generate such levels of traffic that the development would prejudice the safe movement of traffic on surrounding roads, or have an adverse impact on neighbouring uses; and
- do not lead to an increase in air, noise or water pollution insofar as this might have an adverse effect on the other use of land

The main issue in the consideration of this application is the impact of the proposed extended delivery hours on the amenity of neighbouring occupiers.

When permission was originally sought for the store under application (11/4149N) in March 2012 in approving the proposal, contrary to the Officer recommendation, Members imposed a condition restricting delivery hours to Monday – Friday 08.00hrs - 20.00hrs; Saturday 08.00hrs - 20.00hrs; Sunday 10.00hrs - 17.00hrs.

Following the original approval, an application to amend the opening hours of the store and the delivery hours to the site was submitted. (12/1829N refers) The requested delivery hours were 0700 – 2300 Monday to Saturdays and 0800 to 2200 Sundays.

In assessing the application it was noted that since the previous approval there had been no material change in circumstances in terms of the proposed use of the site or the nature of the surrounding development, which to the rear of the site, where the car park and service yard is located, was entirely residential. The store had yet to be constructed and the applicants had therefore been unable to demonstrate that it could operate within the approved hours without problems occurring.

However, in the absence of any evidence that problems would occur, it was considered that a refusal of the application would be difficult to defend. Nevertheless, mindful of the level of concern, which had been expressed by local residents and Environmental Health it was recommended that the variation of conditions be granted for a temporary period of 12 months to allow the authority to assess any impact on the amenity of the neighbouring occupiers.

A 12-month temporary permission would allow the opportunity for a body of evidence to be gathered as to the extent to which the extended hours of delivery would impact on the locality. If there were any significant problems experienced locally these could be properly monitored and recorded. In the event that an application were to be submitted for a renewal of consent at the end of the 12 month period any evidence of negative impacts on residential amenity in the locality would be a material planning consideration which would inform the Council's decision at that stage. In the event that the Council then resolved to refuse planning permission, and an appeal were to be lodged against that decision, the evidence gathered would assume considerable importance in fighting the appeal. A straight refusal of planning permission without any such firm evidence of harm to residential amenity would be much more difficult to defend.

Accordingly a 12 month temporary extension to the delivery hours was granted. When permission was granted for the revised store design in December 2012, permission was granted subject to the same temporary delivery hours conditions.

This application seeks to extend the delivery period by a further hour in the morning. The application is supported by a Noise Impact Assessment that has been prepared by Spectrum Acoustic. The report acknowledges that as the new store is currently under construction and is not yet operational, noise levels from deliveries to this site cannot be measured. However, the delivery process is broadly similar at all Aldi stores, typical noise levels produced during this activity were measured at the Sandbach store under a worst case delivery scenario with the temperature controlled refrigeration unit in operation. Then, background noise levels at the nearest residential receptor locations to the application site were taken, which enabled the results to be combined and modelled to show the impacts of a 6am start to those nearest neighbours to the site.

The predicted results showed that without any form of mitigation, it is possible that problems may arise for those closest residential receptor locations as a result of noise disturbance during deliveries. Given this, a number of mitigation options were considered, the most appropriate being to incorporate an acoustic fence to the boundary of the delivery bay. The fence would be positioned on top of the existing concrete dwarf wall which delineates the delivery bay and reach a total height of 3.75m. Further modelling with the proposals to incorporate the fence then took place.

The assessment concluded that with the addition of acoustic fencing to the delivery bay, which forms part of this proposal, only a minor adverse impact at the nearest residential properties closest to the delivery bay would result. However, it must be remembered that given the previous use of the site as a public house, it is likely that the dray deliveries of beer kegs, bottles and associated activities would have been particularly noisy, at various times throughout the day, and thus the current proposals must be considered in the light of this 'fall back' context.

Whilst the contents of the report are noted, at present, as the store is not operational, it is not possible to fully assess or gather evidence as to the impact of the proposed delivery hours on this particular site. It is not possible to determine whether the proposed increase in delivery hours would be problematic for local residents or not.

Therefore, the same logic that was applied previously still stands in that if a temporary consent were granted, a further application would need to be made at the end of the trial period for a permanent extension of opening hours. This would give the Local Planning Authority, the opportunity to assess any complaints or objections from neighbouring residents which would also provide evidence to defend an appeal against any refusal. If no complaints are received, it will provide Members the assurance that they would need to grant a permanent consent.

10. RECOMMENDATIONS

APPROVE subject to revised condition 7 as follows

- **There shall be no deliveries to the site except between the following times 0600 – 2300 Monday to Saturdays and 0800 to 2200 Sundays for the first 12 months from the first occupation of the retail store. These delivery hours shall be discontinued on or before that date and shall revert to Monday – Friday 08.00hrs - 20.00hrs; Saturday 08.00hrs - 20.00hrs; Sunday 10.00hrs - 17.00hrs unless a further permission to amend those opening hours has first been granted on application to the Local Planning Authority.**

The following additional condition

- **The acoustic fence shall be erected, as detailed in the information submitted by the applicant, prior to the first delivery taking place.**

And the other conditions as imposed on planning permission 12/4107N

(c) Crown copyright and database rights 2013. Ordnance Survey 100049045, 100049046.

