

Planning Committee

Tuesday, 19 April 2016

Planning application no.	16/00098/RC	
Site	Aldi Goldthorn Hill Wolverhampton West Midlands WV2 3HP	
Proposal	Remove condition 6 from approval 10/00511/VV which states that only fresh perishable produce can be delivered on Sundays.	
Ward	Blakenhall;	
Applicant	Aldi Stores Limited	
Cabinet member with lead responsibility	Councillor Bilson Cabinet Member for City Economy	
Accountable Director	Keren Jones, Service Director, City Economy	
Originating service	Planning	
Accountable employee	Charlotte Morrison	Section Leader
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1.0 Summary recommendation:

1.1 Approve the application to remove the condition.

2.0 Application site

2.1 The site is an existing food retail premises.

3.0 Application details

3.1 The application seeks to remove a condition applied to the development requiring only fresh, perishable produce to take place on Sundays within the hours of 0900 and 1200.

4.0 Relevant policy documents

4.1 The Black Country Core Strategy

4.2 Circular 11/95 – The use of conditions in planning permissions

5.0 Publicity

5.1 One objection has been received;-

- If allowed to deliver the balance of products on a Sunday there will be a massive increase in the number of delivery vehicles resulting in queuing on the car park to unload.
- Aldi have not utilised the extended delivery hours allowed in 2015.
- They could manage the additional delivery demand within the existing consent.

6.0 Legal implications

6.1 There are no specific legal implications arising from this report (LD/06042016/H)

7.0 Appraisal

Background

7.1 Conditions applied to planning permissions must be necessary, reasonable as well as enforceable, precise and relevant both to planning and to the development to be permitted.

7.2 Planning Permission was granted for the erection of a food retail store on 13th August 1993. In September 2010 permission was granted to vary a condition applied to the original permission to allow deliveries on a Sunday. In 2015 Committee approved extension of the hours allowed for deliveries on Sundays.

7.3 Condition 4 of the permission required that only deliveries of fresh perishable produce should take place on Sundays, the reason was to minimise the possibilities of conflict between customers and customers vehicles and the movement of delivery vehicles on the site and to minimise disturbance to adjoining residents.

The Legality of the Condition

7.4 No definition of fresh perishable produce is given within the condition and there is no legal definition. A number of items can be clearly thought of as fresh perishable such as milk, bread, eggs etc. Fresh could also be taken to mean refrigerated goods such as ready meals or meat. Almost anything which is not tinned or frozen could be arguably 'fresh' dependant on the definition used by the applicant. The condition is imprecise and the applicant cannot be clear about what is expected. Therefore, the condition fails to meet the relevant tests.

7.5 Notwithstanding the above the applicant has stated that loads are mixed produce. The condition seeks to limit the number of delivery vehicle movements. The partial unloading of a vehicle taking off only the fresh produce and leaving the remainder will not achieve this or any other planning objective. Indeed the remainder of the produce may be delivered at a different time creating an unnecessary vehicle movement.

8.0 Conclusion

8.1 The condition, as applied, is not precise and does not achieve the objective it set out to achieve. As such the application should be approved and the condition removed from the planning permission.

10.0 Detail recommendation

10.1 That planning application 16//0098/RC be granted