

**REPORT TO:** Planning Committee

**MEETING DATE:** Tuesday 17 August 2021

**BY:** Executive Director for Place

**SUBJECT:** Application for Planning Permission for Consideration

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*Note - this application was called off the Scheme of Delegation List by Councillor Findlay for the following reason:  
To give local residents an opportunity to express their fears and concerns and allow the Planning Committee to consider it in full.*

Application No. **21/00564/P**

Proposal Section 42 application for variation of condition 1 of planning permission 20/01120/P

Location **48-52 Dunbar Road  
North Berwick  
East Lothian  
EH39 5AB**

Applicant Aldi Stores Ltd

Per Avison Young (UK) Ltd

**RECOMMENDATION** **Consent Granted**

## **REPORT OF HANDLING**

### **PROPOSALS**

This application relates to the Aldi supermarket in North Berwick. The site of the store occupies a corner site immediately to the south of the junction of Glenburn Road and Dunbar Road. The service yard for the store is located to the west of the site and is accessed off Glenburn Road, as is the store car park for customers. It is within a mixed use area as defined by RCA1 of the adopted East Lothian Local Development Plan 2018. It is outwith the defined town centre of North Berwick.

Outline planning permission ref: P/00696/92 (now planning permission in principle) was granted on 18 March 1993 for the erection of the supermarket and associated access and car parking.

In February 2015 planning permission (Ref: 14/00968/P) was granted for a variation of Condition 7 of planning permission P/00696/92 to change the opening hours from 08.00 to 20.00 Monday to Friday and 08.00 to 18.00 Saturdays and Sundays to 08.00 to 22.00

Monday to Saturday and 09.00 to 19.00 Sundays.

In January 2021 planning permission (Ref: 20/01120/P) was granted for a variation of Condition 1 of planning permission 14/00968/P to change the opening hours from 0800 to 2200 Monday to Saturday and 0800 to 1900 hours on Sundays to 0800 to 2200 Monday to Saturday and 0800 to 2000 hours on Sundays.

Condition 1 of planning permission 20/01120/P states:

"The supermarket will not be open to trading outwith the hours of 0800 to 2200 Monday to Saturday and 0800 to 2000 hours on Sundays. No goods delivery vehicles will enter or leave the site or remain parked within the site between 2300 to 0700 hours Mondays to Sundays. No offloading or loading of goods or refuse to or from vehicles or containers will take place to or from the premises during those hours.

Reason:

To safeguard the amenity of the occupants of nearby residential properties'

Planning permission is now sought for a variation of condition 1 planning permission 20/01120/P to change the hours that restrict goods delivery vehicles entering or leaving the site to offload or load goods or refuse from 2300 to 0700 hours Mondays to Sundays to 2300 to 0530 hours Mondays to Sundays.

The change of the hours that restrict goods delivery vehicles entering or leaving the site is sought in order to allow a sufficient period of time for fresh goods to be delivered and stacked for sale within the store prior to its amended hours of opening.

A Planning Statement and an Acoustic Report (dated April 2021) have been submitted in support of the application.

## **DEVELOPMENT PLAN**

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) relevant to the determination of this application. Relevant to the determination of the application are Policies RCA1 (Residential Character and Amenity) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018.

## **REPRESENTATIONS**

One public objection has been received to the application on grounds that the proposed change of the hours that restrict goods delivery vehicles entering or leaving the site will result in increased levels of noise and pollution affecting the amenity of neighbouring residential properties.

## **COMMUNITY COUNCIL**

North Berwick Community Council have been consulted on the application and object to the application on grounds that noise generated by the arrival and departure of trucks and the

unloading process during the proposed amended hours would negatively impact on the amenity of the occupants of residential properties located on Glenburn Road.

## **PLANNING ASSESSMENT**

The supermarket use of the site has previously been established by the grant of outline planning permission P/00696/92 (now planning permission in principle). The determination of this application therefore rests on an assessment of the likely additional impacts the proposed change of the hours that restrict goods delivery vehicles entering or leaving the site by one-and-a-half hours to 2300 hours-0530 hours Mondays to Sundays would have on the amenity of any neighbouring uses, including neighbouring residential properties.

With regard to these considerations Policy RCA1 of the adopted East Lothian Local Development Plan 2018 requires that the predominantly residential character and amenity of existing or proposed housing areas will be safeguarded from the adverse impacts of uses other than housing and that development incompatible with the residential character and amenity of an area will not be permitted.

The submitted Acoustic Report provides an assessment of the effect that the proposed changes of the hours that restrict goods delivery vehicles entering or leaving the Aldi store by one-and-a-half hours to 2300 hours-0530 hours Mondays to Sundays would have on the pre-existing noise climate and on the closest residential properties. It informs that the primary noise source within the vicinity of the site during the hours of 2300 hours-0530 hours Mondays to Sundays is traffic noise from vehicles passing along Dunbar Road and the local road network. It concludes that the noise generated from the proposed extended period for goods delivery vehicles entering or leaving the Aldi store would not result in any harmful loss of amenity for the nearby residential properties.

**The Council's Public Health and Environmental Protection Officer** has perused the Acoustic Report and raises no objection to the application, being satisfied that the proposed change to allow goods delivery vehicles to enter or leave the site to offload or load goods or refuse from 2300 to 0530 hours Mondays to Sundays would not result in any harmful noise impacts on any neighbouring or nearby residential property and thus would not result in any harmful impact on the amenity of such residential properties.

**The Council's Roads Services** have been consulted on the application and raise no objection to it, being satisfied it would not cause issues of road safety consistent with Policy T2 of the adopted East Lothian Local Development Plan 2018.

As there would be no harmful impact on the amenity of neighbouring residential properties by the proposed change of the hours that restrict goods delivery vehicles entering or leaving the site by one-and-a-half hours to 2300 hours-0530 hours Mondays to Sundays, the proposed variation of Condition 1 of planning permission 20/01120/P does not conflict with Policy RCA1 of the adopted East Lothian Local Development Plan 2018.

Annex I of Planning Series Circular 3/2013 (Development Management Procedures) provides guidance on applications for planning permission under section 42 of the Town and Country Planning (Scotland) Act 1997, as amended. The application that is the subject of this report is made under section 42 of the Act. Annex I states that "Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should apply and ensure (where appropriate) that permission is granted subject to the conclusion of any appropriate planning obligation". Therefore, planning permission should be granted subject to the applied for variation to condition 1 and subject to all of those conditions from planning permission 20/01120/P where it is intended these should apply. In this case condition 2 (Noise Levels) should continue to apply.

## RECOMMENDATION

That planning permission be granted subject to the undernoted conditions:

- 1 The supermarket will not be open to trading outwith the hours of 0800 to 2200 Monday to Saturday and 0800 to 2000 hours on Sundays.

No goods delivery vehicles will enter or leave the site or remain parked within the site between 2300 to 0530 hours Mondays to Sundays. No offloading or loading of goods or refuse to or from vehicles or containers will take place to or from the premises during those hours.

Reason:

To safeguard the amenity of the occupants of nearby residential properties

- 2 Noise levels emanating from the site shall not exceed L90 background levels by more than 5dBA as measured in accordance with BS4142 in relation to nearby noise sensitive properties within the proviso that noise levels originating from the ventilation and refrigeration plant shall not exceed noise rating curve (NR25) at any frequency when measured in the bedrooms of nearby properties.

Reason

To safeguard the amenity of the occupiers of nearby residential properties