



Appeal Decision

Site visit made on 8 April 2025

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2025

Appeal Ref: APP/W1715/W/24/3357650

Unit 1 Hedge End Retail Park, Charles Watts Way, Hedge End, Hampshire SO30 4RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Aldi Stores Limited against the decision of Eastleigh Borough Council.
- The application Ref is X/24/96772.
- The application sought planning permission for use of existing retail unit as foodstore (Use Class E) with external building and layout alterations to include changes to car park without complying with a condition attached to planning permission Ref F/21/91821, dated 12 September 2022.
- The condition in dispute is No 17 which states that: *"No deliveries to or from the retail units the subject of this permission shall be undertaken except between the hours of 0700 and 2200 Mondays to Saturdays or 0900 to 1700 on Sundays and Bank Holidays"*.
- The reason given for the condition is: *"To protect the amenity of occupiers of nearby residential properties"*.

Decision

1. The appeal is allowed and planning permission is granted for use of existing retail unit as foodstore (Use Class E) with external building and layout alterations to include changes to car park. at Unit 1 Hedge End Retail Park, Charles Watts Way, Hedge End, Hampshire SO30 4RT in accordance with the application Ref X/24/96772, without compliance with condition number 17 previously imposed on planning permission Ref F/21/91821, dated 12 September 2022 and subject to the following conditions:
 - 1) The development hereby permitted shall be implemented in accordance with the following plans numbered: 200698-1000-P3, 200698-1050-P3, 200698-1300-P7, 200698-1301-P5, 200698-1500-P5.
 - 2) No deliveries to or from the retail unit the subject of this permission shall be undertaken except between the hours of 0700 and 2200 Mondays to Saturdays or 0900 to 1700 on Sundays and Bank Holidays, until the acoustic fence as approved under planning permission F/24/98174 has been fully installed in accordance with the approved plans and details under that planning permission. Once erected, the approved acoustic fence shall thereafter be maintained for the lifetime of the development.
 - 3) The approved Delivery Management Plan (Entran, October 2022) shall be adhered to in full for the lifetime of the development hereby permitted.
 - 4) The areas for the parking of vehicles shall be permanently retained and reserved for that purpose at all times in accordance with the details as shown on approved drawing number 200698-1300-P7.

- 5) The cycle parking provision as shown on drawing number 200698-1300-P7 shall be retained and kept available for that purpose at all times.
- 6) The approved Staff Travel Plan (Entran, October 2022, Revision A) shall be brought into operation for the retail unit and operated for no less than seven years from the date of first occupation, with the results of the monitoring submitted to the Local Planning Authority upon request in accordance with the provisions of Section 7 of the Travel Plan.
- 7) Details of any additional or altered external lighting shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. Lighting shall be designed to minimise spillage onto adjacent habitats and the submitted details shall include a plan showing the lux levels on the receiving habitats which should not exceed 1 lux. The lighting shall then be installed in accordance with the approved details.
- 8) No fixed plant or machinery shall be installed or operated outside of the building unless first approved in writing by the Local Planning Authority. Details of any proposed plant or equipment submitted so as to obtain approval shall include evidence that the impact of noise from such plant or machinery will be satisfactory and will not impact unduly upon the amenity of neighbouring residents and the development shall then accord with the approved details. For the avoidance of doubt, the rating level of the sound emitted from the site shall not exceed 50 dBA between the hours of 0700 and 2300 and 38 dBA at all other times. The sound levels shall be determined by measurement or calculation at the nearest noise sensitive premises. The measurements and assessment shall be made according to BS4142:2014+A1:2019.
- 9) The application unit shall be used as a foodstore and for no other purpose including any other purpose within Class E(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification). The net sales area of the foodstore shall not exceed 1,642 sqm and no more than 20% of this net sales area shall be used for the retail sale and display of comparison goods.
- 10) The retail unit the subject of this permission shall not be subdivided into any additional independent or separate units without the prior written consent of the Local Planning Authority.
- 11) No mezzanine floors shall be inserted into the unit the subject of this permission without the prior written consent of the Local Planning Authority.
- 12) No goods, plant, refuse or materials shall be deposited or stored in the open outside of the unit without the prior written consent of the Local Planning Authority.
- 13) The development hereby approved shall not operate or be open to customers except between the hours of 0800 to 2200 Monday to Saturday and 1000 and 1700 on Sundays or Bank Holidays.
- 14) Any above ground oil/chemical storage tank/container and associated pipework shall be bunded in a manner so as to retain at least 110% volume of the tank capacity.

- 15) Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Background and Main Issue

2. Planning permission was granted in September 2022¹ (“the original planning permission”) for use of the appeal site as a foodstore with external building and layout alterations, and is trading. This appeal seeks to remove condition No 17 which controls hours of delivery, as set out in the banner heading above.
3. Subsequent to the Council’s determination of the section 73 application subject of this appeal, it granted full planning permission in January 2025² for a 3m high acoustic fence (“the approved acoustic fence”). This fence forms part of the mitigation measures for the current appeal proposal, but did not appear to have been implemented at the time of my site visit.
4. The main issue is whether the proposal would safeguard the living conditions of neighbouring residents, with particular regard to noise and disturbance.

Reasons

5. The appeal site forms one of several premises within Hedge End Retail Park. This site is near to the roundabout junction of Charles Watts Way (A334) and Upper Northam Road (B3036), which forms part of a junction interchange for the M27 motorway. There are residential properties in the vicinity within the cul-de-sac of Goodlands Vale. These dwellings are separated from the appeal site’s rear vehicular access to its service and delivery area by a dense strip of woodland.
6. The appellant seeks to remove the delivery hours restriction to spread out existing deliveries over a 24-hour period, rather than to increase the number of deliveries. This would nonetheless allow deliveries to be undertaken at nighttime when nearby residents would likely be asleep.
7. The Planning Practice Guidance (PPG) states³ that the subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. This will depend on how various factors combine in any particular situation, including the general character of the noise (i.e. whether or not the noise contains particular tonal characteristics or other particular features). It also sets out that in cases where existing noise sensitive locations already experience high noise levels, a development that could cause even a small increase in the overall noise level may result in a significant adverse effect occurring even though little to no change in behaviour would be likely to occur.
8. The latest noise survey before me was undertaken in November 2023⁴ (“the 2023 noise survey”) by a suitably qualified professional on behalf of the appellant. This included noise monitoring within the Goodlands Vale residential cul-de-sac and attended noise measurements of delivery activity within the appeal site. Baseline

¹ Council Ref: F/21/91821

² Council Ref: F/24/98174

³ Paragraph: 006 Reference ID: 30-006-20190722

⁴ Sharps Redmore, dated 07 December 2023 (Project No 2120326/R03)

- noise measurements were taken and for the nighttime period (from 11pm to 7am), and the recorded measurements are presented in 15-minute sample periods.
9. Delivery was made by a standard vehicle used by the appellant. Palletted goods were offloaded using a pallet truck via a reverse scissor lift system into the foodstore. Unloading activity took approximately 45 minutes in total, although this activity noise was sporadic during the overall delivery event.
 10. The principle noise source was observed to be from pallets being moved over the levelling plates. Due to noise from vehicles using the nearby arterial roads, the source noise level from unloading activity was derived by subtracting the measured ambient noise levels immediately prior to the unloading activity commencing from the ambient noise levels during unloading.
 11. Although my site visit was a snapshot in time, road noise was clearly audible in Goodlands Vale, which is otherwise a quiet residential cul-de-sac. Road traffic noise is a noteworthy feature of the Goodlands Vale acoustic environment. Residents nonetheless have a not unreasonable expectation for some peace and quiet. Adverse noise levels can cause sleep disruption, stress and anxiety.
 12. I noted road noise to be less audible further east along Goodlands Vale. I nonetheless found that the 2023 noise survey measurement location to be in an appropriate location to assess noise impact, despite being nearer to Upper Northam Road. This is because the 2023 noise survey measurement was taken on accessible land between Nos 56-59 Goodlands Vale. The precise distance of noise measurement from the delivery unloading is therefore not a critical issue, given that the delivery noise was also measured simultaneously at what I have found to be both an accessible and appropriate position in Goodlands Vale.
 13. The noise survey undertaken on behalf of the appellant in April 2021 likely recorded overall traffic noise levels to be lower than current conditions because this was a time when the country was still subject to some Covid lockdown restrictions. For this reason, I do not see any significant purpose in comparing the recorded traffic noise levels between April 2021 and November 2023.
 14. The noise measurement location chosen for the 2023 noise survey is much closer to Lower Northam Road than the chosen location for the January 2022 survey. However, as the 2023 noise survey location is much nearer to where deliveries are undertaken for the appeal site, I consider this to be an appropriate location to assess the impacts. Measured background noise levels from all three abovementioned surveys are before me. In this context, the 2023 noise survey forms an adequate baseline.
 15. I accept that typically, noise generated by a delivery lorry unloading is of differing character to that of road traffic, as such deliveries tend to create an irregular and impulsive type of noise. I also accept that the World Health Organisation's (WHO) Guidelines for Community Noise (1999) (GCN) are particularly useful when assessing more steady noise sources.
 16. On the other hand, BS4142:2014+A1:2019⁵ states that the methodology set out in Clauses 7, 8, and 9 of that published standard is not intended to be used to assess

⁵ British Standards Institution Publication: Methods for rating and assessing industrial and commercial sound

the extent of the impact at indoor locations. As residents are more likely to be indoors at night, I find it appropriate to have regard to the GCN. This is because at nighttime, the noise level outside a residential window is more relevant than comparing the noise source against the external ambient noise level.

17. Due to the particular external noise sources at the appeal site, the source noise levels of the arrival and departure events were based on a library of data obtained from other sites under control of the appellant. Peak noise levels are however based on direct measurement of the unloading activities within the appeal site
18. The appellant has applied one rating level penalty of 3dB to account for the character of the delivery noise. This is an appropriate rating level adjustment, given the short duration peak noise levels recorded by the 2023 noise survey during delivery, and given that a partially open window can still provide a substantial amount of noise attenuation.
19. The overall evidence before me demonstrates that if condition No 17 is removed, the approved acoustic fence is necessary to mitigate against the peak delivery noise levels as measured in the 2023 survey. Of relevance here is the GCN in respect of external noise outside bedrooms with an open window over the nighttime period between 11pm and 7am. Peak delivery noise levels would be adequately mitigated by the approved acoustic fence irrespective of the level of surrounding road traffic noise, including weekends.
20. A Delivery Management Plan (DMP) was submitted to and agreed upon by the Council in accordance with Condition 6 of the original planning permission. It would be possible under Section 73 to amend the wording of Condition 6 to become a compliance condition. Without prejudice, the Council provided suggested wording to this effect in the event that I allow the appeal.
21. The DMP includes smaller local delivery suppliers and would require the delivery vehicle reversing audible warning system to be switched off outside of store opening time, and switching off of the vehicle engine and refrigeration unit once it is in the unloading position. The above measures would reduce the extent of delivery noise during the sensitive night time periods, reducing the risk of sleep being disturbed. I see no reason why such measures could not apply to a 24-hour period, and be enforced by the Council under a planning condition, if necessary.
22. For the above reasons, I conclude that subject to conditions, the living conditions of neighbouring residents with particular regard to noise and disturbance would be safeguarded despite the removal of condition No 17. Accordingly, the proposal would comply with Policies DM1 and DM8 of the Eastleigh Borough Local Plan (2022) which require, amongst other things, development to not have an unacceptable impact on residential amenities of existing residents, including environmental impacts such as noise.

Other Matters

23. I accept that the removal of condition No. 7 would likely lead to increase in artificial light. The distances to neighbouring dwellings and intervening trees would avoid an adverse impact on living conditions of current and future occupiers. Any additional or altered external fixed lighting within the appeal site would be subject to condition No. 7 as set out above.

24. Concern has also been raised regarding resale values that may be affected by allowing this appeal. There is no compelling evidence to suggest that this would be the case. In any event, planning is concerned with land use in the public interest, such as safeguarding living conditions. As such, any possible influence on house prices is not a relevant material factor in the determination of this appeal.

Conditions

25. As the original permission has been completed, it is not necessary to reimpose the conditions relating to timescale of implementation, external materials, construction environmental management plan, tree protection, construction hours and prevention of on-site burning during construction.
26. Reimposition of an approved plans condition (condition 1) is however necessary, in the interests of clarity. This includes plans approved via a subsequent Non-Material Amendment application dated 11 April 2023. As the originally approved operational development has already been implemented, I have deleted reference to the pre-existing floor plan, elevations and tree protection plan.
27. Condition 2 is necessary as a Grampian condition in the interests of the living conditions of neighbouring residents. I have imposed it having regard to the PPG⁶ which sets out that in granting permission under Section 73, a new condition may be imposed provided it does not materially alter the development that was subject to the original permission and is a condition that could have been imposed on that original permission. This PPG advice is consistent with the relevant case law⁷.
28. Condition 3 is necessary in the interests of living conditions and highway safety. Condition 4 is necessary to ensure adequate on-site parking. Conditions 5 and 6 are necessary to support sustainable modes of travel. Condition 7 is necessary in the interests of living conditions and biodiversity. Condition 8 is necessary in the interests of living conditions of the occupiers of neighbouring residential properties.
29. Conditions 9, 10 and 11 are necessary to control the retail impacts of the development. Conditions 12 and 13 are necessary in the interests of the living conditions of the occupiers of neighbouring residential properties. Conditions 14 and 15 are necessary to prevent pollution of the water environment.

Conclusion

30. For the reasons given above, the appeal is allowed.

R Cahalane

INSPECTOR

⁶ Paragraph: 040 Reference ID: 21a-040-20190723

⁷ *John Leslie Finney v Welsh Ministers & Carmarthenshire County Council, Energiekontor (UK) Limited* [2019] EWCA Civ 1868).