

Update To Committee Report Item No: 5d

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| Application Reference Number: | 4/23/2314/0F1 |
| Application Type: | Full Planning Application |
| Application Address: | Land at Preston Street, Preston Street, Whitehaven |
| Proposal | Erection of a discount foodstore with associated access, parking, hard and soft landscaping and associated works. |
| Applicant | Aldi Stores Ltd |
| Agent | Avison Young |
| Valid Date | 31st October 2023 |
| Case Officer | Chris Harrison |

Updates Following Publication of the Committee Report

Pre-commencement Planning Conditions

Under the provisions of The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 a pre-commencement planning condition must not be imposed on the grant of a Full Planning Permission without the local planning authority first providing notice in writing of the intention to impose the planning condition and permitting the applicant a minimum of 10 working days to provide a substantive response to the notice.

Given the time constraints in preparing the Planning Committee Report it was not possible to serve the required notice on the Applicant prior to the publication.

The required notice has subsequently been served on the applicant and a substantive response has been received in relation to the pre-commencement planning conditions and other planning conditions proposed.

The matters raised are considered in turn below.

Planning Condition 2 – Approved Plans/Document

Planning Condition 2 references: *Noise Impact Assessment - Our Reference – J3242 Revision - 1 (NJD Environmental)*.

This is the incorrect author.

Planning Condition 2 is amended to reference: *Noise Impact Assessment - Our Reference – J3242 Revision - 1 (Paul Horsley Acoustics Ltd)*.

Planning Condition 12 – Biodiversity Net Gain

The applicant has requested that Planning Condition 12 securing the delivery of biodiversity net gain be amended from requiring the submission of the required information before development is commenced to before the development is occupied. This is to provide an additional period of time to secure the required off site enhancement.

Mandatory biodiversity net gain is secured via a pre-commencement planning condition imposed through the Environment Act 2021.

The required biodiversity net gain is secured by Policy N3 in this instance; therefore, the provisions of the Environment Act 2021 are not applicable or binding.

A pre-commencement planning condition was proposed in alignment with the provisions of the Environment Act 2021; however, it is not considered wholly necessary. The pre-development habitat value of the Application Site is known and it has been demonstrated that the required biodiversity net gain is not wholly deliverable on the Application Site.

The requested amendment would amend the timing of the submission of the required information demonstrating how the required biodiversity net gain will be delivered; however, it will not reasonably change the timing of the delivery of the required habitat creation/enhancement.

There are currently few fully defined mechanisms to secure biodiversity net gain which has real potential to delay the commencement of the development. It is therefore considered reasonable to amend the condition as proposed to provide additional time to secure the required means of delivery.

Planning Condition 29 and Planning Condition 30 – Operating Limitations

The applicant has requested that the references to “net retail floorspace” within the referenced planning conditions be amended to “net retail sales floorspace” to provide additional clarity/certainty and align the terminology with the supporting planning application documentation.

The revision is considered to add clarity and certainty.

Additional Planning Condition Requested – Operating Limitations

The applicant has requested that the following additional planning condition is imposed to define the Gross Internal Area of the overall development to provide greater clarity and certainty:

“The Gross Internal Area for retail purposes (Use Class E(a)) shall be a maximum of 1,916 square metres.”

The revision is considered to add clarity and certainty and is supported.

Revised Recommendation and Revised Planning Conditions

The proposed revisions are highlighted in red for ease of reference.

Recommendation

That the application is granted subject to the conditions outlined at the end of this report, with the Assistant Director of Inclusive Growth and Placemaking being given delegated authority to add to and/or make any amendments to the conditions as considered appropriate and further delegates to the Assistant Director of Inclusive Growth and Placemaking authority to agree the final terms and conditions of the section 106 agreement, which as detailed in this report are proposed as:

- A financial contribution of £6,600 for the review of the Travel Plan Monitoring reports; and,
- A financial contribution of £50,000 towards the delivery of a parallel signal controlled crossing on Preston Street.

If the section 106 agreement is not entered within 6 months of the date of this Planning Committee or any other extension of the determination period mutually agreed with the Applicant, delegate authority to the Assistant Director of Inclusive Growth and Placemaking to refuse the planning permission on the grounds that the planning obligations required to make the proposed development acceptable in planning terms have not been legally secured.

List of Conditions and Reasons

Defining The Permission

1. The development hereby permitted shall begin not later than three years from the date of this decision.

Reason

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Design and Access Statement (Projekt Architects)
Preliminary Ecological Appraisal & Biodiversity Net Gain Report - Proposed Aldi, Whitehaven - Version 2 (Total Ecology)

Transport Assessment – Proposed Aldi Foodstore Relocation, Preston Street, Whitehaven - Project no: 48013 - (Andrew Moseley Associates)
Highways Technical Note - Proposed Aldi Foodstore Relocation, Preston Street, Whitehaven - 19th January 2024

Highways Technical Note - Proposed Aldi Foodstore Relocation, Preston Street, Whitehaven - 12th April 2024
Interim Travel Plan - Proposed Aldi Foodstore, Preston Street, Whitehaven – Project No.45031 - (Andrew Moseley Associates)

Noise Impact Assessment - Our Reference – J3242 Revision - 1 (Paul Horsley Acoustics Ltd)

Air Quality Impact Assessment - Report Reference: NJD23-0140-002R – Final v2 - (NJD Environmental)

Aldi Stores Limited – Sustainability Statement – January 2023

Arboricultural Impact Assessment For Trees On Land Adjacent to Preston Street, Whitehaven (All About Trees)

Drawing No. AMS EXI – Existing Trees Shown On Existing Layout (All About Trees)

Drawing No. AIA TPP - Tree Protection Plan (All About Trees)

Arboricultural Method Statement For Trees On Land Adjacent to Preston Street, Whitehaven (All About Trees)

Drawing No. AMS TPP - Tree Protection Plan (All About Trees)

Archaeological Desk-Based Assessment - Proposed Aldi Preston Street Whitehaven - Report 6070

Phase 1 Geo-Environmental Assessment – Report Ref. P18-2351 Issue 1- (3E Consulting Engineers)

Preliminary Risk Assessment and Ground Investigation Report - Contract No. E12964/1B – Issue 1 - (DTS Raeburn)

Geo-environmental Appraisal & Coal Mining Risk Assessment – Report Ref. P18-351/GA Issue 1 - (3E Consulting Engineers)

Flood Risk Assessment and Drainage Strategy – Preston Street, Whitehaven - Document Ref: P18-351-HYD-XX-XX-RP-C-0500 - (Hydrock)

Drawing No. 0470-PA-XX-00-DR-A-PM_40_50-21-0001-S4-P01 - Location Plan (Projekt Architects)

Drawing No. 0470-PA-XX-00-DR-A-PM_40-50-21-0002-S4-P03 - Proposed Site Plan (Projekt Architects)

Drawing No. 0470-PA-XX-00-DR-A-PM_40-50-21-0003-S4-P02 - Proposed Floor Plan (Projekt Architects)

Drawing No. 0470-PA-XX-00-DR-A-PM_40-50-21-0003-S4-P01 - Proposed Roof Plan (Projekt Architects)

Drawing No. 0470-PA-XX-00-DR-A-PM_40-50-21-0005-S4-P02 - Proposed Elevations (Projekt Architects)

Drawing No. 0470-PA-XX-00-DR-A-PM_40-50-21-0006-S4-P01 - Proposed Site Plan - Constraints (Projekt Architects)

Drawing No. 0470-PA-XX-00-DR-A-PM_40-50-21-0007-S4-P01 - Proposed Site Section (Projekt Architects)

Reason

For the avoidance of doubt and in the interests of proper planning.

Pre-Commencement Planning Conditions

Highways

3. No development shall commence until details, including longitudinal/cross sections of the carriageway, footways, footpaths have been submitted to and approved in writing by the Local Planning Authority.

Any works so approved shall be constructed in accordance with the approved details before the development is complete.

Reason

To ensure a minimum standard of construction in the interests of highway safety in accordance with the provisions of Policy CO4 of the Copeland Local Plan 2021-2039.

4. No development shall commence until visibility splays providing clear visibility of 43 metres measured 2.4 metres down the centre of the access road and the nearside channel line of the carriageway edge have been provided at the junction of the access road with the public highway as shown on: Drawing No. AMA/48013/SK001 - Visibility Splay Analysis.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grown within the visibility splay which obstruct the visibility splays.

The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded.

Reason

In the interests of highway safety in accordance with the provisions of Policy CO4 of the Copeland Local Plan 2021-2039.

5. No development shall commence until full design details of a scheme for highway modifications to Preston Street have been submitted to and approved in writing by the Local Planning Authority.

Reason

In the interests of highway safety in accordance with the provisions of Policy CO4 of the Copeland Local Plan 2021-2039.

Archaeology

6. No development shall commence until the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the Local Planning Authority has been secured.

The written scheme of investigation must include the following components:

- i) An archaeological evaluation; and,
- ii) An archaeological recording programme the scope of which will be dependent upon the results of the evaluation.

Reason

To afford reasonable opportunity for an examination to be made to determine the existence of any remains of archaeological interest within the site and for the examination and recording of such remains in accordance with the provisions of Policy BE3 of the Copeland Local Plan 2021-2039.

Ground Conditions

7. No above ground development shall commence until:

- a) a scheme of further intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and,
- b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason

To ensure the safety and stability of the development, in accordance with the provisions of Policy DS8 of the Copeland Local Plan 2021-2039.

Construction Management

8. No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority.

The CEMP shall include:

- details of the means of access and parking for construction traffic and vehicles;
- procedures for the loading and unloading of plant and materials;
- hours of delivery;
- details of the storage of plant and materials used in construction;
- details of measures to control dust, emissions, sediments and pollutants arising from the development;
- a scheme for recycling/disposing of waste resulting from construction works; and,

- measures to control noise and vibration.

The approved CEMP shall be adhered to throughout the construction period.

Reason

To protect amenity and to protect the environment from pollution in accordance with Policy DS9 of the Copeland Local Plan 2021-2039.

9. No development shall commence until a Construction Surface Water Management Plan (CSWMP) has been submitted to and approved in writing by the Local Planning Authority.

The CSWMP shall include:

- details of measures to control surface water flows and prevent flooding during the construction period; and,
- measures to prevent the discharge of sediments and pollutants to the existing watercourses.

The approved CSWMP shall be adhered to throughout the construction period.

Reason

To safeguard against flooding to surrounding sites and to safeguard against pollution of surrounding watercourses and drainage systems in accordance with the provisions of Strategic Policy DS6, Policy DS7 and Policy DS8 of the Copeland Local Plan 2021-2039.

United Utilities Asset Protection

10. No development shall commencement until details of the means of ensuring the 600x800mm public combined sewer that is laid within the site boundary is protected from damage as a result of the development (including the proposed level changes and connections to this sewer) have been submitted to and approved by the Local Planning Authority.

The details shall outline the potential impacts from construction activities and the impacts post completion of the development on the public sewer that crosses the site and identify mitigation measures to protect and prevent any damage to the pipeline both during construction and post completion of the development.

The development shall be completed in accordance with the approved details.

Reason

To ensure protection of essential services and safeguard against flooding in accordance with the provisions of Policy DS4 of the Copeland Local Plan 2021-2039.

Landscaping

11. Notwithstanding the submitted details, no development shall commence until a detailed scheme of soft landscape works has been submitted to and approved in writing by the Local Planning Authority.

These shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers / densities; an implementation programme and a five-year maintenance plan.

The agreed scheme shall be carried out as approved to the agreed timetable.

Any trees / shrubs which are removed, die, become severely damaged or diseased within five years of their planting shall be replaced in the next planting season with trees / shrubs of similar size and species to those originally required to be planted.

Reason

To safeguard and enhance the character of the area and secure high quality landscaping in accordance with the provisions of Policy DS5 of the Copeland Local Plan 2021-2039.

12. **Prior to the occupation of the development hereby approved** a Biodiversity Net Gain Strategy (BNGS) and a Project Implementation Plan (PIP) shall be submitted to and approved in writing by the Local Planning Authority.

The BNGS shall detail proposals to redress loss of biodiversity and the mitigation strategy proposed shall include all on and off-site habitats required to deliver a net gain of at least ten percent. The BNGS shall use the Statutory Biodiversity Metric Calculation Tool associated with the Environment Act 2021.

The PIP shall detail the delivery of ecological BNG mitigation and compensation, in accordance with the approved BNG strategy. The PIP shall include timescales for implementation, and an ongoing management and maintenance plan.

The BNGS and PIP shall be implemented, managed and maintained in accordance with the approved details.

Reason

To ensure delivery of the required biodiversity net gain in accordance with the provisions of Policy N3P of the Copeland Local Plan 2021-2039.

Pre-Occupation

Highways

13. Prior to the occupation of the development hereby approved the modifications to the public highway at Preston Street shall be completed in accordance with the approved details.

Reason

In the interests of highway safety in accordance with the provisions of Policy CO4 of the Copeland Local Plan 2021-2039.

14. Prior to the occupation of the development hereby approved, the approved access and parking requirements shall be constructed in accordance with the approved plans and details.

The access and or parking provision shall be retained and be capable of use when the development is completed and shall be retained for the lifetime of the development.

Reason

To ensure a minimum standard of access provision when the development is brought into use in accordance with the provisions of Policy CO4 of the Copeland Local Plan 2021-2039.

Ground Conditions

15. Prior to the occupation of the development hereby approved a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to and approved in writing by the Local Planning Authority.

This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason

To ensure the safety and stability of the development, in accordance with the provisions of Policy Policy DS8 of the Copeland Local Plan 2021-2039.

Drainage

16. Prior to occupation of the development hereby approved the approved scheme of foul and surface water drainage infrastructure shall be completed and brought into operational use.

Once completed and brought into operational use, the surface water drainage infrastructure shall be retained operational for the lifetime of the development.

Reason

To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development in accordance with the provisions of Strategic Policy DS6, Policy DS7 and Policy DS8 of the Copeland Local Plan 2021-2039.

Noise

17. Prior to the occupation of the development hereby approved the acoustic mitigation scheme detailed in Noise Impact Assessment for the Proposed New ALDI Retail Store at Preston Street, Whitehaven Planning Application No 4/23/2314/0F1 Our Reference – J3242 Revision - 1 shall be implemented in full.

The mitigation measures shall be retained in good working condition for the lifetime of the development.

Reason

To protect amenity of nearby residential dwellings in accordance with the provisions of Policy DS4 of the Copeland Local Plan 2021-2039.

External Lighting and CCTV

18. No external lighting shall be installed unless or until a scheme of external lighting has first been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include details of the intensity of illumination and predicted lighting spill contours.

All external lighting shall be installed in accordance with the approved details and shall thereafter be retained as such for the lifetime of the development.

Reason

To protect residential amenity, to ensure high quality design and to protect the environment from light pollution in accordance with Policy DS4 of the Copeland Local Plan 2021-2039.

19. No external closed circuit television equipment shall be installed unless or until a scheme of closed circuit television equipment has first been submitted to and approved in writing by the Local Planning Authority.

All closed circuit television equipment shall be installed in accordance with the approved details and shall thereafter be retained as such for the lifetime of the development.

Reason

To protect residential amenity and ensure high quality design in accordance with Policy DS4 of the Copeland Local Plan 2021-2039.

Other Planning Conditions

Highways

20. Dropped kerbs shall be provided on each side of every junction to enable wheelchairs, pushchairs etc. to be safely manoeuvred at kerb lines.

Any works so approved shall be constructed in accordance with the approved details before the development is complete.

Reason

To ensure that pedestrians and people with impaired mobility can negotiate road junctions in relative safety in accordance with the provisions of Policy DS4 and Policy CO4 of the Copeland Local Plan 2021-2039.

21. Within 6 months of the development hereby permitted (or any part thereof) opening for business, a Final Travel Plan shall be submitted and approved in writing by the Local Planning Authority.

The Final Travel Plan shall identify the measures that will be undertaken by the developer/occupant to encourage the achievement of a modal shift away from the use of private cars to visit the development to sustainable transport modes.

The measures identified in the Final Travel Plan shall be implemented by the developer/occupant within 12 months of the development (or any part thereof) opening for business.

Reason

To aid in the delivery of sustainable transport objectives in accordance with the provisions of CO5 of the Copeland Local Plan 2021-2039.

22. The developer/occupant shall submit to the Local Planning Authority for review the following as defined in the Interim Travel Plan - Proposed Aldi Foodstore, Preson Street, Whitehaven:

- i. The survey of staff completed one month before relocation from the existing store to establish existing travel patterns;
- ii. The follow up travel survey to be undertaken 6 months post relocation from the existing store to establish how, if at all, travel patterns have changed; and,
- iii. Four subsequent annual reviews of the Final Travel Plan.

The annual review of the Final Travel Plan shall review the effectiveness of the Travel Plan and include any necessary amendments or measures.

Reason

To aid in the delivery of sustainable transport objectives in accordance with the provisions of CO5 of the Copeland Local Plan 2021-2039.

Archaeology

23. Where significant archaeological remains are revealed by the approved programme of archaeological work, there shall be carried out within one year of the completion of that programme on site, or within such timescale as otherwise agreed in writing by the Local Planning Authority: an archaeological post-excavation assessment and analysis, the preparation of a site archive ready for deposition at a store, the completion of an archive report, and the preparation and submission of a report of the results for publication in a suitable specialist journal.

Reason

To ensure that a permanent and publicly accessible record is made of the archaeological remains that have been disturbed by the development in accordance with the provisions of Policy BE3 of the Copeland Local Plan 2021-2039.

Ground Conditions

24. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 14 days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination, development must be halted on that part of the site.

An assessment must be undertaken and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority.

The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority.

Reason

To prevent harm to human health and the environment in accordance with the provisions of Policy DS8 of the Copeland Local Plan 2021-2039.

Construction Management

25. No work for the construction of these developments, including demolition, shall take place on the site, except between the hours:

07:30 - 18.00 Monday to Friday; and

08.00 - 13.00 on Saturdays.

No work should be carried out on Sundays or officially recognised public holidays.

Reason

To safeguard the amenity of neighbouring occupiers in accordance with the provisions of Policy DS4 of the Copeland Local Plan 2021-2039.

Arboriculture

26. Arboricultural Method Statement For Trees On Land Adjacent To Preston Street, Whitehaven shall be implemented as approved for the duration of the construction period.

Reason

To ensure the protection and retention of important landscape features in accordance with the provisions of Policy DS5 of the Copeland Local Plan 2021-2039.

Ecology

27. The development hereby approved shall not proceed except in accordance with the recommendations outlined in Preliminary Ecological Appraisal & Biodiversity Net Gain Report Proposed Aldi, Whitehaven Avison Young & Aldi October 2023.

Reason

For the avoidance of doubt and to prevent harm to biodiversity in accordance with the provisions of Policy ENV3 of the Copeland Local Plan 2021-2039.

Drainage

28. Drainage of the development hereby approved shall be constructed, maintained and managed in accordance with the details outlined in Flood Risk and Drainage Assessment - Ref P18-351-HYD-XX-XXRP-C-0500 Issue P02.

For the avoidance of doubt no surface water will be permitted to drain directly or indirectly into the public sewer.

Reason

To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding in accordance with the provisions of Strategic Policy DS6, Policy DS7 and Policy DS8 of the Copeland Local Plan 2021-2039.

Operating Limitations

29. The **net retail sales floorspace** of the development hereby approved shall not exceed 1,150 square metres.

Reason

In order to control the precise nature and scale of the retail use and to prevent a significant adverse impact on the vitality and viability of any defined centre in accordance with the provisions of Strategic Policy R1 and Policy R8 of the Copeland Local Plan 2021-2039.

30. Not more than 20% of the **net retail sales floorspace** of the development hereby approved shall be used for the sale of comparison goods.

Reason

In order to control the precise nature and scale of the retail use and to prevent a significant adverse impact on the vitality and viability of any defined centre in accordance with the provisions of Strategic Policy R1 and Policy R8 of the Copeland Local Plan 2021-2039.

31. No additional floorspace shall be created through the use of mezzanines or other structures to increase the amount of usable floor area of the development hereby approved.

Reason

In order to control the precise nature and scale of the retail use and to prevent a significant adverse impact on the vitality and viability of any defined centre in accordance with the provisions of Strategic Policy R1 and Policy R8 of the Copeland Local Plan 2021-2039.

32. The approved store shall not be open for trade except between:

- 08:00 hours to 23:00 hours – Mondays to Saturdays; and
- 09:00 hours to 18:00 hours – Sundays

Reason

To safeguard the amenity of neighbouring occupiers in accordance with the provisions of Policy DS4 of the Copeland Local Plan 2021-2039.

33. The retail store hereby permitted shall be used for the sale of food and ancillary comparison goods, and for no other purpose including any other purpose in Class E1(a) of the Schedule to the Town and County Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason

In order to control the precise nature and scale of the retail use and to prevent a significant adverse impact on the vitality and viability of any defined centre in accordance with the provisions of Strategic Policy R1 and Policy R8 of the Copeland Local Plan 2021-2039.

34. The Gross Internal Area for retail purposes (Use Class E(a)) shall be a maximum of 1,916 square metres.

Reason

In order to control the precise nature and scale of the retail use and to prevent a significant adverse impact on the vitality and viability of any defined centre in accordance with the provisions of Strategic Policy R1 and Policy R8 of the Copeland Local Plan 2021-2039.