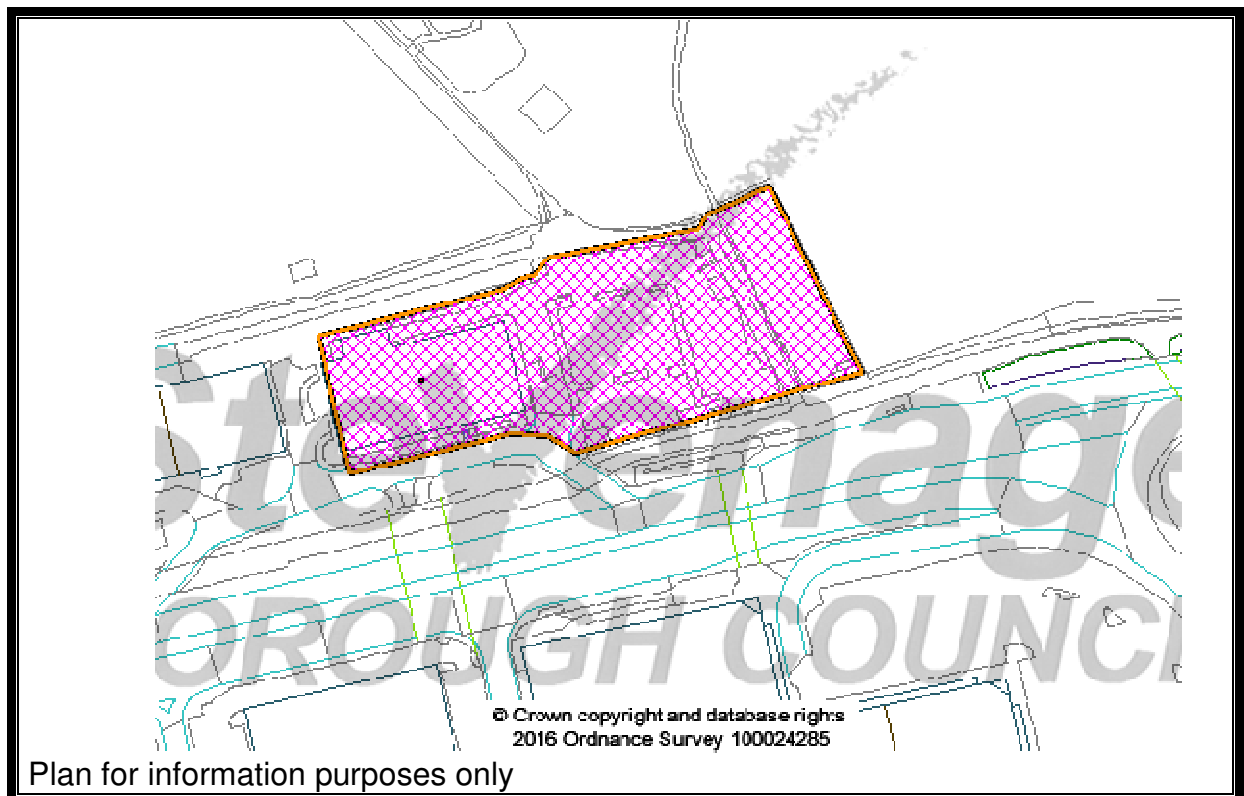


Meeting:	Planning and Development Committee	Agenda Item: 7
Date:	25 May 2016	
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Lead Officer:	Zayd Al-Jawad	01438 242257
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Application No:	16/00211/S106
Location:	Aldi Stores, Fairlands Way, Stevenage
Proposal:	Deed of variation under section 106 agreement relating to planning permission 02/00430/FP.
Drawing Nos.:	Site Location Plan
Applicant:	Aldi Stores Ltd
Date Valid:	30 March 2016
Recommendation :	AGREE VARIATION OF LEGAL AGREEMENT.



1. SITE DESCRIPTION

- 1.1. The application site, which measures 0.7 hectares in size, is the site of the existing Aldi Supermarket on Fairlands Way, adjacent to the King George V playing field and close to Stevenage town centre. The site currently consists of the existing supermarket which has a gross internal floorspace of 1,303m² and the associated car park which has a total of 95 spaces. The existing store fronts its car park and its vehicular access to the car park and service yard is taken from Fairlands Way. Fairlands Way lies adjacent to the site's southern boundary.
- 1.2. The remaining site boundary comprises the King George V playing fields to the north and east, Stevenage Cricket and Hockey Club to the north-west, a truncated road and then the Pets at Home and Majestic Wines store to the west.

2. RELEVANT PLANNING HISTORY

- 2.1. 99/00125/FP Retail Building and Car Park. Application withdrawn 18.06.2001.
- 2.2. 00/00094/FP Class A1 Retail Store and Car Park. Planning permission refused 01.09.2000.
- 2.3. 02/00430/FP Retail building, car park and access. Planning permission granted 24.09.2004.
- 2.4. 05/00106/AD Two no. advertisement signs. Advertisement consent granted 29.04.2005.
- 2.5. 05/00171/FP Extension to retail food store to provide additional sales and storage area. Planning permission granted 22.06.2005.
- 2.6. 05/00292/AD Free Standing illuminated double sided sign. Advertisement consent granted 03.08.2005.
- 2.7. 05/00508/AD Display of illuminated freestanding pole mounted sign above canopy facing Fairlands Way. Advertisement consent granted 25.11.2005.
- 2.8. 15/00149/AD 3no. non-illuminated screen printed graphics. Advertisement consent granted 12.05.2015.
- 2.9. 15/00647/AD Retention of 13 existing parking signs. Advertisement consent granted 11.12.2015.
- 2.10. 15/00764/FP Retention of ANPR camera system. Planning permission granted 04.02.2016.

3. THE CURRENT APPLICATION

- 3.1. This application has been made under S106A part 6(b) of the Town and Country Planning Act 1990 (as amended) to seek permission to vary the covenants of the S106 agreement which was attached to planning permission reference 02/00430/FP.

- 3.2. The legal agreement attached to the planning permission required the applicant to pay a CCTV contribution, a car parking contribution and also required the appropriate management of the on-site car parking. The CCTV contribution and car parking contribution have both been paid and this application does not affect these covenants in any way.
- 3.3. The management of the on-site car parking had two clauses. Firstly, the applicant had to agree to permit the Council to operate and manage the car park on their behalf in accordance with the Council's approved parking policies and the management schedule attached to the s106 agreement.
- 3.4. Secondly, the applicant had to agree that the car park should be retained as a one hundred and forty two space public car park serving both the retail store and the town centre of Stevenage and managed and operated as both a long and short stay car park.
- 3.5. Although the management scheme referenced above does allow for modifications to the scheme in the event that both parties determine the management scheme is no longer appropriate, the applicant has now decided to seek to formally vary the terms of the s106 agreement such that the covenants set out above are to be changed from the terms of the original legal agreement. The reason for the applicant choosing to do this now is to formalise the agreement between the applicant and the Borough Council in advance of possible proposals to extend the existing store.
- 3.6. For clarity the applicant is proposing that the car park is no longer managed as both a short stay and long car park by the Council and that the references to long stay car parking are removed. The applicant wishes to use the car park as a short stay customer only car park. This proposal does not affect the relevant developer contributions which have been paid and no other changes are proposed to either the planning permission or the other covenants of the accompanying S106 agreement. The car park would also be unavailable for general town centre parking given its management as a short term customer only car park.

4. PUBLIC REPRESENTATIONS

- 4.1. A site notice has been erected in accordance with Section 5 (1) of the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulation 1992. This notice expired on 22nd April 2016 and at the time of drafting this report no representations have been received.

5. CONSULTATIONS

5.1. SBC Car Parks Manager

- 5.1.1 The over provision of Long Stay parking in the town centre negates the need to utilise the Aldi Car Park.

6. RELEVANT PLANNING POLICIES

6.1. Background to the Development Plan

6.1.1 In the determination of planning applications development must be in accordance with the statutory development plan unless material considerations indicate otherwise. For Stevenage the statutory development plan comprises:

- Hertfordshire Waste Development Framework 2012 and Hertfordshire Waste Site Allocations Development Plan Document (adopted 2012 and 2014);
- Hertfordshire Minerals Local Plan 2002 – 2016 (adopted 2007); and
- The Stevenage District Plan Second Review 2004.

The Council has now commenced work on the new Stevenage Borough Local Plan 2011-2031. The draft version of the Plan was published in January 2016 and will be used as a material consideration in the determination of all planning applications registered on or after Wednesday 6 January 2016. The Site Specific Policies DPD, the draft Gunnels Wood Area Action Plan (AAP), the draft Old Town AAP, the Pond Close Development SPG, Stevenage West Masterplanning Principles SPG, the Gunnels Wood Supplementary Planning Document and the Interim Planning Policy Statement for Stevenage are no longer material considerations in the determination of all planning applications registered on or after Wednesday 6 January 2016.

6.1.2 Where a Development Plan Document has been submitted for examination but no representations have been made in respect of relevant policies, then considerable weight may be attached to those policies because of the strong possibility that they will be adopted. The converse may apply if there have been representations which oppose the policy. However, much will depend on the nature of those representations and whether there are representations in support of particular policies.

6.1.3 In considering the policy implications of any development proposal the Local Planning Authority will assess each case on its individual merits, however where there may be a conflict between policies in the existing Development Plan and policies in any emerging Development Plan Document, the adopted Development Plan policies currently continue to have greater weight.

6.2 Central Government Advice

6.2.1 In March 2012 the National Planning Policy Framework (NPPF) was published and in doing so it replaced many documents including all Planning Policy Guidance Notes and Planning Policy Statements. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. Annex 1 of the NPPF provides guidance on how existing local plan policies which have been prepared prior to the publication of the NPPF should be treated. Paragraph 215 of the NPPF applies which states that only due weight should be afforded to the relevant policies in the adopted local plan according to their degree of consistency with it.

6.2.2 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is itself a material consideration. Given that the advice that the weight to be given to relevant policies in the local plan will depend on their degree of consistency with the NPPF, it will be necessary in the determination of this application to assess the consistency of the relevant local plan policies with the NPPF. The NPPF applies a presumption in favour of sustainable development.

6.2.3 In addition to the NPPF advice in the National Planning Practice Guidance (March 2014) also needs to be taken into account. It states that, where the development plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

6.3. Adopted Local Plan

T15 Car Parking Strategy

6.4. Stevenage Borough Local Plan 2011-2031 Publication Draft (Emerging Local Plan)

IT5 Parking and Access

7. APPRAISAL

7.1. The main issue for consideration in the determination of this application is whether the proposed variation of Covenants 5 and 6 of the S106 agreement attached to planning permission 02/00430/FP are acceptable to the Borough Council.

7.2. Land Use Policy Considerations

7.2.1 Through Section 106a part 6(b) of the Town and Country Planning Act (1990), an application can be made to the Local Planning Authority to seek to vary the terms of a Section 106 agreement. This application has therefore been submitted, in accordance with the Town and Country Planning (Modifications and Discharge of Planning Obligations) Regulation 1992, to seek to vary the covenants relating to the management of the car park.

7.2.2 Given that the Council's Car Parks Manager has confirmed that there is an over provision of long stay car parking serving the town centre, it is not considered that the Council has any need to utilise this car park for long stay car parking. As such it is considered that the changes to the original covenants in the s106 can be agreed. The car park can still be appropriately managed by the applicant as a customer only car park utilising the current method of validating the parking within the store which ensures that long stay town centre users cannot use this car park.

8. CONCLUSION

8.1. The application proposes to alter the wording of the existing S106 agreement. It has been confirmed that the Borough Council no longer needs this car park for long stay parking as there is an over provision of long stay parking in the town centre. Given this it is considered that the variation to the existing covenants can be agreed.

9. RECOMMENDATION

9.1. That the Committee agree to the variation of covenants 5 and 6 (covenants by the owner) of the S106 agreement and delegate authority to the Head of Planning and

Engineering and the Head of Legal Services to agree the precise wording of the variation to the S106 agreement.

10. BACKGROUND DOCUMENTS

1. The application file, forms, plans and supporting documents having the reference number relating to this item.
2. Responses to consultations with statutory undertakers and other interested parties referred to in this report.
3. Stevenage District Plan Second Review 1991-2011.
4. Central Government Advice contained in the National Planning Policy Framework March 2012 and National Planning Policy Guidance.
5. Stevenage Borough Local Plan 2011-2031 Publication Draft.