

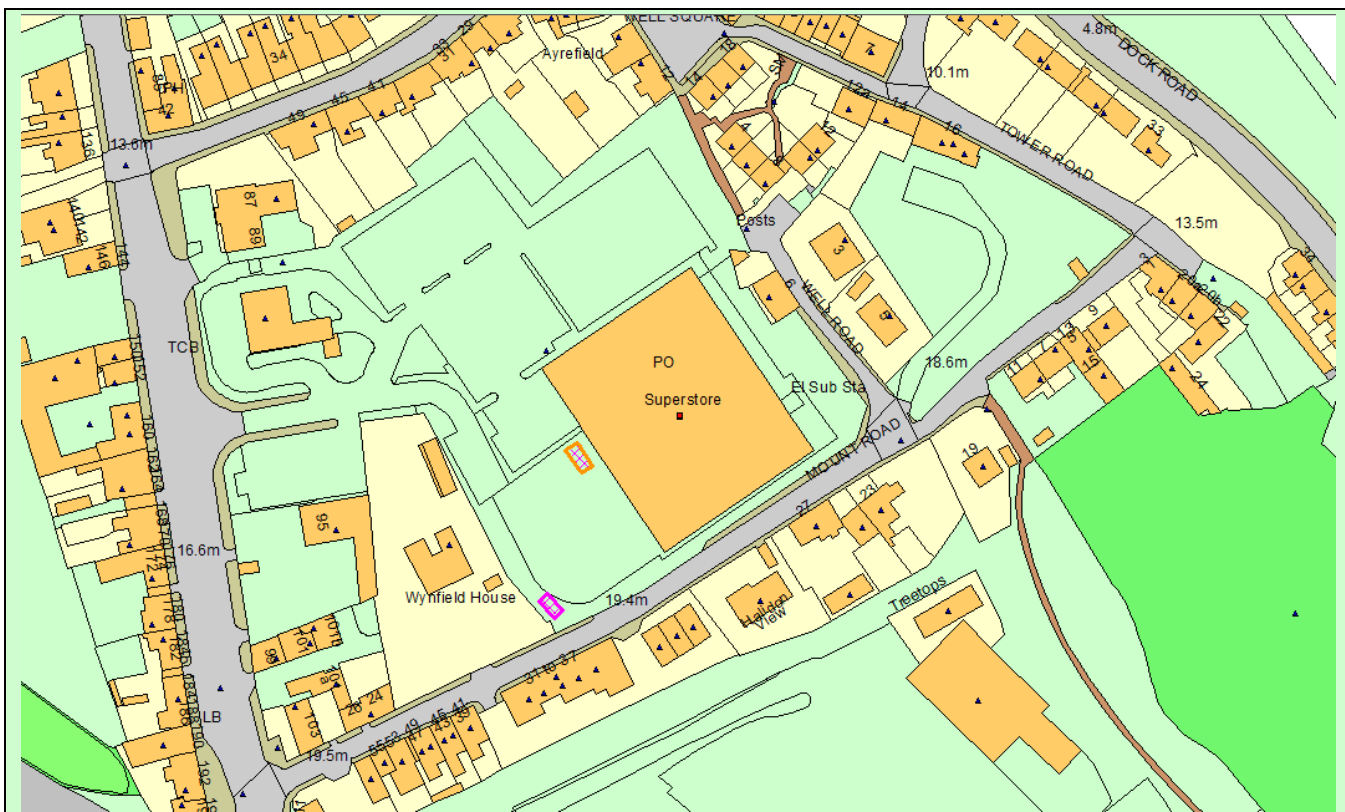


Northumberland County Council

North Local Area Council Planning Committee 22nd November 2018

Application No:	18/02684/VARYCO		
Proposal:	Variation of condition 2 (approved plans) in relation to planning application 17/02023/FUL		
Site Address	Asda, Main Street, Tweedmouth, Berwick-Upon-Tweed Northumberland TD15 2DS		
Applicant:	Asda Stores Ltd Asda House, South Bank, Great Wilson Street, Leeds LS11 5AD	Agent:	Mr Matthew Pratt Carrwood Court, Carrwood Road, Chesterfield, Derbyshire S41 9QB
Ward	Berwick East	Parish	Berwick-upon-Tweed
Valid Date:	25 July 2018	Expiry Date:	12 October 2018
Case Officer Details:	Name: Mr Jon Sharp Job Title: Planning Officer Tel No: 01670 623628 Email: Jon.Sharp@northumberland.gov.uk		

Recommendation: That this application be GRANTED permission subject to conditions.



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1. Introduction

1.1 This application falls to be determined by the North Local Area Council planning committee following a request to call in the application from the local member Councillor Hill. It is recommended for approval.

2. Description of the Proposals

2.1 The application seeks permission to vary condition 2 (approved plans) of planning application 17/02023/FUL (approved 12/10/2017) for the installation of new air handling equipment within the service yard of the Asda supermarket at Main Street, Tweedmouth.

2.2 Permission is now sought to alter the approved layout of the equipment. The air handling equipment has been installed within the service yard, although not in accordance with the approved plans.

2.3 The application site is located to the east of Main Street and is bounded to the east by the supermarket, to the south by residential dwellings and to the north by the supermarket car park. It is located within the Tweedmouth Conservation Area.

3. Planning History

Reference Number: 18/01446/DISCON

Description: Discharge of condition 3 (Noise. Mitigation. Paul Horsley Acoustic Report) in approved planning application 17/02023/FUL.

Status: Withdrawn

Reference Number: 17/02023/FUL

Description: Installation of 4 new plant in service yard

Status: Permitted

Reference Number: 11/02520/FUL

Description: Installation of 3no. frostpacks within the service yard of supermarket

Status: Permitted

Reference Number: 11/01219/ADE

Description: Replacement internally illuminated signs

Status: Permitted

Reference Number: N/10/B/0479

Description: Provision of 3no temporary storage containers within yard.

Status: Permitted

Reference Number: N/10/B/0067

Description: Certificate of lawfulness for existing use as supermarket.

Status: Permitted

Reference Number: N/10/B/0022

Description: The installation of a cu-i and a cu-h unit to the existing secured services yard.

Status: Permitted

Reference Number: N/10/B/0014

Description: Replace existing co-op signage with asda branded signage. also the installation of additional customer/directional information signs on site.

Status: Permitted

4. Consultee Responses

Berwick-upon-Tweed Town Council	Members would agree with any comments and observations submitted as part of the Environmental Impact Assessment.
Public Protection (Consultation 1)	Public Health Protection object to this proposal on the grounds of noise.
Public Protection (reconsultation)	Insufficient information has been submitted.
Public Protection (reconsultation 2)	No objection subject to condition and informative in respect of noise and statutory nuisance

5. Public Responses

Neighbour Notification

Number of Neighbours Notified	9
Number of Objections	3
Number of Support	0
Number of General Comments	0

Notices

Site Notice - Affecting Conservation, posted 17th August 2018

Press Notice - Berwick Advertiser, published 9th August 2018

Summary of Responses:

3no objections received raising concerns about noise and residential amenity

The above is a summary of the comments. The full written text is available on our website at:

<http://publicaccess.northumberland.gov.uk/online-applications//applicationDetails.do?activeTab=summary&keyVal=PCIMJTS0K400>

6. Planning Policy

6.1 Development Plan Policy

Berwick upon Tweed Local Plan

F1 Environmental Wealth

F5 Berwick-upon-Tweed

F31 Social and Economic Welfare

6.2 National Planning Policy

National Planning Policy Framework (2018)

National Planning Practice Guidance (2018, as updated)

6.3 Emerging Planning Policy

Northumberland Local Plan - Draft Plan for Regulation 18 Consultation (2018)

6.4 Other Documents/Strategies

None relevant

7. Appraisal

7.1 The application has been assessed against national policy and guidance, development plan policies and other material planning considerations, and the advice of statutory consultees. In assessing this application the key considerations are;

- Scale, Design and Visual Impact, and
- Residential Amenity.

Matters relating to the principle of development and heritage assets were considered in detail during the assessment of application 17/02023/FUL. As such do not need to be revisited in the determination of this application.

Scale, Design & Visual Impact

7.2 Policy F5 of the BLP sets out the criteria against which new development shall be assessed. Paragraph 124 of the NPPF attaches great importance to the design of the built environment and states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

7.3 Notwithstanding the fact that the equipment approved under application reference 17/02023/FUL, it is considered that the equipment as installed remains contained within the enclosed service yard and as such is largely hidden from public view. It is considered therefore that the equipment as installed does not have any greater impact upon the character or appearance of the property or the surrounding area than it would had it been installed in accordance with the previously approved plans.

Residential Amenity

7.4 Policy W6 of the BLP seeks to ensure that development that could be reasonable expected to adversely affect surrounding land uses can be suitably mitigated in order to safeguard other land users and the wider community. Paragraph 127 of the NPPF seeks to ensure that developments will create places with a high standard of amenity for existing and future users.

7.5 In the assessment of application reference 17/02023/FUL, it was noted that the residential dwellings to the south of the site are particularly susceptible to noise emanating from the service yard and this remains the case.

7.6 The three objections received in respect of this application are all from properties on Mount Road. the properties borders the site to the south, but are raised up some 20 metres from the ground level of the service yard. It is alleged that noise emanating from the site is being carried upwards and is adversely affecting the residential amenity of these properties.

7.6 Notwithstanding the above, the applicant has submitted an acoustic assessment which concludes that the noise from the air handling unit will not impact on residential amenity. This assessment has been reviewed against the relevant national standards by the Public Health Protection team, who have agreed with the conclusions. A condition has been recommended that limits the noise from the proposal to this level that will not impact on amenity.

7.7 Subject to the recommended condition and an informative in respect of statutory nuisance it is considered that the proposal is acceptable and in accordance with Policy W6 of the BLP and paragraph 127 of the NPPF.

Equality Duty

The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

Crime and Disorder Act Implications

These proposals have no implications in relation to crime and disorder.

Human Rights Act Implications

The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful

enjoyment of their property shall not be interfered with save as is necessary in the public interest.

For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.

Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

8. Conclusion

8.1 It is considered that the proposal represents an appropriate form of development that would not have a significant adverse impact on the appearance of the property, the street scene or the amenity of nearby residents. It is therefore considered that the proposal is in accordance with national and local planning policies and accordingly it would be unreasonable to withhold planning permission.

9. Recommendation

That this application be GRANTED permission subject to the following:

Conditions/Reason

01. The development hereby permitted shall not be carried out other than in complete accordance with the following approved plans:

1. Drawing No PL_01 - Site Location Plan
2. Drawing No PL_02 - Proposed Plans;
3. Drawing No M(57)001 Rev A - Sales Floor Ventilation Layout.

Reason: To ensure the development is carried out in accordance with the approved plans.

02. The noise rating level from the development shall not exceed the following values at the boundary of the nearest noise sensitive premises in lawful existence at the time of this planning permission, when measured using BS4142:2014.

07:00 - 23:00 hours LAeqT 29 dB
23:00 - 07:00 hours LAeqT 28 dB

* T shall be assessed as one hour during daytime (0700 - 2300) and five minutes at night time (2300 - 0700).

Reason: To protect residential amenity and provide a commensurate level of protection against noise.

Date of Report: 08.11.2018

Background Papers: Planning application file(s) 18/02684/VARYCO