

DELEGATED DECISION REPORT

DET/2023/0018
Valid 08/12/2023

ALDI STATION ROAD
BUXTON

APPLICATION TO DETERMINE
IF PRIOR APPROVAL IS
REQUIRED TO DEMOLISH
FORMER ALDI FOOD STORE
AND REPLACEMENT WITH
NEW DRIVE THRU /
RESTAURANT REF.
HPK/2022/0300 AT FORMER
ALDI, STATION ROAD,
BUXTON.

(DEMOLITION
DETERMINATION)

MAIN ISSUES

- Amenity of Surrounding Occupiers
- Highway Safety
- Nature Conservation
- Source Protection Zone

DESCRIPTION OF SITE

The elevated, broadly rectangular 'brownfield' site is approximately 0.6 hectares in area and currently hosts a supermarket with car parking located within a town centre position fronting Station Road, Buxton opposite the Spring Gardens shopping centre and carpark. Directly to the east (side), the application site abuts Charles Street and also the 'Buxton Hardwick - Extension (Bridge Street and Ashwood Park) Conservation Area. The northeast corner of the site is approximately 28.0 meters away from the Hogshaw Lane Viaduct (Historic Environment Records (HER) Monuments ref. 2890), which is a Grade II listed structure.

A notable retaining wall faced in reconstituted stone with railings above with green buffer forms the site's northern (rear) boundary. Beyond is cleared land previously accommodating the Nestle Bottling Factory with the Buxton to Manchester railway line immediately to the rear. Adjoining the site's western (side) boundary lies the more recently constructed Devonshire Place, which is a 4-storey retirement living complex of a traditional appearance. Thereafter sits Buxton Railway Station with frontage car parking adjacent to the boundary of Buxton Central Conservation Area further to the southwest. The HER (Monuments ref. 2885) for Buxton railway station (remains of), booking office and screen wall confirms the screen wall of the former train shed built for the London and North Western Railway is a Grade II listed structure.

The Spring Gardens shopping centre complex and town centre car park are located to the south of Station Road with a pedestrian crossing providing a safe link to and from the application site. The site retains a single access from Station Road, approximately 113.0 meters away from the roundabout connecting Station Road, Charles Street, Bridge Street and the Spring Gardens car park entrance.

Regarding local plan designations, the application site lies within Buxton Town Centre and the Built Up Area Boundary as well as the nutrient neutrality catchment and Groundwater Source Protection Zone for Buxton. In addition, the site also lies within the wider local plan allocation DS22 'Station Road' and Springs Gardens Regeneration Area.

PROPOSAL

The applicant has submitted the following document in support of the prior approval application for demolition of the former Aldi food store, Station Road, Buxton:

Glanville Demolition Plan, McDonald's, Station Road, Buxton (ST1706), prepared for McDonald's Restaurants Ltd., Issue 1: 17th Nov 2023, reference 007_4210567_HG_DP

The document confirms that demolition works will include the following matters:

- Demolition of all above ground structures including the existing Aldi building and removal of all waste which cannot be recycled on site.
- Grubbing out all existing foundations under the proposed restaurant location.
- Grubbing out shallow relic foundations in the remainder of the site which may otherwise inhibit the installation of new drainage or other proposed construction work.
- Stockpiling any suitable granular materials.
- Existing trees, roots and shrubs (including invasive species) within the site to be grubbed-up and disposed of off-site, unless these are specifically noted to be retained
- The reduction to underside of slab/formation level of all structural and non-structural elements including the grubbing out of all foundations and decommissioning of existing services.
- All site boundary fences and retaining walls to be left intact and not undermined.
- All manholes which are not being retained are to be broken out to a depth of 500mm from the proposed finished ground level. Any sewage or silt must be rinsed out and the sewers plugged with concrete. The manholes must be backfilled with 6F1 or 6F2 capping material, rolled and compacted in 150mm layers in accordance with the DTP specification up to formation level.
- All drains which are not to be retained shall be removed and ends made good.
- Existing drainage and services which are to remain are to be protected and made safe during the demolition works.
- All existing retaining walls and foundations are to remain intact, and not to be undermined by any excavation.
- All uncontaminated concrete materials may be removed from site directly, or crushed, stored, and then reused for backfill. The backfill material must be inert

(physically tested) and shall be graded and compacted in accordance with the Specification for Highways Works Series 600. All excess unbound inert material may be removed from site. All other materials (including non-hazardous and hazardous materials) shall be removed from site and recorded, to a licensed waste facility via a verification plan.

- All concrete columns etc. to be broken down and all reinforcement removed. Reinforcement to be disposed of off-site and concrete arisings shall be added to stockpile.
- Any asbestos based materials present to be taken down and removed by a licensed asbestos remover.
- The site shall be left in a tidy condition upon completion and the road is to be kept clean during the contract.

In addition, existing surfacing is to be left in place as a temporary construction surface during the construction of the drive / thru restaurant. Also, some minor changes to site levels are proposed and will be completed by the main contractor, as part of their construction as confirmed by the document.

Furthermore, all noise-generating activities are stated as being restricted to the following times of operations: Monday to Friday 07:30 to 18:00, Saturday 08:30 - 14:00 and no working would be permitted on Sundays or Bank Holidays.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

High Peak Local Plan 2016

S1 – Sustainable Development Principles
S1a – Presumption in Favour of Sustainable Development
S2 – Settlement Hierarchy
S7 – Buxton sub area strategy
EQ1 – Climate Change
EQ2 – Landscape Character
EQ5 – Biodiversity
EQ6 – Design and Place Making
EQ7 – Built and Historic Environment
EQ9 – Trees, Woodland and Hedgerows
EQ10 – Pollution Control and Unstable Land
EQ11 – Flood Risk Management
CF1 – Retail and Town Centres
CF6 – Accessibility and Transport
DS22 - Station Road and Spring Gardens Regeneration Area, Buxton

National Planning Policy Framework National Planning Policy Guidance

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/0001/1617 – Proposed Extension To side of Main Parking Garage Forming Cash Office, Drivers and Conductors Cash Up Area, Larger Dts and Inspectors Officer with Larger Canteen and Kitchen APPROVED

HPK/0002/1813 – Steam Train Operations APPROVED 20th August 1984

HPK/0002/6330 – Extension to Existing Bottling Plant APPROVED 21st March 1988

HPK/0003/7464 – Demolition of Bus Depot and Erection of food Retail Store (class A1) And Alterations to Access APPROVED 07th January 1999

HPK/0003/7981 – 1 Post sign and 2 Wall Mounted Signs APPROVED 07th May 1999

HPK/0003/8375 – 2 Mounted signs APPROVED 08th September 1999

HPK/2004/1159 – Rear store Extension APPROVED 24th February 2005

HPK/2022/0297 – Various Site Signage including 4 no. freestanding signs, 3 no. banners, 1 no. playland sign and 13 no. dot signs PENDING

HPK/2022/0299 – Installation of 6 no. Fascia signs, 3 No. Booth Lettering Signs and 1 no. 15" Digital Booth Screen PENDING

CONSULTATIONS

Publicity

Site Notice expiry date: 28th December 2023

Neighbour consultation period ends: N/A

Press Advert: N/A

Public Comments

A single representation of objection has been received as follows: "I do not feel that the high peak requires a McDonald's as this would take people away from using local coffee/cafe/take away services. Furthermore I feel that by agreeing to this application it would increase the amount of rubbish that would be littered around the Goyt Valley and surrounding areas. In addition, a McDonalds is not in keeping with the rural setting of Buxton".

Town / Parish Comments

None.

Local Highway Authority

Thank you for the update and (see attached) the Highway Maintainable at Public Expense (HM@PE) shown in green, includes the steps to the site, so (see extract from submitted Demolition plan below), the applicant will have to apply for a temporary closure of these publicly maintained steps and this can be undertaken by emailing the County Council Hub: Highways.Hub@derbyshire.gov.uk



It is also noted (see extract from submitted Demolition plan below) they are proposing to remove and re-slope the bank, so due to this works being close to the HM@PE, I have bcc'd the County Council Structures team into this reply to see if any additional information is required and I will contact you again once I have a response.



The response from the County Council Structures Team is as follows:

Due to the location of the re-sloping of the bank being in close proximity of the HM@PE shown in green on the attached, the developer should seek appropriate technical advice to assess the likely consequences of proposed developments where subsidence, landslides or ground compression could occur.

A preliminary assessment of ground instability should be carried out at the earliest possible stage and should ensure that any necessary investigations are undertaken to ascertain that their sites are and will remain stable.

The site needs to be assessed in the context of surrounding areas where subsidence, landslides and land compression could threaten the development within its anticipated life or damage neighbouring land or property and the information provided to the planning authority should in the form of a land stability or slope stability risk assessment report which should include cross sections of the slope.

In summary:

1. A Land Stability or a Slope Assessment Report (including cross sections) should be provided for assessment by the County Council.
2. The demolition will require Traffic Management, so advice regarding procedures should be sought from the County Council Traffic Management Team. All footway/road closures applications will have to be submitted via the County Councils web-site; relevant forms are available via the following link -

http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp.

Environment Agency

We have been provided with the following document to provide comments protective of Controlled Waters:

- Glanville Demolition Plan, McDonald's, Station Road, Buxton (ST1706), prepared for McDonald's Restaurants Ltd., Issue 1: 17th Nov 2023, reference 007_4210567_HG_DP

The site is situated on a principal aquifer and is in a groundwater source protection zone 1 (SPZ1) and is therefore in a highly sensitive location with respect to Controlled Waters. The development site has a history of industrial use and industrial buildings have been shown to be present on the site, so there is potential for contamination to controlled waters.

Background information

When we were first consulted on the planning application, we identified historic potentially contaminative activities undertaken on the site, however no information such as a preliminary risk assessment report (also known as a Phase 1 desktop study) was provided to assess the risk to controlled waters. As a result, we recommended planning conditions to ensure protection of Controlled Waters.

The applicant subsequently approached us circa early November ask if they would be allowed to undertake demolition works and we had no objection in principle to these works being undertaken (no proposals provided at that stage), with the previously recommended planning conditions remaining in force for the application site.

Current Consultation

The applicant has provided us with demolition plan for the site, however it appears to us that the demolition works goes beyond what would be considered demolition works and includes site preparatory works and construction works which could interfere with the assessment of the land contamination risk and the site and the subsequent remediation works, if deemed necessary.

Our expectation when giving permission to undertaking demolition works was that this included demolition of all above ground structures including the existing Aldi building. The applicant has also included removal of all waste which cannot be recycled on site. No other work was anticipated to be undertaken without prior discussion and agreement.

Due to the site setting being in a high-risk area with respect to Controlled Waters and given the historic potentially contaminative former site uses, we anticipate that the outcome of the land contamination Preliminary Risk Assessment report (also known as a Phase 1 desktop study) will require the undertaking of a Phase 2 Site Investigation & Generic Quantitative Risk Assessment report. If the applicant proceeds

with the proposed demolition plan in the current form which goes beyond the demolition of all above ground structures and removal of waste that cannot be recycled on the site and insists on including site preparatory works and construction works, then it is likely that the ability to undertake a meaningful Phase 2 Site Investigation & Generic Quantitative Risk Assessment may become impaired.

Based on the provided information, if the demolition works exceeds demolition of all above ground structures including the existing Aldi building (and removal of non-recyclable waste), we are of the opinion that the demolition should not now be undertaken until the completion of the Land Contamination risk assessment reports i.e. the preliminary risk assessment and the Phase 2 Site Investigation & Generic Quantitative Risk Assessment report.

HPBC Aboricultural Officer

All trees on site should be a safe distance from the demolition, so there is no objection to the demolition scheme. It would have been good for the demolition period to have been mentioned in the tree protection condition you used but the only trees near the building are minor trees.

HPBC Environmental Health

The Environmental Health Department has no objection to the proposed development subject to the conditions set out below being applied to any permission granted.

CONSTRUCTION

The construction/demolition stage of the development could lead to an increase of noise and dust etc. experienced at sensitive premises and subsequent loss of amenity, for this reason the following conditions are suggested.

Any recycling of demolition materials should be subject to an appropriate environmental permit or exemption; or processed through a DoW CoP Materials Management Plan (M'MP)

INF12 – Demolition/REFURBISHMENT: Asbestos Informative

A Demolition or refurbishment asbestos survey and risk assessment should be carried out prior to the demolition/renovation of the existing buildings. The enforcing authority for this type of work is the Health and Safety Executive (HSE) and it is recommended that you contact them directly to discuss their requirements: <http://www.hse.gov.uk/>

CONDITIONS:

CDD01B - CONSTRUCTION AND DEMOLITION – DUST

No activity hereby permitted shall cause dust to be emitted beyond the site boundary so as to adversely adjacent residential properties and/or other sensitive uses and/or the local environment. In the event dust is caused to escape the site boundary the activity shall be stopped until sufficient dust suppression has been undertaken to prevent further escape. There shall always be the appropriate means and sufficient water resources on site for dust suppression. These should be made available for inspection when required by officers of the Local Planning Authority

CDD02 - CONSTRUCTION & DEMOLITION: WASTE DISPOSAL

Any waste material associated with the demolition or construction shall not be burnt on site but shall be kept securely for removal to prevent escape into the environment. There shall be no fires lit on the site for purpose of disposing of demolition materials. Any open fires that arise shall be extinguished without delay.

NSD12 - BEST PRACTICAL MEANS

The best practicable means, as defined in Section 72 of the Control of Pollution Act 1974 to reduce noise and vibration from the site to a minimum, shall be employed at all times during construction.

NS02A - CONSTRUCTION & DEMOLITION WORKS: TIME OF OPERATIONS

Unless prior permission has been obtained in writing from the Local Planning Authority, all noise-generating activities shall be restricted to the following times of operations.

08:00 - 18:00 hours (Monday to Friday);

08:30 - 14:00 hours (Saturday)

No working is permitted on Sundays or Bank Holidays.

In this condition, a noise-generating activity is defined as any activity (for instance, but not restricted to, building construction/demolition operations, refurbishing and landscaping) which generates noise that is audible at the site boundary.

CDD14 - On Site RADIO

During construction/demolition phases amplified music and/or radios shall not be audible beyond the site boundary.

OFFICER COMMENTS

Requirement for Prior Approval

Planning permission is only needed if the work being carried out meets the statutory definition of 'development', which is set out in section 55 of the Town and Country Planning Act 1990.

'Development' includes, amongst other matters:

- building operations (e.g. structural alterations, construction, rebuilding, most demolition);
- engineering operations (e.g. groundworks) ...

Works involving the demolition of buildings and other structures, as well as engineering works therefore fall within the definition of 'development' for the purposes of planning.

This means that planning permission or 'prior approval' is usually required to demolish a building or other structure, depending upon the type of building and where it is located.

There are two initial exemptions:

- Any building with a cubic content of less than 50 cubic metres
- The whole or any part of any gate, fence, wall or other means of enclosure

The proposed demolition of the former Aldi food store would not fall within any category regarding demolition not to be taken to involve the development of land with regard to the Town and Country Planning (Demolition - Description of Buildings) Direction 2021.

Of note, planning permission has recently been granted for the McDonalds drive thru/restaurant ref. HPK/2022/0300, which inherently permits the demolition of the former food store building, in addition to groundworks, before construction begins, provided relevant pre-commencement conditions are satisfied thereby negating the need for a separation prior notification or planning application in these regards.

Notwithstanding this, national grants of permission by the General Permitted Development Order allows certain building works to be carried out without having to make a planning application. The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 11, Class B – Demolition of Buildings (as amended) is herein relevant.

Demolition can be confirmed as not falling within paragraph (a) of the order (i.e. *the building has been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support*) and is not considered to be excluded demolition.

Accordingly, the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the method of demolition and any proposed restoration of the site as confirmed by the order. The applicant has displayed a site notice on the land on which the building to be demolished is sited for the requisite period.

Method of Demolition

The applicant has submitted a Demolition Plan in support of the prior approval application for demolition of the former Aldi food store, which sets out the proposed method of demolition, including any site restoration proposals and therefore consideration of such issues can be undertaken at this stage of the process.

Amenity

The applicant's Demolition Plan fails to properly consider mitigating dust in relation to construction and demolition matters. Consequently, the Council's Environmental Health Departments advises that the following content should be incorporated into the document:

"There shall be no visible dust emissions beyond the site boundary associated with construction/demolition works undertaken at the site. In controlling dust on site, the contractor shall have due regard to the Building Research Establishment Document

'Control of Dust from Construction and Demolition Activities' (BR456) and the Institute of Air Quality Managements *'Assessment of dust from demolition and Construction'* (2014)".

In addition, the document does not suitably restrict delivery vehicle movements to and from the site within suitable hours of operation during the demolition phase.

The Demolition Plan document therefore is considered to be insufficient with regard to matters of dust control and restricting delivery vehicle movements within suitable hours of operation therefore raising amenity concerns in relation to adjoining land uses contrary to Policies EQ10 'Pollution Control and Unstable Land' of the Adopted Local Plan 2016 and the National Planning Policy Framework.

Highway Safety

The Local Highway Authority notes that the proposed removal and re-sloping of the banking in close proximity to Charles Street and therefore have requested a Land Stability or a Slope Assessment Report (including cross sections), which should be provided for assessment by the County Council. In addition, these matters are considered to fall as engineering works and therefore outside of the scope of the demolition prior approval.

The proposed demolition works would also require Traffic Management and therefore advice regarding procedures should be sought from the County Council Traffic Management Team as confirmed by the Highways Officer, however, these are matters considered to fall outside of the planning remit.

The Demolition Plan document therefore is considered to be insufficient with regard to matters of land instability in close proximity to the public highway therefore raising safety concerns contrary to Policies EQ10 'Pollution Control and Unstable Land' and CF6 'Accessibility and Transport' of the Adopted Local Plan 2016 and the National Planning Policy Framework.

Nature Conservation

In relation to the further bat survey (Encon Associates, 2023) submitted in relation to the drive thru/restaurant approval ref. HPK/2022/0300, Derbyshire Wildlife Trust confirmed that bats should not present a constraint on the proposed development and therefore no further surveys regarding bats was considered to be necessary.

In these regards, sufficient information had been provided to enable the Local Planning Authority to reach an informed decision in accordance with Circular 06/2005 and to discharge its duty in respect of the requirements of The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 in relation to planning approval ref. HPK/2022/0300.

For completeness, however, the applicant should submit the approved bat survey (Encon Associates, 2023) for the file in support of the proposed demolition of the food store under the prior notification procedure to achieve compliance with Policy EQ5 'Biodiversity' and the National Planning Policy Framework.

Source Protection Zone

The Environment Agency have been consulted with regard to the prior approval submission and raise the following issues:

“The applicant has provided us with demolition plan for the site, however it appears to us that the demolition works goes beyond what would be considered demolition works and includes site preparatory works and construction works which could interfere with the assessment of the land contamination risk and the site and the subsequent remediation works, if deemed necessary.

Our expectation when giving permission to undertaking demolition works was that this included demolition of all above ground structures including the existing Aldi building. The applicant has also included removal of all waste which cannot be recycled on site. No other work was anticipated to be undertaken without prior discussion and agreement.

Due to the site setting being in a high-risk area with respect to Controlled Waters and given the historic potentially contaminative former site uses, we anticipate that the outcome of the land contamination Preliminary Risk Assessment report (also known as a Phase 1 desktop study) will require the undertaking of a Phase 2 Site Investigation & Generic Quantitative Risk Assessment report. If the applicant proceeds with the proposed demolition plan in the current form which goes beyond the demolition of all above ground structures and removal of waste that cannot be recycled on the site and insists on including site preparatory works and construction works, then it is likely that the ability to undertake a meaningful Phase 2 Site Investigation & Generic Quantitative Risk Assessment may become impaired.

Based on the provided information, if the demolition works exceeds demolition of all above ground structures including the existing Aldi building (and removal of non-recyclable waste), we are of the opinion that the demolition should not now be undertaken until the completion of the Land Contamination risk assessment reports i.e. the preliminary risk assessment and the Phase 2 Site Investigation & Generic Quantitative Risk Assessment report”.

Consequently, such site preparatory and construction works are considered to fall as engineering works requiring planning permission and therefore fall outside of the scope of the demolition prior approval application. In addition, the undertaking of such works may interfere with the assessment of the land contamination risk and any subsequent remediation works required in relation to planning permission ref. HPK/2023/0300 for the drivethru/restaurant scheme due to the site setting being in a high-risk area with respect to Controlled Waters and given the historic potentially contaminative former site uses. Accordingly, there would be conflict with Policies S7 ‘Buxton sub area strategy’ and EQ10 ‘Pollution Control and Unstable Land’ of the Adopted Local Plan 2016 as well as the National Planning Policy Framework.

Site Restoration

Character and Appearance

The Demolition Plan does not propose any specific restoration scheme, as it focusses on the demolition of the former food store and proposes associated groundworks up to and including construction of the proposed building. The document confirms that existing surfacing is to be left in place as a temporary construction surface during the construction of the restaurant. Some changes to site levels are proposed, however, are considered to be engineering operations, as are groundworks and therefore outside of the scope of the demolition prior approval application.

Notwithstanding this, the demolition of the former Aldi food store building and resultant levelled site is unlikely to cause significant harm to the character and appearance of the area despite its prominent gateway location. In particular, established boundary screening landscaping to the existing building, the subject of demolition, would assist in serving to mitigate such impacts of a resultant town centre vacant site to an acceptable degree.

In these regards, there would be compliance with Policies S7 'Buxton sub area strategy', EQ6 'Design and Placemaking' and CF1 'Retail and Town Centres' of the Adopted Local Plan 2016 as well as the National Planning Policy Framework.

Other Matters

The neighbour representation received is not considered to be material in the consideration of the determination of the prior approval for demolition of the former Aldi food store as it concerns matters raised in the assessment of the approved planning permission for the McDonalds drivethru/restaurant scheme, which has now gained consent.

CONCLUSION / PLANNING BALANCE

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 11, Class B – Demolition of Buildings states that the development must not begin before the occurrence of one of the following:

(aa) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;

(bb) where the local planning authority give the applicant notice within 28 days following the date of receiving the application of their determination that such prior approval is required, the giving of such approval; or

(cc) the expiry of 28 days following the date on which the application was received by the local planning authority without the local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination ...

Accordingly, prior approval is required and is not given in accordance with statutory time limits for the reasons as explained above.

**OFFICER RECOMMENDATION : PRIOR APPROVAL REQUIRED AND DETAILS
SUBMITTED REFUSED**

Case Officer: Rachael Simpkin

Recommendation Date: 5th January 2024

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council