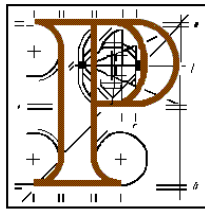


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Clare County

Planning Register Reference Number: P15/20

An Bord Pleanála Reference Number: PL 03.245262

APPEAL by Save Ennistymon Mart Committee care of Brendan McGrath and Associates of Riverstown Cottages, Corrofin, County Clare and by others against the decision made on the 10th day of July, 2015 by Clare County Council to grant subject to conditions a permission to Aldi Stores (Ireland) Limited care of John Spain Associates of 50 Upper Mount Street, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Demolition of the existing buildings on site and the construction of a single storey discount foodstore (to include off-licence use) with a gross floor area of 1,590 square metres (net retail area 1,140 square metres). The development includes the erection of one free-standing double sided internally illuminated sign, one number internally illuminated gable signs and entrance glass signage. The proposed development will be served by 82 number car parking spaces and four number bicycle stands. Vehicular access to the site will be provided from Church Hill, pedestrian access is proposed from Church Hill and Circular Road. The proposed development includes the construction of an ESB substation, all landscaping and site development works on the 0.58 hectare site at The Mart, Church Hill and Circular Road, Ennistymon, County Clare as revised by the further public notice received by the planning authority on the 16th day of June, 2015.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the provisions of the Clare County Development Plan 2011-2017, to the North Clare Local Area Plan 2011 – 2017, to the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in April, 2012 and to the location, scale and design of the proposed development in an area zoned for 'mixed use' within the said Local Area Plan, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not significantly impact on the vitality and viability of the core retail area of Ennistymon and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 11th day of June, 2015 and by the further plans and particulars received by An Bord Pleanála on the 3rd day of November, 2015 and the 4th day of November 2015, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority and where it is considered necessary, the developer shall erect on-site samples for the agreement of the planning authority. In this regard, the north-western elevation of the proposed store shall have a natural stone finish. The applicant shall ascertain and comply with all the requirements of the planning authority in relation to proposed landscaping and boundary treatments prior to the commencement of any works on site. All retaining walls shall be finished in a natural local stone. All proposed boundary fencing shall be decorative in nature.

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

5. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, entrance or equipment, unless authorised by a further grant of planning permission.

Reason: In the interest of orderly development and visual amenity.

6. Parking and access arrangements for the development shall be provided in accordance with a detailed parking layout which shall be submitted to, and agreed in writing with the planning authority prior to the commencement of any works on site and shall include details of the proposed pedestrian crossing along Circular Road. All works shall be at the developers expense.

Reason: In the interest of traffic safety and visual amenity.

7. The internal road network serving the proposed development including loading bay, junctions, parking area, footpaths and kerbs, and the surface finishes and markings, shall comply with detailed standards of the planning authority for such works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

8. All service cables associated with the proposed development (such as electrical and telecommunications) shall be located underground. All existing overhead cables crossing or bounding the site shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

9. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of amenity and public safety.

10. No display or storage of goods, produce, waste, plant, packaging or crates, machinery or equipment shall be stacked or stored on this site at any time except within such buildings or storage areas as may be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

11. (a) External roller shutters shall not be erected. Any internal shutters shall be only of the perforated type, coloured to match the shopfront colour. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) No adhesive material shall be affixed to the windows of the shopfront

Reason: In the interest of visual amenity.

12. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

13. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region.

Reason: In the interest of sustainable waste management.

14. The proposed unit shall not be open to the public outside the hours of 0900 to 2200 Monday to Saturday inclusive, nor outside the hours 1000 to 1900 on Sundays or public holidays. Deliveries shall not take place before the hour of 0700 Monday to Saturday inclusive, nor before the hour of 0800 on Sundays and public holidays, nor after 2200 hours on any day.

Reason: To protect the amenities of the area.

15. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment including trial trenches and test pits, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

- 16 In the event that any remains of a children's burial ground are discovered on the site and in the event that it is decided by the Department of Arts, Heritage and the Gaeltacht that it should be preserved in situ, the proposed overflow car parking area shall be omitted and the site shall be landscaped in accordance with details to be agreed in writing with the planning authority.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.