



An
Bord
Pleanála

Board Order
PL 03.248755

Planning and Development Acts 2000 to 2017

Planning Authority: Clare County Council

Planning Register Reference Number: 16/938

Appeal by Bill and Maureen Kenny care of McElligott Consulting of Ballysally, Grange, Kilmallock, County Limerick and by others against the decision made on the 24th day of May, 2017 by Clare County Council to grant subject to conditions a permission to Aldi Stores (Ireland) Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of a single storey discount food store (to include off-licence use) with a gross floor area of 1,610 square metres (net retail area 1,140 square metres). The development includes the erection of one number free-standing double sided internally illuminated sign, two number internally illuminated gable signs, one number internally illuminated poster sign and one number entrance glass sign. The proposed development will be served by 87 number car parking spaces. The proposed parking will serve the discount food store and accommodate public parking provision. Vehicular access to the site will be provided from Abbey Street. The proposed development includes the construction of an ESB substation, all landscaping, boundary treatment and site development works

on a 0.998-hectare site, all at Abbey Street, Killaloe, County Clare. Millstream Road, the L2088, forms the western boundary of the site. The application site falls within the curtilage of a Protected Structure, The Deanery (RPS Number 445), which lies directly to the east.

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 planning history of the site, the provisions of the Clare County Development Plan, 2017-2023, and to the provisions therein for the Killaloe Municipal District, to the area within the site in which the proposed convenience store, car parking and site development works are proposed which is subject to the zoning objective; “Commercial”, to the proposed layout, scale, mass and design of the proposed building, to the proposed landscaping, planting and screen wall construction, and, to the proposed car parking provision and arrangements for access to and circulation within the site, it is considered that, subject to compliance with the conditions set out below, the proposed development, would not adversely affect the vitality and viability of the existing town core retail area, would not be visually intrusive or seriously injure the integrity and character of the Deanery, Saint Flannan’s Cathedral and Belfry, Abbey House (protected structures) or the adjoining Town Core Architectural Conservation Area, would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health and would not seriously injure the residential amenities of adjoining properties. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board adopted the screening carried out by the Inspector and was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any European site, in view of the conservation objectives of those sites.

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 13th day of April, 2017 and by the applicant's submission received by An Bord Pleanála on the 24th day of July, 2017, 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. Prior to the commencement of development, a revised site layout plan shall be submitted to, and agreed in writing with, the planning authority illustrating the detail of a lime mortared masonry wall along the entire boundary of the site adjoining the Deanery between Abbey Street and the south-eastern corner adjacent to car park space number 105.

Reason: in the interests of the protection of the context and setting of The Deanery, (a protected structure) and the visual amenities of the area.

3. 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. 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) shall appoint a suitably qualified archaeologist, (licensed under the National Monuments Acts, 1930-1994) who shall carry out predevelopment testing, assess the site and monitor all site development works.

The archaeological 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, 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 any additional 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. No subsurface works may be undertaken without the prior written consent of the archaeologist. No preparatory or construction shall be undertaken until such time as the archaeological assessment report has been submitted to and agreed in writing by the planning authority.

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.

4. Prior to the commencement of the development the applicant shall submit and agree in writing with the planning authority full details of the proposed management arrangements for use of the public and dedicated convenience store parking facilities including vehicular and pedestrian circulation and access to, and egress from, the segregated public car parking spaces.

Reason: In the interests of clarity and orderly development.

5. Details of the materials, colours and textures of all external finishes, including samples for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

6. Water supply and drainage arrangements, including the attenuation and 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.

7. Prior to the commencement of the development the applicant shall submit and agree in writing with the planning authority, full details of lighting for all proposed signage within the site. Awnings, canopies or projecting signs shall not be erected without a prior grant of planning permission.

Reason: In the interests of visual and residential amenity.

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

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

9. The public lighting scheme, details of which were submitted to the planning authority on the 13th day of April, 2017 shall be fully implemented and operational prior to the opening of the proposed convenience store for business. Lighting shall not spill over into the area of trees and hedgerows.

Reason: In the interests of the protection of the visual amenities and historic character of the area.

10. 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 interests of amenity and of traffic and pedestrian safety.

11. 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 interests of visual and residential amenity.

12. 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 interests of residential and visual amenity.

13. 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. External roller shutters are not permitted. No adhesive material shall be affixed to the windows of the shopfront.

Reason: In the interest of visual amenity.

14. 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 include provision for a dedicated bunded space for storage of fuels and all pollutant materials during the construction stage and details of construction practice for the development, including construction hours, noise management measures and off-site disposal of construction/demolition waste.

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

15. Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed. No construction equipment, machinery or materials shall be brought onto the site until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

16. 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.

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

Reason: In the interest of residential amenity.

18. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of the costs of provision of a pedestrian crossing at Abbey Street facilitating the development. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

