

An  
Bord  
Pleanála

Board Order  
ABP-314911-22

Planning and Development Acts 2000 to 2022

Planning Authority: Limerick City and County Council

Planning Register Reference Number: 21/1658

**Appeal** by Watchhouse Cross Shopping Centre care of Connellan and Associates of Sonas, Cahercalla Wood, Cahercalla, Ennis, County Clare, and by Others against the decision made on the 2nd day of September, 2022 by Limerick City and County Council to grant subject to conditions a permission to Aldi Stores Ireland Limited care of John Spain and 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 foodstore (to include off-licence use) with a gross floor area of circa 1,820 square metres (net retail area 1,315 square metres); New vehicular/pedestrian access from Knockalisheen Road (including connection for proposed future access to adjoining lands); 98 number car parking spaces and 10 number bicycle spaces; Erection of two number internally illuminated, double sided, free standing, identification signs located adjacent to the proposed vehicular/pedestrian access to the site and at the entrance to the carpark; two number single sided internally illuminated gable signs, one number single-sided window sign at entrance door; 88 square metres of solar panels

provided at roof level; all landscaping/lighting, boundary treatment, engineering and site development works (including a single storey ESB substation and switch room circa 35 square metres and a deposit return scheme unit circa 62 square metres), all at lands at New Road/Knockalisheen Road, Ballynatty More, Moyross, Limerick.

### 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.

### Reasons and Considerations

Having regard to the provisions of the Limerick Development Plan 2022-2028 and to the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in April, 2012, the location of the site, and the scale and quantum of retail, as proposed, it is considered that the proposed development, subject to compliance with the conditions set out below, would not impact adversely on the vitality or viability of existing retail development, would represent an appropriate design response to the site's context and would not seriously injure the visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment: Stage 1**

The Board completed a Stage 1 Screening for Appropriate Assessment in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted with the application and the Inspector's report and submissions on file. In completing the Stage 1 Screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion contained in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development. The Board agreed with the screening assessment and conclusion contained in the Inspector's report that the Lower River Shannon Special Area of Conservation (Site Code: 002163) and the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077) are the European sites for which potential significant effects could not be ruled out.

### **Appropriate Assessment: Stage 2**

The Board considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an Appropriate Assessment of the implications of the proposed development for the aforementioned European Sites in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the Appropriate Assessment, the Board considered, in particular, the following:

- a) the likely direct and indirect impacts arising from the proposed development at New Road/Knockalisheen Road, Ballynatty More, Moyross, Limerick individually, and in combination with other plans or projects,
- b) the mitigation measures, which are included as part of the current proposal,
- c) the conservation objectives for the European Sites,
- d) the views contained in the submissions, and
- e) the report of the Planning Inspector.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives. In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives.

**DECISION QUASHED**



## 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 2<sup>nd</sup> day of September 2022 and further details received by An Bord Pleanála on the 23<sup>rd</sup> day of November 2022, 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 (including samples) of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

3. Security roller shutters, if installed, shall be recessed behind the perimeter grazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

4. (a) Signage and advertisement structures for the development shall be strictly in accordance with the details specified in the application.

- (b) Notwithstanding the provisions of the Planning and Development Regulations 2001, as amended, or any statutory provision amending or replacing them, no additional advertisement signs including any signs installed to be visible through the windows, advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a separate grant of planning permission.

**Reason:** To protect the visual amenities of the area.

5. A minimum of 10% of the proposed car parking spaces included in this development shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces shall be fitted with ducting for electric connection points to allow for future fit out of charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transportation.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900, Mondays to Fridays inclusive, between 0800 to 1600 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

7. Prior to the commencement of development, the following shall be submitted to, and agreed in writing, with the planning authority:

- (a) details of appropriate traffic calming measures on the internal access road from the Knockalisheen Road with associated advance signage;
- (b) final details of the proposed toucan crossing and associated works on the Knockalisheen Road; and
- (c) a revised Stage 1 and 2 Road Safety Audit, to include public lighting, surface water disposal and pedestrian crossing of public road, clearly indicating any recommendations for the development.

**Reason:** In the interests of traffic and pedestrian safety and in the interests of clarity.

8. The proposed toucan crossing and associated works on the Knockalisheen Road shall be in place prior to the first opening of the proposed retail unit.

**Reason:** In the interest of pedestrian safety

9. 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, antennas or equipment, unless authorised by a separate grant of planning permission.

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

10. 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 and to ensure a satisfactory standard of development.

11. The developer shall enter into water and/or wastewater connection agreements with Uisce Éireann, prior to commencement of development.

**Reason:** In the interest of public health.

12. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with the planning authority prior to commencement of development. All landscaping works shall be completed prior to the first opening of the store.

**Reason:** To ensure a satisfactory completion and maintenance of the development in the interest of residential amenity.

13. The proposed unit shall not be open to the public outside the hours 0800 to 2200. Deliveries shall not take place before 0700 hours Monday to Saturday inclusive, nor before 0800 hours on Sundays and public holidays, nor after 2200 hours on any day. Any amendments to these arrangements shall be agreed in advance in writing with the planning authority.

**Reason:** In the interest of amenity.

14. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting.

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

15. The construction of 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. The plan shall provide a demolition management plan, together with details of intended construction practice for the development, including a detailed traffic management plan and noise management measures.

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

16. Mitigation and monitoring measures outlined in the plans and particulars, including the Natura Impact Statement submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of protecting the environment and in the interest of public health.

17. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

18. The developer shall facilitate the archaeological appraisal of the site and shall provide for the presentation, 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.

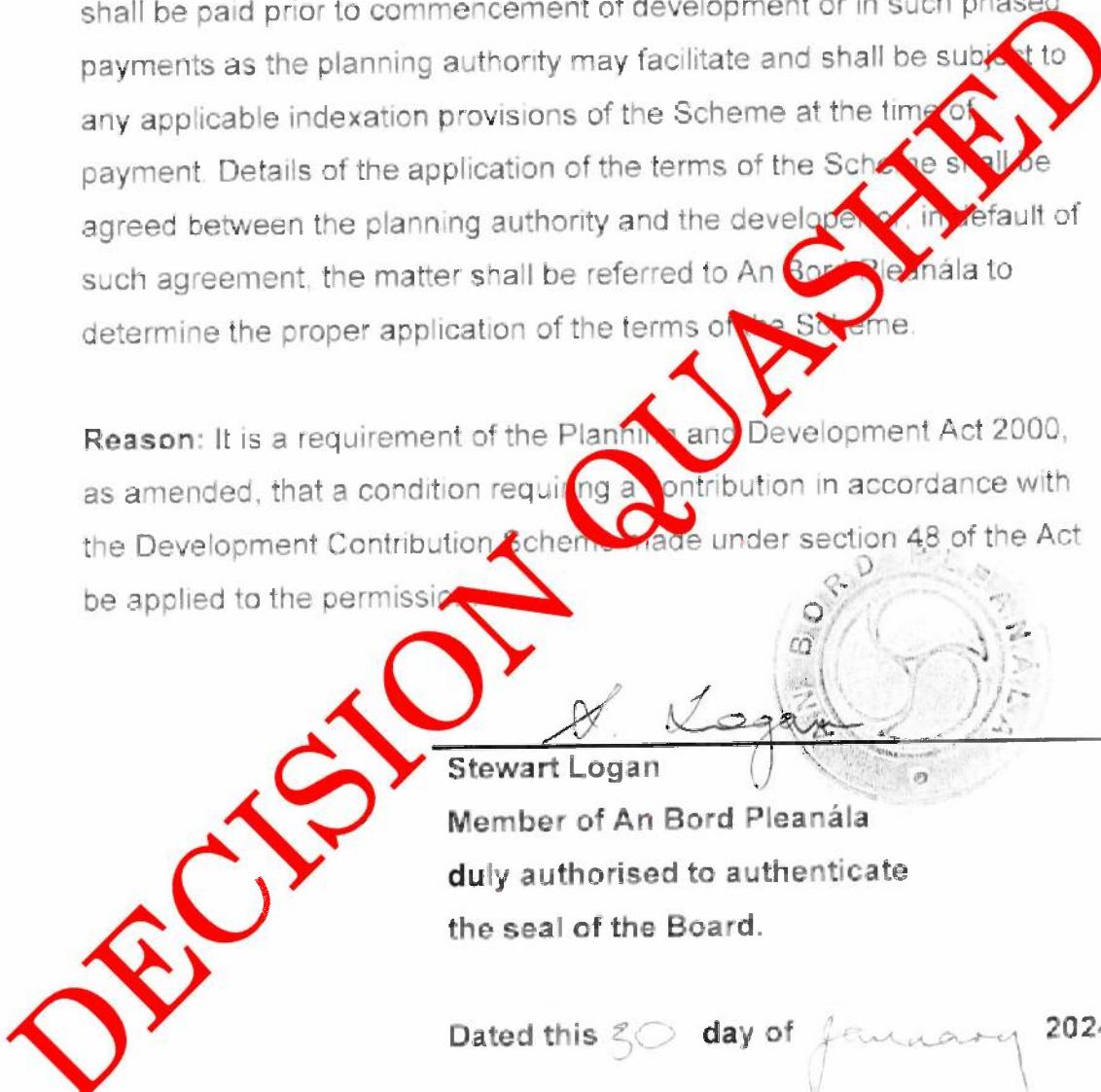
A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation)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

**DECISION QUASHED**

19. 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, 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.

  
Stewart Logan

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

Dated this 30 day of January 2024.