



An
Bord
Pleanála

Board Order ABP-315994-23

Planning and Development Acts 2000 to 2022

Planning Authority: Cork County Council

Planning Register Reference Number: 22/05546

Appeal by I & G Stores Limited care of Brock McClure of 63 York Road, Dun Laoghaire, County Dublin against the decision made on the 9th day of February, 2023 by Cork County Council to grant subject to conditions a permission to Aldi Stores (Ireland) Limited care of Coakley O'Neill Town Planning Limited of NSC Campus, Mahon, Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a single-storey Aldi discount food store (gross floor area of 1,819 square metres; net retail floor area of 1,315 square metres), including the sale of alcohol for consumption off the premises; green roof, rooftop solar panels and rooftop plant; loading bay; external plant enclosure; bin store; trolley bay; 102 number car parking spaces, including EV, disabled, and parent and child spaces, nine number motorcycle spaces, and 24 number covered cycle spaces; a single-storey retail building (gross retail area 226 square metres) which will comprise a health food shop and a youth café, with six number car parking spaces, including a disabled space, and four number covered cycle spaces; one number ESB substation; one number single storey DRS unit; outdoor gym equipment; signage; retaining walls; removal of one number existing access and two number existing culverted sections of the existing stream along the eastern boundary, and provision of two number new accesses over new bridge culverts from

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New Road, with associated railings, raised tables and pedestrian crossings; modifications to the existing pedestrian access from New Road to Barrack Street; and all associated site development, landscaping, boundary treatment and drainage works, including a foul pumping station and vent stack, on site at New Road and Barrack Street, Townplots, Kinsale, County Cork.

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 Cork County Development Plan 2022-2028 Volume 5 (West Cork) and Section 1.5, which refers to Kinsale and in particular the 'Town Centre/Neighbourhood Centres' zoning objective, and the provisions of Objective KS-T-02 which seeks to facilitate the development of the subject lands to provide town centre uses where schemes relate positively to the street, create active frontages, avoid blank facades and development creates a high quality public realm, to reflect the "gateway" nature of the site, and the relevant provisions of the Retail Planning Guidelines for Planning Authorities (2012), and having regard to the pattern of existing development in the area and the design, scale and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be detrimental to the character and amenities of the area, would not seriously injure the residential amenities of the area, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed 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 received by the planning authority on the 27th day of October, 2022 and the 13th day of January, 2023, 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 proposed 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. Final details regarding the design and construction of the earth retaining boundary wall, as referenced in the report from Downes Associates dated the 6th day of October, 2022 shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In order to protect the amenities of properties in the vicinity and in the interest of orderly development.

4. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the requirements of the planning authority and in all respects with the standards set out in the Design Manual for Urban Roads and Streets (DMURS).

Reason: In the interest of pedestrian and traffic safety.

5. The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping which accompanied the planning application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

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

6. Prior to commencement of development, the Japanese Knotweed shall be removed from the site in accordance with the Invasive Alien Species Management Plan received by the planning authority on the 13th day of January, 2023.

Reason: In the interest of the control of invasive species.

7. No additional signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: In order to protect the visual amenities of the area.

8. (a) The Aldi discount foodstore shall not be open to the public outside the hours of 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. Deviation from these times shall only be allowed where prior written approval has been received from the planning authority.

- (b) Hours of operation for the additional retail building (health food shop) and youth café shall be agreed in writing with the planning authority prior to commencement of operation.

Reason: In the interest of amenity.

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, solar panels, telecommunication aerials, antennas or equipment, unless agreed in writing with the planning authority.

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

10. During the operational phase of the proposed development the noise level shall not exceed 55 dB(A) rated sound level between the hours of 0700 to 2300, and 45 dB(A) 15min and 60 dB LAfmax, 15min at all other times, (corrected for a tonal or impulsive component) as measured at the nearest dwelling.

Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity of the site.

11. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes, 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 interest of amenity and public safety.

12. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual amenity.

13. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall be in accordance with the detailed requirements of the planning authority for such works and services.

Reason: In the interest of public health.

14. The developer shall enter into water and wastewater connection agreements with Uisce Éireann prior to commencement of development.

Reason: In the interest of public health.

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 operations (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably qualified archaeologist prior to 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.

16. Prior to commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

17. The construction of the proposed 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 proposed development, including a detailed traffic management plan, and noise management measures.

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

18. 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.

19. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays, inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

20. 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.



Martina Hennessy

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**



Dated this 12th day of August 2024.