



An
Bord
Pleanála

Inspector's Report PL 04.248386

Development	Extension to store with trolley bay, relocation of bicycle stands and associated site works.
Location	Dublin Road, Brigown, Mitchelstown, Co Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	17/4240
Applicant(s)	Aldi (Ireland) Ltd
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Patrick Fitzgibbon
Observer(s)	None
Date of Site Inspection	08 August 2017
Inspector	Anne Marie O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site comprises an existing Aldi supermarket, located on the old Dublin Road towards the northern end of Mitchelstown town centre, Co. Cork.
- 1.2. The site immediately abuts an old stone Mill complex to the south. The Gradogue River abuts the site to the north. The Dublin Road lies to the east, with the undeveloped land to the west.

2.0 Proposed Development

- 2.1. Planning permission is sought for the following:
 - a single storey extension (96m²) to the existing supermarket on the eastern (front) elevation
 - relocation of the 19 no. bicycle stands, gable/window/ external poster signage, and trolley bay permitted under 15/5283 but not implemented as of yet, and
 - other minor works including the relocation of retractable bollards for access to the ESB substation on the site.

3.0 Planning Authority Decision

3.1. Decision

Granted. The following conditions area of note:

- C.2 the proposed development shall comply with the terms and conditions of Planning Permission Reg. Nos. 05/8564 and 15/5283 which governs the overall development of the lands.
- C.3 the proposed pedestrian crossing to the south of the entrance shall be made a raised controlled (zebra) at no expense to the Council.
- C.4 restriction of exempted development for signage.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The reports of the Area Planner and Senior Planner reflect the decision of the planning authority.

3.2.2. Other Technical Reports

Area Engineer Recommends permission

IW No objection

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

One third party submission was received. The issues raised are covered in the grounds of appeal below.

4.0 **Planning History**

4.1. **Appeal Site**

15/05283 Extension to Aldi store, revisions to car parking and bicycle stands, revised signage, and alterations to existing access from Dublin Road. Granted.

05/8564 Discount Foodstore. Granted.

4.2. **Neighbouring Mill Site**

06/4983 Alterations, refurbishment, extension and change of use of existing disused mill building to Hostel Inn and ancillary accommodation. Granted. This permission was never implemented and has expired.

5.0 Policy Context

5.1. Development Plan

The Cork County Development Plan 2014 and the Fermoy Municipal District LAP 2017 apply in this instance.

The site is clearly zoned MH-T-02 Town Centre in the Volume Three: Map Viewer of the LAP. However, the map contained at Section 3 of Volume One: Main Policy Material shows the site in a purple colour indicating 'Business' zoning. This is likely to be an error resulting from the overlaying of the blue Flood Zone on the red Town Centre zoning.

Mitchelstown is a Tier 2 location in the proposed Retail Hierarchy for the non Metropolitan Cork area in the Cork County Development Plan 2014-2020.

5.2. Natural Heritage Designations

None

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted by the owner of the neighbouring Mill site and can be summarised as follows:

- No objection to the principle of the proposed development.
- Wishes to ensure that the Aldi site and Mill building are developed in accordance with the masterplan and parking strategy which was conceived by both parties in 2005, and which included parking for the Mill on the Aldi site.
- The re-development of the Mill has been delayed due to the recession but a new planning application will be submitted this year.
- Permission for the Aldi store was granted on the basis of 88 car parking spaces, 20 of which were to serve the Mill building. Condition 23 of the decision reflects this. Condition 5 requires the provision of a delivery area to

serve the Mill building. The recent application for an extension also included the 20 spaces to serve the Mill (Reg. Ref. 15/5283).

- The current application, however, makes no provision for the 20 spaces to be used by the Mill building.
- Concern that the overall reduction in car spaces from 88 to 74, and this further extension, will adversely affect the development of the Mill (a protected structure).
- A condition should be attached requiring the provision of 20 parking spaces, a dedicated area for delivery trucks to serve the Mill, and provision of a pedestrian access for connection to the Mill.

6.2. Applicant Response

The applicant has responded to the grounds of appeal, which includes an updated Proposed Site Layout Drawing (13049/P/004 Rev P1).

- It is contended that the third party is not the owner of the adjoining Mill site. A letter from a solicitor is submitted supporting this view on the basis of having investigated the title and carried out searches.
- The appellant only has a draft licence over the 20 parking spaces from 2005, and this was never signed or executed, or progressed by the appellant in the intervening 12 years.
- The appellant did not make a submission or appeal the previous application (15/5283).
- The appellant has no formal right to the 20 car parking spaces. The same applies to the proposed delivery zone and proposed pedestrian gate.
- In the knowledge that the appellant now proposes to progress a planning application for the Mill, an updated site layout plan is submitted which shows 20 car parking spaces, delivery zone and pedestrian gate.
- The car parking spaces will form a shared town centre parking resource between the Aldi store and the Mill building.

- The car parking standards in the CDP are a maximum requirement and the planning authority has already accepted the reduced car parking under 15/5283. The report of the senior planner accepts that the small scale extension is not likely to increase the maximum car parking demand (62 spaces).

6.3. **Planning Authority Response**

None received.

6.4. **Observations**

None

6.5. **Further Responses**

The appellant has responded to the applicant's submission as follows:

- A copy of the property folio document in the appellant's name is submitted.
- The 20 spaces were agreed by both parties and stated in legal documents, including the submission to the planning department, and are clearly stated in Reg Ref 05/8564 and 15/5283, and the conditions attached to the planning authority's decision in the appeal case.
- The appellant has a right of way over the relevant area of the car park.
- The appellant was working abroad at the time of the previous application (15/5283) and missed the planning notice.
- The 20 parking spaces are designated for the Mill site and are not a shared resource.
- The matters of the car parking licence are the subject of an agreement between the relevant landowners and this is not a matter for the planning authority to adjudicate upon. Section 34(13) of the Planning and Development Act states that a person is not entitled solely by reason of permission to carry out a development.

- The mark-up text box 'Proposed pedestrian gate for future connection to the mill site' is missing from the plan.
- 20 parking spaces and a dedicated area for delivery trucks to serve the adjoining Mill site should be provided, together with a pedestrian access for connection to the Mill site.
- It is intended to apply for planning permission for the Mill in the next few months.

7.0 Assessment

- 7.1. The existing Aldi store has a gross floor area of 1,274m² (850m² net) and 88 car parking spaces. Planning permission was previously granted (Reg. Ref. 15/5283) for a single storey extension to the south and eastern elevations of the existing store, increasing the gross floor area to 1,600m² (1,159m² net), in addition to additional signage and cycle spaces, a reduction in the existing car parking spaces to 74 no. spaces and alterations to the existing access. The current application proposes a further extension of 96m²; relocation of the 19 no. bicycle stands, gable/window/external poster signage, and trolley bay permitted under 15/5283; and other minor works such as the relocation of retractable bollards for access to the ESB substation on the site.
- 7.2. The proposed extension would result in a further increase to the size of the store to 1,700m² gross floor area (1,254m² net). The applicant states that the additional retail floor area would bring the Mitchelstown Store in line with the current Aldi standard store size at a national level.
- 7.3. The proposal relates to a modest extension of an existing supermarket on lands zoned for town centre uses, and I have no objection in terms of the principle of the development.
- 7.4. Similarly, the scale, form and design of the extension. The extension would bring the building forward towards the road frontage, and this would, in my view, provide a more definitive street frontage as opposed to the current form of the building set back from the road and surrounded by car parking, notwithstanding the slight restriction on the visibility of the Mill building when approaching from the north.

- 7.5. The application also includes the relocation of two permitted signs on the front elevation of the permitted extension facing Dublin Road to a similar position on the front elevation of the proposed extension. These include an internally illuminated sign with the Aldi name and brand logo, and a non-illuminated shop window sign on front (eastern) elevation. Relocation of the third sign, a 'special buy' poster, is also proposed adjacent to the trolley. The signage is modest in scale, with limited illumination and I have no objection to the proposals.
- 7.6. The grounds of appeal are submitted by the owner of the adjacent Mill Site to the south, and relate solely to parking and access from the appeal site. The original permission for the Aldi store (Reg Ref 05/8564) made provision for 20 car parking spaces to be used in connection with any future development of the Mill site, together with a delivery area and a pedestrian access. Planning permission was subsequently granted for the renovation and extension to the Mill for use as a Hostel Inn under 06/4983, but was never implemented and has since expired. The appellant states that the redevelopment of the Mill site is now being reconsidered and that the parking is critical to any future proposal.
- 7.7. It is clear from the planning history that the intention was that the redevelopment of the Aldi site would provide parking, servicing (delivery trucks) and pedestrian access to facilitate redevelopment of the adjoining Mill site, a protected structure with significant site constraints. Condition 23 of 05/8564 required that '*The developer shall provide car parking to serve the adjoining Mill Building as shown on the site layout plan submitted on 08/05/06*'. I note that this layout plan states '*Mill car parking 020 spaces*', and identifies the parking spaces along the southern site boundary with an annotation '*car parking for the Mill to be clearly delineated in paving colour natural*'. A gated entry to the Mill site is shown on the layout plan at the south eastern corner adjacent to Dublin Road. Condition 5 also required that a dedicated area for delivery trucks to serve the adjoining Mill site be provided, with details submitted to the planning authority.
- 7.8. Planning permission was subsequently granted by the planning authority for a reduction in the number of parking spaces from 88 to 74 no. under Reg. Ref. 15/5283. A survey submitted with that application identifies the peak parking demand at the store as 62 spaces. The plans approved under that permission continue to show an allocation of 20 spaces for the Mill development along the

southern boundary and a zone is delineated in hatched pink and annotated '*Remove part of existing wall/ railing and install new double gates for delivery area zone for truck unloading for adjacent mill building*' (see Drawing 13049/P/010 'Granted Site Plan' submitted with the current application). I note that although the delivery zone has the potential to conflict with the disabled parking granted under that permission, I consider that the Board has limited scope to revisit this arrangement under the current appeal.

- 7.9. Similarly, the permission to reduce the overall number of parking spaces was granted under the previous permission and is not the subject of the proposal currently before the Board. The current application proposes an increase in floorarea of less than 100m² which is, in my view, unlikely to result in a significant increase in car parking demand at the supermarket or to prejudice the redevelopment of the Mill.
- 7.10. Consequently, so long as the proposed development complies with the terms and conditions of Planning Permission Reg. Nos. 05/8564 and 15/5283 which govern the overall development of the lands, the matter of parking for the Mill site is not affected by the current proposal and the Board has limited scope to revisit these issues. In this respect I note that the applicant has submitted a revised site layout plan with the response to the grounds of appeal which contains the same provisions as permitted under 15/5283, with the exception of the pedestrian gate (Dwg. 13049/P/004 Rev P1). It is stated that the spaces will be shared between the Aldi and Mill uses. The appellant, however, contends that the 20 spaces are designated for the Mill site and are not a shared resource.
- 7.11. I am satisfied that the parking details shown in the revised layout plan now before the Board are consistent with the plans and particulars approved under 05/8564 and 15/5283. The pedestrian gate shown on previous approved layout plans is, however, missing from the revised layout plan but this can be remedied by suitable condition.

Other matters

- 7.12. The adjoining Mill building to the south is a recorded monument and a protected structure. The proposed extension is located on the eastern (front) elevation at a distance of 25m from the common boundary, and will have no significant impact on the setting or views of the mill on the approach to the town along Dublin Road.

- 7.13. The appeal site lies within Flood Zone A as designated in the Fermoy Municipal District Local Area Plan 2017. Under the Planning System and Flood Risk Management Guidelines, retail development is considered to be 'less vulnerable development'. Section 5.28 of the Guidelines considers that minor proposals such as additions to existing commercial enterprises are unlikely to raise significant issues and I am satisfied that the proposed development does not raise any concerns in this regard.
- 7.14. I note that the planning authority attached a condition (Condition 3) requiring that the proposed pedestrian crossing to the south of the entrance be made a raised controlled (zebra) crossing. This crossing is shown on the previously permitted plans under 15/5283 as an 'uncontrolled crossing' and does not appear to be affected by the current application. The applicant has raised no objection to the condition and under such circumstances I have no objection the inclusion of a similar condition.
- 7.15. The Blackwater River SAC is located c.8km. The site abuts the Gradogoe River which flows into the Funshion River, which in turn flows into the Blackwater River SAC. Having regard to the limited nature and scale of the proposed development, its location in a serviced urban area and the distance to the nearest European sites, I am of the view that no **appropriate assessment** issues arise, and that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that planning permission be granted for the proposed development as set out below.

9.0 Reasons and Considerations

Having regard to the Town Centre zoning objective for the area as set out in Volume Three of the Fermoy Municipal District Local Area Plan 2017, the planning history and overall design and scale of the development proposed, and the existing pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the

character and amenities of the area or of property in the vicinity, or prejudice the redevelopment of the adjacent Mill building, and would acceptable in terms of traffic safety and convenience and flooding. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 received by An Bord Pleanála on the 26th day of May 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. Unless otherwise required by the following conditions, the proposed development shall comply with the terms and conditions of Planning Permission Reg. Nos. 05/8564 and 15/5283 which govern the overall development of the lands. In the interests of clarity this includes the provision of a pedestrian access between the site and the adjoining Mill site.

Reason: In the interests of clarity and orderly development.

3. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development, including samples, shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of orderly development and the visual amenities of the area.

4. Water supply and drainage requirements, 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 environmental protection, public health and to ensure a proper standard of development.

5. Details of the proposed pedestrian crossing to the south of the entrance shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The development shall be implemented in accordance with the agreed plans.

Reason: In the interests of pedestrian safety.

6. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no 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 further grant of planning permission.

Reason: To protect the visual amenities of the area.

7. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, including hard landscaping and lighting, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

8. 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.

Anne Marie O'Connor
Planning Inspectorate

29 August 2017