



An
Bord
Pleanála

Inspector's Report ABP-305065-19

Development	Alterations to previously permitted retail development (reg. ref F13/0306, PL06F.243093 and F18A/0594)
Location	River Valley Shopping Centre, River Valley Road Swords, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F19A/0208
Applicant(s)	Aldi Stores Ltd.
Type of Application	Permission
Planning Authority Decision	Grant permission (7 no. conditions)
Type of Appeal	First Party
Appellant(s)	Aldi Stores Ltd.
Date of Site Inspection	05/11/2019
Inspector	Conor McGrath

1.0 Site Location and Description

- 1.1. This appeal relates to amendments to the previously permitted, partial redevelopment of the River Valley Shopping Centre, located on the southwestern side of Swords. As part of that permitted development, a new single-storey discount foodstore is to be constructed at the southern end of the local centre and this application relates to alterations to this foodstore.
- 1.2. The shopping centre backs on the lands occupied by a primary school to the east. Dormer dwellings in Forest Dale back onto the southern boundary of the site, adjacent to the proposed foodstore. At time of inspection, construction works on the site were underway.

2.0 Proposed Development

- 2.1. The proposed development comprises alterations to the retail development previously permitted under reg. ref F13/0306, PL06F.243093, consisting of:
- Changes to northern and western elevations of the new discount foodstore to include new high-level windows.
 - Variation of the opening hours and delivery hours specified in condition no. 12 of reg. ref F13/0306, PL06F.243093. The variation sought is as follows:

Trading hours	Condition no. 12	Proposed Change
Monday - Friday	9am – 9pm	9am – 10pm
Saturday	9am – 9pm	9am – 9pm
Sunday	10am – 7pm	9am – 9pm
Delivery hours		
Monday - Saturday	8am – 9pm	7am – 8pm
Sunday & bank holiday	9am – 7pm	7am – 8pm

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission for the proposed development subject to 7 no. conditions. Condition no. 7 relates to opening hours and delivery times as follows:

7a) Opening hours

Monday – Friday: 9am to 10pm

Saturday: 9am to 9pm

Sunday and Bank Holidays: 9am to 8pm

7b) Deliveries to take place:

Monday – Friday: 7.30am to 8pm

Saturday: 8am to 8pm

Sunday and Bank Holidays: 9am to 8pm

3.2. Planning Authority Reports

3.2.1. Planning Reports

The proposed opening hours are largely acceptable with the exception of Sunday evening which should be restricted to 8pm. Delivery times in other retail developments in Swords have been managed to ameliorate impacts on residential amenity. Delivery hours should be brought in line with existing permitted hours on the subject site and a similar discount foodstore in Swords (PL06F.244562).

It is not foreseen that there will be negative impacts on visual or residential amenities subject to conditions. Extending delivery hours may present issues for houses backing onto the site, especially early on Sunday and bank holidays.

3.2.2. Other Technical Reports

Transportation Planning Section: No objection.

4.0 Planning History

PA ref. F13A/0306 ABP ref. PL06F.243093

Permission granted for partial demolition of existing retail building, removal of fuel pumping stations and the provision of a single storey retail building and rear service yard gates and associated works at Rivervalley Shopping Centre. Conditions included

3. (a) During the operational phase, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:-

- (i) An LAeqT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. The T value shall be one hour.
- (ii) An LAeqT value of 45 dB(A) at any other time. The T value shall be 15 minutes. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

12. (a) The opening hours of the new retail building shall be between 0900 and 2100 hours on Mondays to Saturdays and between 1000 and 1900 hours on Sundays only.

(b) Deliveries shall occur behind the discount foodstore between 0800 hours to 2100 hours Monday to Saturday and 0900 hours to 1900 on Sundays.

PA ref. F18A/0594

Permission granted for alterations to the development permitted under F13A/0306, PL06F.243093, comprising an increase in the retail floor area of the supermarket by amalgamation of retail unit no. 8, extension to the north and expansion into the lobby area; associated elevational changes to unit no. 8 and associated works.

Conditions required compliance with conditions of F13A/0306, PL06F.243093

5.0 Policy and Context

5.1. Fingal County Development Plan 2017

The lands are zoned LC: Local Centre - Protect, provide for and/or improve local centre facilities.

Vision: Provide a mix of local community and commercial facilities for the existing and developing communities of the County. The aim is to ensure local centres contain a range of community, recreational and retail facilities, including medical / dental surgeries and childcare facilities, at a scale to cater for both existing residential development and zoned undeveloped lands, as appropriate, at locations which minimise the need for use of the private car and encourage pedestrians, cyclists and the use of public transport. The development will strengthen local retail provision in accordance with the County Retail Strategy.

Adjoining lands to the east are zoned for Community Infrastructure (CI) while lands to the south and west are otherwise zoned RA, for residential use. The site is within the outer noise protection zone for Dublin airport.

6.0 The Appeal

6.1. Grounds of Appeal

The first party make the following points in their appeal against condition no. 7 of the planning authority decision to grant permission:

- The proposed opening and delivery hours are consistent with other Aldi stores across the country, except where restrictive conditions were applied.
- They are also consistent with other operators and condition no. 7 represents a competitive disadvantage for the operator.
- The operating model provides for a single daily delivery by HGV which vehicle aims to deliver to several stores before opening hours.
- Occasional requirements for more than one delivery per day may arise.

- A delivery period before store opening time is required, particularly on Saturdays and Sundays which are busier days requiring more deliveries.
- Commencing deliveries at the same time as store opening time is not feasible
- Commencing at 7am would avoid rush-hour delays and allow deliveries to another nearby store where deliveries commence at 7.30am.
- Delivery operations are very efficient (<15min) and will take place away from residential properties.
- Unloading operations take place under cover and not in the open
- There is no justification or proper assessment of impacts on residential amenities and there were no objections to the planning application.
- Conditions should not restrict activities which are in accordance with the Local Centre zoning objective for the site.
- There are no operational or delivery restrictions on existing commercial units in the centre, which gives them a competitive advantage.
- There is no justification for the restricted hours.

6.2. Planning Authority Response

The planning authority make the following comments in response to the first party appeal:

- The proposed extended delivery hours may impact on adjoining residential amenity by reason of noise and general disturbance, especially in early hours of Sunday and holidays.
- The subject supermarket is not seen as being in direct competition with the local convenience store in the centre, Centra.
- The closest comparable supermarkets in Swords include three discount foodstores and the permitted operating hours for these stores are similar (F16A0104, PL06F.244562. and PL06F.248271).

7.0 Assessment

- 7.1. This is a first party appeal against condition no. 7 attaching to the decision of the planning authority to grant permission for the proposed development. In accordance with S.139(1), having regard to the nature of the proposed development and the condition under appeal, I do not consider that the determination by the Board of the application as if it had been made to it in the first instance would be warranted. This report therefore restricts itself to the consideration of the requirements of condition no. 7.
- 7.2. Permission was granted for the proposed discount foodstore under F13A/0306 PL06F.243093, and condition no. 12 of that permission placed restrictions on the opening hours and delivery hours of the store. The subject application seeks to extend these hours and I have summarised the different hours below to assist in understanding the proposed changes.

Opening hours	F13A/0306 PL06F.243093	Proposed change	Granted by PA F19A/0208
Monday - Friday	9am – 9pm	9am – 10pm	9am to 10pm
Saturday	9am – 9pm	9am – 9pm	9am to 9pm
Sunday & BH	10am – 7pm	9am – 9pm	9am to 8pm
Delivery hours			
Monday - Friday	8am – 9pm	7am – 8pm	7.30am to 8pm
Saturday	8am – 9pm	7am – 8pm	8am to 8pm
Sunday & BH	9am – 7pm	7am – 8pm	9am to 8pm

Opening Hours

- 7.3. The planning authority permitted the requested amendments to store opening hours, with the exception of Sunday evening, when opening hours were restricted to 8pm rather than 9pm as requested. I can see no rationale for the restriction on Sunday evening opening hours and do not consider that this change would result in any significant or negative impact on adjoining residential amenities. I regard the

requested changes as reasonable and therefore consider that the change to store opening hours should be granted permission.

Delivery Hours

- 7.4. Having regard to the nature of the proposed uses on the site, the movement of goods and deliveries have greater potential to impact on residential amenities than store opening hours. In this regard, I note that three houses in Forest Dale back directly onto the proposed service yard. Historically, the route to the rear service yard for the local centre ran along this southern boundary which does not appear to have been subject to time limits on use. The actual service yard was at a greater remove from adjoining residential properties however.
- 7.5. The reconfigured shopping centre layout relocates the service yard access point to the north, to the rear of Peacocks bar. Unloading for the subject store will take place directly from trucks to the internal loading / goods area, such that vehicle movements on the site are the most likely source of noise nuisance, particularly reversing movements. I note that such movements would arise within approx. 15m of the rear boundary of the adjoining houses in Forest Dale. While condition no. 3 of F13A/0306, PL06F.243093 sets limits on operational noise arising from the development, it is still considered appropriate to place time limits on activities on the site.
- 7.6. The revision to evening Monday - Saturday delivery times sought by the first party was permitted by the planning authority and I note that this is earlier than that originally permitted. Sunday evening delivery times have been extended by an hour to 8pm, however, I do not regard these hours as unreasonable or likely to impact on adjacent amenities.
- 7.7. With regard to morning time deliveries, the applicants have sought a change from 8am to 7am Monday to Saturday, and from 9am to 7am on Sundays / Bank Holidays.
- 7.8. The planning authority decision permits weekday deliveries from 07:30am, which is consistent with other permissions in this area. The first party arguments for revising this further to 7am relates to avoidance of rush hour traffic and requirements to complete deliveries before store opening hours. Having regard to proximity of

vehicle movements to houses in Forest Dale, however, I consider the limits imposed by the planning authority to be reasonable and would not favour extending delivery times further to 7am.

7.9. I consider that a higher standard of protection for amenities is appropriate on weekends. A restriction on deliveries before 8am across the entire weekend is therefore considered to be reasonable and would also address the first party submission with regard to completion of deliveries prior to store opening times.

8.0 Appropriate Assessment Screening

Having regard to the nature and scale of the development the subject of this appeal, its location within the existing urban area and its separation from any European sites, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000-2012 to AMEND condition number 7 and the reason therefor, as follows:

7.	<p>(a) Store opening hours shall be between 0900 hours and 2200 hours Monday to Friday, between 0900 hours and 2100 hours on Saturdays , Sundays or public holidays.</p> <p>(b) No deliveries shall be taken at or dispatched from the premises outside the hours of 0730 hours and 2000 hours Monday to Friday,</p>
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	<p>or 0800 hours and 2000 hours on Saturdays, Sundays or public holidays.</p> <p>Reason: To protect the amenities of residential property in the vicinity.</p>
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Reasons and Considerations

Having regard to the nature of existing and permitted development on the site and the pattern of development in the surrounding area, it is not considered that the proposed changes to opening hours or delivery hours allowed for in this condition would unduly impact on the amenities of the area or of property in the vicinity, or conflict with the objectives of the development plan for the area.

Conor McGrath
Senior Planning Inspector

06/11/2019