



An
Bord
Pleanála

Inspector's Report ABP-309442-21

Development	Removal of existing structures and construction of a foodstore
Location	Eir car park, Roches Street, Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	20/395
Applicant(s)	Aldi Stores (Ireland) Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First & Third Party
Appellants	Aldi Stores (Ireland) Ltd. Tony Clarke Multi Storey (Limerick) Ltd. James Ryan & Others An Taisce
Observer	Thomas O'Shea
Date of Site Inspection	13 th April, 2021
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The 0.38 hectare site is located on the south side of Roches Street in Limerick city centre. It comprises a surface car park which is accessed from Cecil Street to the south. The site is bounded by a number of buildings ranging in height from two to five storeys, including a former telephone exchange building to the east. There is an Eir building to the west and an Intreo Centre to the south. The boundary with Roches Street comprises a hoarding up to 4 metres in height. There is a terrace of Georgian buildings to the south-west along Cecil Street. A new five-storey apartment block and a multi-storey car park lies on the opposite side of Roches Street. There are a wide range of land uses in the immediate vicinity including retail, offices, residential and commercial uses.

2.0 Proposed Development

- 2.1. The proposed development would comprise:
- A) Removal of an existing car park and single storey switchroom/shed;
 - B) The construction of a discount foodstore (including an off licence);
 - C) A multi-storey car park providing 154 parking spaces;
 - D) Two vehicular access points from Roches Street;
 - E) Retention of access at the corner of Cecil and Dominick Street as a service access;
 - F) Erection of two single-sided internally illuminated gable signs on the north elevation, one single-sided, glass identification sign at the entrance door, and two double-sided, internally illuminated display signs; and
 - G) All lighting, boundary treatment, engineering and site development works.
- 2.2. The discount store would have a gross floor area of 2,434 square metres (net retail area of 1,250 square metres) at ground floor level, with ancillary areas at first and second floor levels within a part three / part four storey building that would have a total floor area of 8,748 square metres (including parking). The multi-storey parking would be over three levels, providing 85 spaces for Aldi customers at 1st and 2nd floor

levels, 69 spaces at rooftop level for Eir and Aldi, 9 surface spaces to the rear for Eir, two disabled spaces, and one electric vehicle parking space on Roches Street.

- 2.3. Details submitted with the application included a Planning Report, an Architectural Design Statement, an Engineering Report, a Traffic Impact Assessment, a Screening for Appropriate Assessment, an Outline Construction Management Plan, an Environmental Noise Impact Assessment, and a letter of consent permitting the making of the application.

3.0 Planning Authority Decision

3.1. Decision

On 21st January 2021, Limerick City & County Council decided to grant permission for the proposed development subject to 18 conditions. Condition 3 of the decision was as follows:

3. *Within one month of the notification of the decision the applicant shall submit the following for the written agreement of the Planning Authority.*
- The applicant shall provide a revised second floor layout indicating additional office floor area of 216sqm to mirror first floor layout. The office space shall overlook Roches Street. Revised floor plans and elevation detail shall be submitted to reflect this alteration.*
 - Prior to the opening of the development full details of the occupant(s) of the offices shall be submitted for the written agreement of the Planning Authority.*

Reason: In the interest of orderly development and to ensure the viability of mixed use scheme.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted development plan provisions, reports received, and third party submissions. It was noted that a retail impact study was not requested as the site is in the city centre. The site was considered a priority for redevelopment. It was

considered that further information was required in relation to appropriate assessment screening and an assessment be provided on the impact of the potential of the proposed comparison element on the city centre. It was submitted that a mixed use development with basement parking would be more appropriate and that greater building heights could be accommodated. It was also submitted that consideration could be given to pedestrian access from Cecil Street. A request for further information was recommended, with regard given to the requests from reports received.

3.2.2. Other Technical Reports

The Environment Technician set out a condition requiring a site waste management plan.

The Operations and Maintenance Services Engineer requested clarification on parking provisions, an autotrack analysis for HGVs, access, footpath provision, bicycle parking, simulation modelling for drainage, surface water drainage details, and public lighting.

The Conservation Officer noted the proposal has an entrance off Cecil Street, which is in an Architectural Conservation Area. Concerns were raised about the monolithic aspect of the proposal, its visibility within the ACA and the impact of traffic on the ambience and character of the Georgian streetscape. A request for further information was recommended, seeking an archival standard photographic study of the existing buildings, traffic analysis and justification for heavy vehicle movements into the Georgian core, detailed specification for external finishes to the rear, a response to objections received, and an examination of a mixed use scheme, including residential accommodation.

The Assistant Chief Fire Officer had no objection to the proposal.

3.3. Prescribed Bodies

Irish Water had no objection to the proposal.

An Taisce noted the underuse of the site and welcomed the proposal for a discount supermarket. Concerns were raised in relation to the extent of parking proposed, the

lack of housing, and the proposal's poor architectural qualities. Concerns were also raised about vehicular and delivery access.

The Health Service Executive set out the public health requirements for the functioning of the supermarket.

3.4. Third Party Observations

Objections were received from Marie and Tommy O'Shea, Tony Clarke, Ma Hogans Bar, Paul Williams and Gráinne McInerney, and James Ryan and others. Willie O'Dea TD supported the objections. The concerns related to noise, traffic, maintenance, security, sewer blockages, the need for mixed use development to include residential use, integration with the area, impact on convenience store traders, non-compatibility with development plan provisions and Retail Planning Guidelines, and impacts on underground services on the site.

3.5. On 18th May 2020, a request for further information was issued. A response from the applicant was received by the planning authority on 17th December 2020. The response included revised drawings, an Engineering Response Report, a Traffic Response Report, photomontages and lighting design details. The revised proposal included a reduction in parking provision, the inclusion of 216 sqm of office space at first floor level, and design changes.

3.6. Following this submission, the reports to the planning authority were as follows:

The Technician in the Operations and Maintenance Section set out a schedule of conditions in relation to car parking, traffic and access, surface water disposal, public lighting and construction management.

The Planner considered the response to the further information request to be acceptable and recommended that permission be granted subject to a schedule of conditions.

4.0 Planning History

I have no record of any planning applications or appeals relating to the site.

5.0 Policy Context

5.1. Limerick City Development Plan

Zoning

The site is zoned ZO.1(B) 'City Centre Commercial Area', with the objective "To support the retention and expansion of a wide range of commercial, cultural, leisure and residential uses in the commercial core area, (apart from comparison retail uses)".

Retail

Policies include:

Policy R3

It is the policy of Limerick City Council to ensure that Limerick City Centre remains as the primary retail location within the Mid-West Region. In this regard the City Council will require all out of City Centre large retail proposals to demonstrate that they will not impact negatively on the vitality and viability of the City Centre by means of a sequential test.

City Centre Commercial Area

The policy is:

Policy CC.4 City Centre Commercial Area

It is the policy of Limerick City and County Council to support the retention and expansion of a wide range of commercial, cultural, leisure and residential uses in the commercial core area (apart from comparison retail uses).

Economic Development Strategy

Policies include:

Policy EDS.8

It is the policy of Limerick City Council to mobilise the potential of brownfield sites in the City.

5.2. Appropriate Assessment

The site of the proposed development is located within the city centre serviced urban area of Limerick City at a location which is separated from Lower River Shannon SAC (Site Code: 002165) by extensive buildings, infrastructure and other developments. Having regard to the nature, scale, and location of the proposed development, the serviced nature of the development, the nature of the receiving environment, and the separation distance to the nearest European sites, it is concluded that no Appropriate Assessment issues arise as 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.

5.3. EIA Screening

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. An EIAR is not required.

6.0 The Appeals

6.1. Grounds of First Party Appeal

The appeal relates to the attachment of Condition 3 with the decision of the planning authority. The grounds of the appeal may be summarised as follows:

- The loss of 12 parking spaces at Level 2 to accommodate the additional office space would render the store an unviable proposal. Aldi stores facilitate customers who undertake their weekly shop, requiring easy access to a parking space and a trolley bay. There would be insufficient parking spaces to accommodate the customer numbers required to sustain the store.

- Without adequate parking, customers will continue to drive to existing stores outside the city centre, which is detrimental to the core retail function of the city. This is contrary to the Council's retail policies.
- There is not a sufficient population base within walking distance of the store to sustain it.
- It is noted that there are other car parks on Roches Street but there is no use associated with the car parks to draw the customer to the area. Use of these would involve travel across a road with a trolley and would not be practical or safe. There is a need for the store to be directly accessible.
- Aldi car parks would allow customers to park for c. 2 hours at the site, allowing spin-off synergies with retail businesses in the city centre.
- A reduction in the allocation of Eir parking spaces at the site is not possible due to the legal agreements in place providing for the acquisition of the site.
- There is no apparent gain from an urban design or architectural perspective to the inclusion of the office space at 2nd floor level.
- The requirement by Condition 3 for the agreement of the office tenants with the Council is unreasonable and inappropriate, is outside of the remit of the Planning and Development Act, and should be omitted.

The appeal includes architectural drawings and an addendum traffic report which concludes that the extent of customer parking suggested to serve the proposed development is substantially under its operational requirement.

6.2. Grounds of Appeal by An Taisce

The grounds of the appeal may be synthesised as follows:

- The proposal constitutes a wholly inadequate response to the need for urban consolidation and efficiency of land use, alluding to the existing telecommunications building as part of the project's mix when it does not form part of the application. An increase in office space cannot be construed as a substantive or qualitative addition to urban consolidation or an efficient land use.

- With the pressing need to increase the stock of city centre housing and with urban housing a policy priority of local and national government, giving over the greater part of the proposal to car parking cannot be supported in economic, social or environmental terms. No case has been made as to why a relatively small part of the site could not be used to meet housing demand. Reference is made to examples of the provision of housing as part of a retail development.
- If the proposal included an additional storey to increase the space that could be developed for housing this would ensure a more balanced streetscape. The appellant is not convinced by the applicant's assertion that the adjoining telecommunications mast would be jeopardised by an additional storey, with some adjacent structures being five or six storeys.
- The National Planning Framework and the Urban Development and Building Heights Guidelines support consolidation, increased height and densification in urban areas.
- The proposal prioritises parking over the needs of pedestrians and residents. The profile of the Eir workforce has undergone radical transformation as a result in changes in technology and market conditions and the parking provision being made is questioned. There is also a need for greater scrutiny of the adequacy of safety measures within the car parking parts of the site. Egress by HGVs onto Cecil Street and negotiation of the tight corners in nearby Baker Place are traffic safety concerns.
- The Council requested the applicant to address the suitability of the site for pedestrians and cyclists and accessibility from Cecil Street. This should be regarded as a real benefit and there is a need to promote greater access to and permeability through the site to provide safe and convenient access for pedestrians coming from Mallow Street and the adjacent streets. Even limited access from Cecil Street should be provided.

6.3. Grounds of Appeal by James Ryan & Others

The appellants are convenience store traders in the city. The grounds of the appeal may be synthesised as follows:

- The proposal is not located within the core retail area of the city centre. Retailing is only an ‘open for consideration’ land use in the City Centre Commercial Area. Aldi also provides a range of comparison goods that do not qualify as daily household requirements. The sale of the “Special Buy” comparison goods are key to the store’s success and cannot be considered an ancillary offering. Some of the products are intended for a wider catchment and will draw from a catchment contrary to the zoning objective, which prohibits the sale of comparison goods, which are restricted to the city centre retail areas. No assessment of the comparison element of the proposal was undertaken.
- The site is strategically located and should consist of a mixed use scheme with a high standard of design. The request by the Council to provide for a larger mixed use scheme on the site has not been dealt with. The Eir telecommunications building is not a use on the application site. A development with a greater mix of uses, with basement accommodation and residential accommodation would be more appropriate. The legal obligations between the applicant and Eir are not planning issues and should not be used to justify the planning submission.
- There is an incompatible nature of a car dependent large discount foodstore within a city centre zoning objective. This is a car-based development drawing customers from a wider catchment than just the local community. The proposal will generate traffic into the city for a single retail use.
- The site of the proposed development is an “Edge-of-Centre” site. The applicant has failed to provide a Sequential Test and has failed to consider alternative sites with the city centre retail area. This is contrary to the Retail Planning Guidelines. Also, a Retail Impact Assessment was not carried out. Without these tests the impact on the vitality and viability of the city centre retail core cannot be assessed.

- The provision of an additional substantial convenience operator at this location, being the second largest convenience retail provider in the city centre, would lead to an over-concentration of convenience retailing within the city centre and would diminish the vitality of the city centre. It would also provide for a certain level of comparison goods, drawing customers away from the core retail area.
- No evidence has been provided as to the need for an off-licence in the area. There are 11 off-licences within 350m of the development.
- There are a number of serious traffic issues which would result in a traffic hazard in the vicinity:
 - The implications of additional traffic generated onto Roches Street will have a significant effect on the free flow of traffic on Roches Street and will be hazardous.
 - HGV deliveries will cause further congestion on Roches Street as it enters the site. Very tight manoeuvres are required within the site. Adequate sight distances at the exit have not been demonstrated and traffic and pedestrian volumes are large due to the proximity to the Intreo building.
 - There has been no account of the temporary relocation of parking for Eir staff during the construction.
 - Concerns relating to the applicant's Traffic Impact Assessment include management of traffic on the local road network, inadequate traffic surveying, assessment of Eir staff entering and exiting the car park and delivery area, sharing of road space with pedestrians, and the car parking provision justification.
 - A shortfall in parking could prompt haphazard overspill parking and generate significant queuing on Roches Street. It appears that the proposed retail floorspace provision exceeds the capacity of the site. Being limited to Aldi customers, the proposal would not facilitate multi-purpose trips to the city centre. It is not realistic that a shortfall in parking could be supported by public transport and pedestrian movements. The

number of on-street parking spaces to be removed is unknown and this will generate additional demand for the existing parking on the street.

- Queries on traffic management and car parking from the planning authority were not addressed in the further information, including those relating to disabled parking, auto tracking, Eir vehicles, and the barrier to the car park.
- The proposal makes no provision for connectivity for pedestrians or cyclists to/from Cecil Street.
- The proposed design does not adequately address a number of the ten design principles set out in the Retail Design Manual, most notably the design quality, site context and character, access and connectivity, density and mixed use.
- A number of anomalies were identified on the site relating to services. These should have been investigated to determine if there is contamination on the site. Hazardous underground services should be identified.

6.4. Grounds of Appeal by Tony Clarke (Multi Storey (Limerick) Ltd.)

The appellant owns and operates City Centre Car Park at Anne Street, Limerick, which is located between Thomas Street and Roches Street. The grounds of the appeal may be synthesised as follows:

- A development of this scale should include residential use to compliment the ground floor retail development and in keeping with the report “Limerick 2030 – An Economic and Spatial Plan for Limerick”. The proposed addition of a relatively small proportion of office space is a lost opportunity.
- The development is contrary to the transport strategy of Limerick 2030 as it plans to increase off street parking, generating hundreds of daily car trips. The city centre should be more accommodating to the pedestrian. The proposal will generate significant car trips onto an already heavily trafficked one-way street and is not pedestrian friendly.

- Policy TR.6 of the City Development Plan requires a mobility management plan for retail centres. This was not submitted and is important to demonstrate mobility needs.
- Regarding traffic concerns:
 - The applicant's traffic survey used in the Traffic Impact Assessment was from a time when there was significant construction disruption to the city and traffic volumes would have been significantly reduced.
 - The additional car parking spaces proposed are more than the street can accommodate as it is currently operating above capacity in the afternoons and evening peak. The impact on Roches Street could be reduced by allowing Eir vehicles or Aldi shoppers to exit via Cecil Street.
 - A road safety audit should have been carried out.
 - The service vehicle access would pose a serious risk of collision between HGVs and parked cars and collision with pedestrians and would require HGVs encroaching on the right hand lane on Roches Street.
 - The HGV exit is constrained by buildings on either side and should be assessed for sightlines and intervisibility between drivers and pedestrians. There are high volumes of parked cars and pedestrians at this location as it is adjacent to the Intreo Centre. There is no swept path analysis for HGV manoeuvres onto Cecil Street.
 - Sight distance to the right for customer egress is impeded by existing on-street parking and could lead to collisions.
- The proposal would make it extremely difficult for the appellant's customers to use its Roches Street exit.

6.5. Applicant Response

The applicant's response to the third party appeals may be summarised as follows:

Response to the Appeal by Tony Clarke

- The City Development Plan does not include any specific objectives relating to the site requiring the provision of residential development. The mix of land uses was accepted by the planning authority. Emerging planning policy and guidance place strong emphasis on the provision of retail uses within the city centre. Reference is made to the draft Southern Environs LAP.
- The application of a mobility management plan cannot be applied to Aldi customers who may have origins or destinations prior to or after completing a food shop.
- The car park will be used by Aldi customers only and will be free to customers for 90 minutes, allowing time for a full weekly shop. The car park will not compete with the existing commercial car park. Use of the multi-storey car park would not be possible and would involve travel across the road with a trolley.
- The store will need to compete effectively against existing similar stores in suburban locations.
- The junction of the site access with Roches Street can accommodate the traffic growth at 2022 and 100% of the projected trips associated with the store. During the PM peak traffic period the access junction would experience almost free flow traffic conditions.

The response includes a traffic and transportation report addressing the traffic issues raised in the third party appeal and a letter from Aldi in relation to the management of the proposed car park.

Response to the Appeals by James Ryan and Others and An Taisce

Land Use / Principle of Development

- The proposed use is entirely appropriate on the site.

- The comparison retail provision is very much ancillary and subservient to the convenience function.

Urban Consolidation and Building Height

- The applicant is not a property developer and seeks to provide discount foodstores.
- Given the site constraints, it is unviable and not possible to provide apartments in tandem with the proposed retail use at this location.
- There is no development plan objective requiring the provision of residential development on the site.
- A basement would not be feasible given the services across the site.
- The telecommunications infrastructure at this location is of regional and national importance and cannot be impacted upon by a higher building. The overall building height cannot be increased.
- The retail use is in keeping with the wider objectives of the development plan and reference is made to the draft Southern Environs LAP supporting the consolidation of the city centre as the primary retail destination in the region.

Contrary to Sustainable Transport Principles,

- Reference is made to the response to the appeal by Tony Clarke.

Retail Impact

- Retail impact assessment was not required by the planning authority as the location for the development was deemed to comply with the policies and objectives of the development plan, in accordance with the Retail Planning Guidelines.
- The site is located within the core shopping area identified in the Retail Strategy for the mid-West Region 2010-2016.

Off-Licence Use

- The dominant function of the store is to provide a convenience retail offering.

- The off-licence use comprises a very small area of the overall retail floor area.
- Given the city centre location, it could not be considered an over-concentration of off-licence use.

Pedestrian Permeability

- A link from Cecil Street to Roches Street cannot be provided due to constraints relating to underground infrastructure and the need for crane access to service the adjoining mast.
- A pedestrian path could not be taken in charge in this area.
- Conflict would arise with HGVs servicing the site and the width of the entrance from Cecil Street cannot be widened.
- The development plan does not include any requirement for a pedestrian link at this location.

Traffic

- The store will have no material impact on the operational capacity of the local road network.
- The level of proposed parking is adequate to serve a store of this scale.
- Appropriate sightlines are provided.
- The planning authority had no objection to the principle of the development.

Design

- The appeal from James Ryan and others raises a number of unfounded issues. The Board is directed to the applicant's Design Statement.

Services

- The anomaly on the site which was referenced is thought to be related to an old basement construction.

The response includes separate reports rebutting the third party issues relating to traffic, design and services. A letter from Eir refers to the regional significance of the telecommunications infrastructure at this location and an agreement with the applicant that any building cannot exceed 30m OD otherwise it would negatively

impact on a line of sight required for the transmission of radio signals for the towers located on the roof of the telephone exchange.

6.6. Planning Authority Response

I have no record of any responses to the appeals from the planning authority.

6.7. Observations

The observation from Thomas O'Shea raised concerns relating to the entrance onto Cecil Street affecting his tenant at 25 Upper Cecil Street who has young children, the necessity to maintain access to the rear of the property to complete any maintenance required, security measures needed at the entrance if the street is to be used as a public path, and the existing collapsed sewer main at the Cecil Street entrance which needs repair and would be damaged further by HGV traffic.

6.8. Further Responses

The response from James Ryan and others to the other appeals may be synthesised as follows:

- The first party appeal demonstrates that the proposed development is not suited to the site. The appellant concurs with An Taisce's submission on restrictions preventing the optimum development of the site and justification for the provision of Eir parking.
- The first party appeal demonstrates that the proposal is a car borne based development and substantial parking is required for it to operate.
- Condition 3 should not be removed. Its removal would undermine efforts to try to establish a greater mixed use and would ultimately allow for a primary retail/car park development.
- The applicant's appeal refers to an insufficient population base within walking distance of the site to sustain it and they expect customers will drive to the store. If there is an insufficient population base then the sale of comparison goods should not be permitted as the zoning objective

specifies the sale of comparison goods are restricted to the city centre retail areas unless they serve a local need only.

- Noting the appeal by Multi Storey (Limerick) Ltd., it is submitted that the applicant should be required to provide more accurate traffic survey figures.

The response from An Taisce to the other appeals may be synthesised as follows:

- In response to the appeal by John Ryan and others, it is submitted that Aldi is an essential complementary provider to the existing retail in the area. The observation that the site should accommodate a variety of uses is endorsed. It is submitted that every opportunity must be taken to lessen the negative impacts of through traffic on Roches Street. It is agreed that poor quality visual and public realm design remains an issue.
- In response to the appeal by Tony Clarke, the desirability of a residential element in the project is endorsed. An Taisce concurs with the view that adding to the city's off-street parking may be contrary to the objectives of Limerick's 2030 strategic plan, while acknowledging the requirements of those with specific mobility needs. Consideration of public transport, the need to make greater provisions for pedestrians and cyclists, and improved permeability are also referenced in the response.
- In response to the first party appeal, the issue of appropriate mix and the need for a residential component is alluded to. It is submitted that parking for out of town shoppers is well provided for. It is further submitted that the site is within walking distance of a substantial number of medium size residential city centre blocks and other residential areas and that the project would draw its customers from these locations who would not be dependent on the private car. An Taisce is not convinced that the reduction of 12 car parking spaces would render the project unviable and it is noted that the multi-storey car park on the opposite side of the street could cater for the requirements of those who might need to drive to the store.

Following the applicant's response to the third party appeals, the Board sought third party and observer responses in response to the response. The responses may be synthesised as follows:

Thomas O'Shea reiterated his concerns relating to drainage.

An Taisce reiterated the need for a greater mix of uses, in particular residential.

Tony Clarke reiterated parking concerns, traffic survey inadequacies, service vehicle access concerns, pedestrian safety, and the need for a road safety audit.

7.0 Assessment

7.1. Introduction

- 7.1.1. I consider that the principal planning issues relate to the proposed use for the site, the traffic impact, and impact on residential amenity.

7.2. The Proposed Use

- 7.2.1. In considering this issue I first make the following observations:
- The site of the proposed development is in Limerick City Centre. It is only a couple of hundred metres south-east of O'Connell Street in a location in which there is a wide mix of uses, including retail, offices, car parking, and residential.
 - The site is a brownfield site, underutilised in this city centre location as a surface car park. An alternative sustainable use is desirable for the continued appropriate development of the city centre.
 - The site is zoned ZO.1(B) 'City Centre Commercial Area', with the objective "To support the retention and expansion of a wide range of commercial, cultural, leisure and residential uses in the commercial core area, (apart from comparison retail uses)". A 'Shop – Major Sales Outlet' is 'open for

consideration' within this zone. Offices are permitted in principle. The proposed development is not in conflict with the zoning provision.

- With due regard to the *Guidelines for Planning Authorities: Retail Planning*, I note:
 - a 'sequential approach' to the location of retail development is not required where the location of a proposed development is consistent with the policies and objectives of the development plan and/or retail strategy (Section 4.4),
 - the order of priority for the sequential approach is to locate retail development in the city/town centre and to only allow retail development in edge-of-centre or out-of-centre locations where all other options have been exhausted (Section 4.4.2), and
 - where a planning authority considers an application to develop a new retail development to be particularly large in scale compared to the existing city/town/district centre, it may request the applicant to submit a Retail Impact Assessment to demonstrate compliance with the development plan and to show there would not be a material or unacceptable adverse impact on vitality and viability of the existing centre (Section 4.9).

It is acknowledged that the planning authority considers the proposal to be consistent with development plan provisions and does not consider that a sequential test or retail impact assessment are necessary with the application.

- The proposal can reasonably be viewed to be consistent with the following policies of Limerick City Development Plan: Policy R3 - ensuring the city centre remains as the primary retail location in the region, Policy CC.4 - supporting the expansion of commercial uses in the commercial core area, and Policy EDS.8 - mobilising the potential of the city's brownfield sites.
- The proposed shop would primarily be a convenience store, similar to other Aldi discount foodstores. The comparison and off-licence components are of a nature and small scale to be wholly compatible with retailing in a city centre location.

- The site has physical constraints. It adjoins telecommunications infrastructure of regional importance, in particular the Eir mast and its associated antennae. This places specific limitations on building height in order not to interfere with lines of sight associated with this existing infrastructure. The infrastructure is long established and there are no known proposals to remove it. While acknowledging *Urban Developments and Building Heights Guidelines for Planning Authorities*, the city centre location and the desirability to attain a building of greater height at this city centre site, the infrastructure constraint must be acknowledged as placing limits on the site's developability.
- There are substantial residential areas within walking distance of this site. The proposed development would likely serve as an important neighbourhood convenience store for residents of this city centre area.
- The city centre location of the site can reasonably accommodate a further convenience store of this scale. There are no particular concerns as to why the development of a store of this nature and scale would adversely impact on the vitality and viability of the city centre. It would introduce a further main foodstore to the city centre, reinforcing the attractiveness of the city centre as the primary retail centre for the region.
- It is desirable to have mixed use development at a location such as where the site is in order to maximise footfall and expenditure in the city centre and thus to enhance its vitality and viability.
- The proposed foodstore seeks car-based shoppers, hence its provision of on-site parking in order to convenience these customers.
- No justification has been given in this application for the scale of parking proposed to be retained to serve the adjoining Eir premises.
- The proposed development would not provide for pedestrian or cycle permeability through the site and, therefore, allow for connectivity between Roches Street to the front and Cecil Street and other residential areas to the rear of the site and beyond.
- The question of the promotion of car parking to serve the car-based customers being pursued by the applicant as opposed to delivering a more

diverse mix and scale of development in the city centre location is one of the principal planning issues for consideration by the Board in this application.

- 7.2.2. With due regard to these observations, I submit to the Board that there is no issue with the nature and extent of the proposed development being incompatible with the city centre location or the zoning objectives for the site. I have no doubt that it would be more desirable to have a greater mix of land uses and a higher building producing a greater density of development. However, the site clearly has its physical constraints. I also acknowledge that the applicant's function and business is to develop discount retail foodstores. It is, however, pertinent to note that the applicant was able to make provision for office space at first floor level and to reduce on-site car parking as a result during the consideration of the planning application by the planning authority. The range of uses remain somewhat limited, while I consider the car parking to be an ancillary use associated with the proposed store and the adjoining Eir premises, and not in any way an independent use in itself.
- 7.2.3. It is my opinion that the retail and office uses would be in keeping with the nature and extent of development in the vicinity and the proposed building would greatly improve on the appearance of this underutilised site in the streetscape. I further consider that the design of the structure fronting Roches Street would be distinctive and enlivening for a street that badly needs enhancement and diversity and that this design would build upon and improve on the street's character. I consider that its rear elevation would be somewhat screened from Cecil Street, where the building would be adjoined by terraced buildings and the three storey Intreo building and where the site would have a narrow opening to the street at a corner with limited views into it.
- 7.2.4. With regard to car parking, I note that there are many examples where discount foodstores have been developed in built-up city areas without on-site customer parking. The Board could reasonably seek to substantially reduce or eliminate such on-site parking, encouraging car users to seek parking in the vicinity, either on-street or in the city centre's multi-storey car parks. Such an outcome would likely result in a new proposal and a refusal of the application at hand. I understand that the removal

of all parking would not easily facilitate those undertaking a weekly shop at the store and that clearly loaded trolleys leaving the premises onto streets are not an option. The applicant evidently seeks to encourage car-based customers and seeks to provide on-site parking to meet the anticipated demand from those using their cars. Notwithstanding this, I consider that the proposed development would likely serve a large residential catchment in this city centre location who could access the store more sustainably by foot or cycling. I note that public transport would not be well provided for as an alternative transport option. I accept that there are limitations on the ability to provide underground car parking due to infrastructural constraints. I consider that the extent of parking proposed in the original application is not merited and that such parking would eliminate the potential to deliver on a better mix of land uses. I repeat that there has been no reasonable justification given for the need to maintain a significant proportion of parking to serve the neighbouring Eir premises. I further note that there is a multi-storey car park on the opposite side of Roches Street (the appellant Tony Clarke's premises). I am satisfied that the reduction in parking and the requirement for other uses, such as offices required by the planning authority at first and second floor levels, are appropriate and more desirable than seeking to provide multi-level parking over the shop. I consider that a balance to some degree must be achieved and I am of the opinion that the planning authority has sought to achieve a reasonable balance. In relative terms, the extent of office space remains limited when compared to the retail floor space and the on-site parking to serve customers. There can be no planning merit in seeking to reduce the mix and scale of uses on this site as requested by the applicant in its appeal. The primary retail use and redevelopment of this brownfield site are most desirable. The attainment of a desirable mix and meeting the needs of a foodstore of this nature can reasonably be met by pursuing the nature and extent of development requested by the planning authority in its decision.

- 7.2.5. While it would be desirable to provide pedestrian connectivity between the proposed store and Cecil Street to the rear, I must acknowledge the limited frontage onto that street, the need to provide a reasonable density of development on the site, the need to accommodate servicing of the store and associated HGV movement, and the infrastructural and maintenance constraints aligned with the established

neighbouring Eir premises. Thus, I accept the form and layout of the development, restricting permeability through the site, as being sustainable.

- 7.2.6. Overall on this issue, I am satisfied to conclude that the nature and extent of the development permitted by the planning authority would attain a reasonable and sustainable form of development in this city centre location. I do not consider that it is necessary for the occupation of each of the offices to be developed as part of the overall scheme to be agreed with the planning authority prior to their occupancy. Office use is understood, can be suitably managed within this site, and such use can reasonably be monitored by the planning authority to ensure compliance with the permitted use without the need for such uses to be individually agreed. In the event that a greater mix of development is deemed more appropriate by the Board, together with a more substantial reduction in the level of on-site parking, I consider that it would be more appropriate to refuse permission and to acquire a suitably designed scheme rather than tinker further with the proposed development beyond that which has been determined by the planning authority.

7.3. **Traffic Impact**

- 7.3.1. The proposed development would be sited within Limerick city centre. Access to the site and egress from it would be onto urban streets which accommodate substantial levels of vehicular traffic. The applicant has ably demonstrated through its traffic impact assessment and supporting reports that these city centre streets can accommodate the traffic generated by the proposed development, notably during peak periods. I further observe that the planning authority and its Roads Engineers had no particular concerns about the operation of the foodstore, the customer traffic that would be generated, and the servicing of the store by delivery vehicles. There is no requirement for further traffic analyses or a road safety audit. The entrance and exit onto Roches Street for customers are of reasonably standard design to allow for safe movement into and out of the site. The provision for access for the delivery vehicles, limited to early morning for the larger vehicles, would pose no particular concern in terms of access. The volume of traffic generated would be insignificant in

this city centre location and there is no reasonable justification for a determination that substantial tailbacks would result on Roches Street. The proposed egress onto Cecil Street, while limited in width and functioning at present as a vehicular access to the surface car park, can readily accommodate the low level of HGV traffic involved in the early morning delivery of goods to the store. I have no distinguishable traffic concerns arising from the servicing of the store. I also accept that the need for a mobility management plan is not merited given that a comprehensive understanding of origins and destinations of customers to this city centre retail core may not reasonably be gauged.

- 7.3.2. I consider that it is reasonable to determine that the city centre location of the proposed development, providing access onto the established street network from a site which functions at present as a car park accessing the street network, is appropriate. I consider that the proposed development would not constitute a traffic hazard arising from the proposed entrances, that it would not interfere with the flow of traffic onto the street network, and it would not cause undue congestion by the nature and volume of traffic that would be generated.

7.4. Impact on Residential Amenity

- 7.4.1. I note the observer submission which relates to the residential occupancy of No. 25 Upper Cecil Street. This is the end-of-terrace, two-storey house adjoining the existing site entrance onto Cecil Street.
- 7.4.2. I have already referred to the traffic issues resulting from the proposed development. I observe that the level of traffic could potentially be reduced at this entrance with the limited use intended for it. There are no particular traffic safety concerns with sightlines retained along Cecil Street.
- 7.4.3. I note the stated agreement the observer has with Eircom to complete maintenance of his property. This is a private matter between those parties and not one which impacts on the planning decision relating to the proposed development. I do however observe that access is being retained at this location and that there is substantial

area between the gable of the proposed building and its boundary along the north-west to allow for ongoing maintenance of and access to the Eir infrastructure.

- 7.4.4. The proposed development does not provide for pedestrian connectivity onto Cecil Street. The observer's concerns on this matter appear unfounded.
- 7.4.5. The observer is particularly concerned about an existing sewer main at the entrance which is stated to be collapsed and in need of repair. I note that the planning authority did not raise any particular concerns on this issue during its considerations of the proposal. I further note that Irish Water had no objection to the proposal. I consider that the delivery of water infrastructure to serve the proposed development would be subject to attaining a level of service determined by both Irish Water and the planning authority to be suitable to meet the development's needs while not undermining the public services with which the site's infrastructure would connect. Clearly, any deficiency in the sewer network on the public road is a matter for the public authorities to address and goes beyond the scope of consideration of this application.
- 7.4.6. Finally, I note that the observer did not raise any particular concerns about the functioning of the foodstore itself. I acknowledge the proposed servicing arrangements for the proposed development. The delivery, offloading and HGV egress from the site would bring some level of new noise and disturbance for residents in the immediate vicinity such as at the observer's property. However, I acknowledge the city centre location, the range of uses at this location, and the suitable land uses proposed for this site and consider that the proposed development could not reasonably be seen to have a significant adverse impact on residential amenity over that which exists at present.

8.0 Recommendation

- 8.1. I recommend that permission is granted subject to the following reasons, considerations and conditions.

9.0 Reasons and Considerations

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of Limerick City Development Plan, would be acceptable in terms of land use mix, height, scale, and density, would not seriously injure the visual amenities of the area or the residential amenities of adjoining properties, would represent an appropriate design response to the site's context, and would be acceptable in terms of pedestrian, cyclist and traffic safety. 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 submitted on the 17th day of December, 2020, 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. Within three months from the date of this Order the developer shall submit to the planning authority for written agreement a revised second floor layout providing for additional office floor area of a minimum of 216sqm to mirror the first floor layout. Details to be provided shall include revised floor plans, sections and elevations. The development shall be completed to include these revisions.

Reason: To ensure the delivery of a sustainable mixed use scheme in this city centre location.

3. Details 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.

4. The hours of operation of the proposed retail store shall be agreed in writing with the planning authority prior to the first occupation of that unit.

Reason: In the interest of the amenities of property in the vicinity.

5. Details of all external signage shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. 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 interests of visual and residential amenity.

7. 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.

8. The developer shall enter into water and wastewater connection agreements with Irish Water prior to the commencement of development.

Reason: In the interest of public health.

9. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenity and public safety.

10. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling, shall not exceed:-

- (i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
 - (ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.
- (b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

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

11. 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 provide details of intended construction practice for the development, including hours of working, noise management measures and traffic management measures.

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

12. 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 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 in which the site is situated.

Reason: In the interest of sustainable waste management.

13. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 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.

14. 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 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.

15. 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 the 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.

Kevin Moore
Senior Planning Inspector

28th April 2021