



An
Bord
Pleanála

Inspector's Report ABP 311443-21.

Development	Reduction of 20 no. car parking spaces from 101 no. spaces to 81 no. spaces in the car park.
Location	The Demesne & the Square, Newcastle West, Co. Limerick.
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	21366
Applicant	Aldi Stores Limited.
Type of Application	permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellants	(1) Philip Ryan (2) U-Store Cabins Limited
Observers	None
Date of Site Inspection	19/1/2022
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site is located at the Demesne, Newcastle West, Co. Limerick. It lies to the north-western side of the town centre of Newcastle West. The Demesne is access off Church Street to the east. The main vehicular access to the site is from the Demesne. There is pedestrian access from the Square via Nash's Lane located between the Bank of Ireland and the Nash's building on the Square.
- 1.2. The site has a stated area of circa 0.56 hectares. It accommodates the Aldi supermarket and car park. The supermarket is contained within a single storey building and it is served by surface car parking to the north and east of the building. To the south-west of the site there are industrial/commercial premises accessed from the Demesne. Newcastle West Tennis Club is situated to the west of the appeal site.

2.0 Proposed Development

- 2.1. Permission is sought for the reduction of 20 no. car parking spaces from 101 no. spaces to 81 no. spaces in the car park of the Aldi supermarket.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted by the Planning Authority subject to 5 no. conditions. Condition no. 2 specified that a revised site layout and details be submitted to the Planning Authority for written agreement. The issues required (a) the relocation of the public lighting to inside the redline boundary of the application (b) the relocation of services or clearly demonstrate how any services outside the redline boundary will be accessed (c) a pedestrian walkway at the same level of internal road not permitted. A new footpath shall be constructed with a minimum width of 2.0m unobstructed and shall be raised with a kerb height of 125mm (d) full details of proposed boundary treatments on eastern portion of the site (e) Road markings are to be in accordance with "IA EN 1436 European Standards for Road Markings & in accordance with the "Traffic Signs Manual". Road signs are to be in accordance with

“IS EN 1436 European Standards for Road Marking” and in accordance with the “Traffic Signs Manual”.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Report dated 17/06/21 – Further information was sought in relation to the following matters; (1) Submit revised details to address the changes to site boundaries (2) The proposal will result in a loss of existing pedestrian footpath connectivity on the site to Nash’s lane, submit revised proposal for the provision of pedestrian connectivity through the site to Nash’s Lane (3) Applicant is required to provide a justification for the proposed reduction in car parking numbers at this location (4) The applicant shall note letters of objection on file and respond accordingly.
- Report dated 1/9/21 – Following the submission of a response to the further information request the Planning Authority were satisfied with details provided and concluded that the provision of 79 no. car parking spaces is in excess of the requirements of the County Development Plan and permission was recommended.

3.2.2. Other Technical Reports

- None

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

3.4.1. The Planning Authority received two submissions/observations in relation to the application. The issues raised are similar to those set out in the appeals.

4.0 Planning History

Reg. Ref. 13/502 & PL13.242896 – Permission was granted for the demolition of the existing structures on site apart from an ESB substation, construction of a single storey foodstore with off licence with a gross floor area of 1,565m² (net 1,1402). The development includes the erection of one free standing double sided internally illuminated single pole sign at the entrance to the site from the Demesne Road, one single sided pole sign at the entrance to the site from Nash's Lane at Church Street/The Square, one single sided internally illuminated gable sign and one single sided entrance glass sign. 101 car spaces, 8 bicycle spaces and a bus parking space are proposed. Vehicular access will be from The Demesne. The proposed development includes an ESB substation, upgrading of Nash's Lane, landscaping and associated works.

5.0 Policy Context

5.1. Limerick County Development Plan 2010-2016 (as extended)

- 5.1.1. Chapter 10 refers to Development Management Standards
- 5.1.2. Table 10.5 – Car Parking Standards
- 5.1.3. Retail (Class 1)* Offices/ Banks/Financial institutions (Class 2)* (i.e. where services provided principally to visiting members of the public) Core Retail Areas** Any other Area 1 per 50sq.m (gross) 1 per 20sq.m (gross) - Up to 1000 sq.m 1 per 12sq.m (gross) Over 1000 sq.m
- 5.1.4. * See Schedule 2 (Part 4) of the Planning & Development Regulation 2001 ** Core Retail Areas are the town centres (Newcastle West, Abbeyfeale, Kilmallock, Rathkeale, Adare) zoned 'Mixed use' or 'Town centres' in Local Area Plans and the above category shall apply throughout these zones unless otherwise specified in these Local Area plans.
- 5.1.5. The above standards may be relaxed/reduced in the following cases:
- 5.1.6. 1. Where public car parking is available in the vicinity of the development which is adequate both to serve the development and to perform its original purpose, or where such parking provision is proposed.

- 5.1.7. 2. Where adequate on-street parking is available and is likely to be available in the foreseeable future and where the car parking activity associated with the development is not likely to give rise to a loss of amenity or to traffic congestion.
- 5.1.8. 3. Where on the particular planning merits of the case, it would be unreasonable to require full provision. The merits depend on the development type and on its context. Requirements are relaxed for commercial uses in core retail areas as taken into account in the above table. In addition, requirements for extra car parking spaces can be relaxed for certain land uses, cinemas for instance, when there are extensive periods that they would not be in operation, and in accordance with local spare capacity. The ability to share spaces with other uses should be taken into account in estimating the quantity of extra spaces required over existing and committed provision. The layout of parking and the control of the developer or the Local Authority over the use of these spaces will also be very important.
- 5.1.9. Either one of the following preconditions shall apply to the reduction in the requirement to provide car parking spaces in situ:
- 5.1.10. A: Where public car parking facilities have been provided or are to be provided which facilitate the development, in these cases, the Planning Authority will require the payment of a contribution towards the provision and management of such car-parking spaces. The amount of the contribution will be related to the size and the nature of the development. Or B: Reductions in requirement where they are justified through a mobility management plan which demonstrates that there is, or will be, a real shift to sustainable travel patterns such as public transport, walking and cycling generated by the proposed development, and existing in the area as affected by the proposed development.

5.2. **Newcastle West Local Area Plan 2014-2020 (as extended)**

5.2.1. Zoning

- 5.2.2. The site is located on lands that are zoned 'Town Centre'. The purpose of this zoning is to protect and enhance the character of Newcastle West's town centre and to provide for and improve retailing, residential, commercial office, cultural and other uses appropriate to the town centre while guiding the development of a consolidated

town centre area. Any proposed retail development shall be in accordance with the provisions of the Retail Strategy for the Mid-West Region, 2010-2016

5.3. Natural Heritage Designations

- None Relevant

5.4. Environmental Impact Assessment - Preliminary Examination

- 5.4.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

Third party appeals were received from (1) Philip Ryan and (2) U-Store Cabins Limited. The issues raised are as follows;

(1) Philip Ryan

- It is submitted that the proposed reduction in car parking spaces will have a detrimental impact upon the town centre area of Newcastle West.
- The appellant strongly disagrees with the Traffic and Car Parking assessment produced by TPS M Moran & reduction in car parking spaces from 101 no. spaces to 81 no. spaces will not impact on both the customers using the car parking and the surrounding traffic flows.
- The appellant states that they are a customer of the supermarket and that particularly during the Christmas period and during other holiday celebrations throughout the year that the car park is often near capacity. During these times customers would be required to circle the car park to wait for a space to become available.

- The appellant considers that the findings of the Traffic and Car Parking assessment are flawed based on when the surveying was carried out. The three days that the car park surveys were undertaken were Thursday 11th March 2021, Friday 12th March and Saturday 13th March 2021. This was during Covid-19 restrictions.
- The appellant states that due to the restrictions this led to a lower volume of use of the car park. Therefore, the appellant considers that the surveys carried out as part of the Traffic and Car Parking assessment cannot be taken as an accurate reflection of pre Covid-19 use of the Aldi supermarket car park.
- It is stated that the car park each day reaches approximately 70% capacity.
- The availability of car parking and traffic were significant concerns among locals when the application for the development of the supermarket was originally made. It is submitted that if the reduction in car parking is permitted then it would likely raise the original concerns which the local had in respect of the original application.
- It is stated that the reduction in car parking spaces could negatively impact the area in terms of the improvement of pedestrian facilities and the reduction of congestion in the town.
- The appellant questions why after four years of operation is it now proposed to reduce the number of car parking spaces. It is stated that there has been no community engagement by Aldi in relation to the proposed reduction of car parking.
- It is suggested that the applicant should provide a six month report detailing the usage of the car park including one peak shopping season.

(2) U-Store Cabins

- It is stated that the development of the Aldi Store encroached on part of the appellant's lands. The lands are indicated on Figure 2 of the appeal. It is stated that the development which took place on these included 22 no. car

parking spaces and a raised footpath leading from the town square to the retail store.

- The appellant stated that following surveying carried out last year it was confirmed that the land's detailed above were in their ownership. They brought the matter to the attention of Aldi Stores (Ireland) Ltd. and in response Aldi erected bollards blocking access to the car parking spaces. Limerick City and County Council served an enforcement notice to Aldi to remove the bollards. Aldi Stores (Ireland) Ltd. then approached the appellant Aldi Stores (Ireland) Ltd. to purchase the lands containing the car parking spaces and footpath. Negotiations were ongoing when the application was made to revise the car parking serving the Aldi supermarket.
- The site area on which the original permission was granted was 0.93 hectares the site area has been reduced to 0.56 hectares. It is stated that the application should have been made for the retention of the retail store on a reduced site with amendments to the car parking.
- The proposed development would result in the loss of the footpath leading from the town centre to the site from Nash's Lane.
- It is submitted that the applicant does not have sufficient legal interest to carry out the development of the footpath as proposed.
- Concern is expressed as to how the proposed development would function and integrate with the use of land in the vicinity and specifically the appellant's lands. It is stated that no consultation took place between the applicant and the appellant regarding the proposals for car parking or the existing footpath and lighting.
- In relation to the matter of the applicant having sufficient legal interest to carry out the proposed development the appellant states that the applicant may not be able to provide the proposed footpath.
- Should the Board decide to grant permission the appellant suggests that a condition be included putting a time limit on the completion of the footpath. It is also suggested that a proviso be included that in the event that the footpath could not be built that the use of the supermarket would cease.

- It is submitted that the Planning Authority in their assessment of the application relied upon the applicant's car parking assessment report and the development plan figures and therefore the proposal will result in inadequate car parking.
- The survey of the car parking was carried out on the 11th and 13th of March 2021 which was during the stage in the Covid 19 pandemic when people were required to limit activities outside of home.
- It is stated that the Council are considering reducing the car parking in the square in the town. Any reduction in this car parking would impact general availability of car parking in the area.
- In relation to table 10.5 of the Development Plan, it is stated that the car parking standards are minimum figures. It is stated that the survey carried out indicates that the demand for parking is well in excess of the Development Plan minimum figures.
- It is noted that there is no bus service within the town and that the catchment is primarily served by private car. It is considered that most shoppers in the Aldi store buy in bulk. It is noted that there is no public car park in the vicinity.
- It is submitted that the proposal would result in inadequate pedestrian access. The access route from Nash's Lane is highlighted as providing access to the Aldi store from the town square. The existing footpath which provides this access is located on the appellant's lands. The matter of the footpath was raised by the Planning Authority in the further information request.
- The appellant notes that the Planning Authority granted permission with the inclusion of condition no. 2. The implementation of the condition would result in 22 no. car parking spaces being surrounded by raised footpaths with no vehicular access to the spaces. It would also reduce the width of the access road within the car park which would result in cars using spaces 56-74 requiring to manoeuvre onto the pedestrian strip. The appellant states that they would have no input onto the aspects of the development which are required to be agreed.

- If the development were carried out as proposed, it would result in inadequate pedestrian and vehicular separation on an important pedestrian route from the town square. It is considered if carried out the proposed development would reduce the roadway width and result in inadequate manoeuvring space for vehicles in the Aldi car park. It would also result in the 22 no. spaces on the appellants lands having no means of vehicular access as a raised footpath is to be provided to all sides.
- It is considered that the proposed development would not be in accordance with the proper planning and sustainable development of the area.

6.2. Applicant Response

A response to the third party appeals has been submitted by John Spain Associates Planning and Development Consultants on behalf of the applicant Aldi Stores Limited. The issues raised are as follows;

- It is highlighted that a number of issues raised in the appeals are not matters for consideration under the Planning and Development Act 2000, as amended.
- Regarding the nature of the application, the subject application has a reduced area when compared with the permitted scheme under Reg. Ref. 13.502. The public notices correctly describe the nature and extent of the development which is a reduction in the number of car parking spaces to serve the Aldi supermarket from 101 no. to 81 no.
- The proposed reduction in car parking does not result in an intensification of use or impact any adjoining property.
- Bollards were erected by Aldi to prevent access of the 22 no. spaces as stated in the appeal submitted by U-Store Cabins Limited. Following the issuing of the enforcement notice by Limerick City and County Council which required that the bollards be removed, the bollards were removed and the notice was therefore complied with.

- Regarding the matter of inadequacy of car parking which was raised in both the appeals, it is submitted that two sets of traffic surveys have demonstrated that there will be sufficient parking available to serve the Aldi supermarket.
- A second survey was conducted in October 2021 in response to the appeals.
- It is highlighted that Limerick County Council in their assessment of the proposal found that 'the store will operate with car parking spaces in excess of the requirements of the plan' and therefore they were satisfied with the proposed reduction in car parking.
- To clarify following the proposed reduction 22no. spaces will be segregated from the Aldi carpark. The removal of the bus parking bay which is unused and its replacement with 2 no. new car parking spaces will result in a net loss of 20no. spaces. Therefore, a total of 81no. spaces will be provided.
- With the provision of the proposed line marked pedestrian walkway at the eastern boundary of the site 80 no. spaces would remain on site as 1 no. space would be required to be removed to facilitate this.
- Should the Board share the concerns of the appellant regarding the line-marked walkway and agree with the suggestion to extend the existing path adjacent to the store the car parking space would remain.
- For further clarity the 81no. space includes the existing 'setdown' space includes an existing 'setdown' space located at the north of the store. The space in practice is used as a parking space.
- The appeal submitted by U-Store Cabins Limited refers to the proposed marked walkway to the east of the site. There are numerous examples of such walkways in car parks around the country. The car park is an environment where vehicles and pedestrians share the space.
- The appeal submitted by U-Store Cabins Limited raised concern that Aldi Store Ireland had legal rights to construct a footpath as required by condition no. 2(c) which relates to the provision of a raised footpath in the location of the marked pedestrian walkway. Should the Board have concerns regarding this matter an alternative solution is available and could be conditioned.

- A drawing prepared by Deady Gahan Architects has been submitted as part of the appeal response. It illustrates a proposed extension of the existing footpath which runs adjacent to the store building. This will facilitate pedestrian access for customers through the site to Nash's Lane.
- Therefore, should the Board share the concerns of the appellant the first party request that the Board attach a condition requiring a footpath link provided as indicated on Drawing 19193/FI/003 FI-2.
- Furthermore, in response to the matter it is stated that Aldi Stores (Ireland) Ltd are under no obligations to provide a public footpath through the site. It is noted that a footpath could be provided to the west of the store adjacent to 'The Square' Road.
- In conclusion, it is submitted that the appeal submitted by U-Store Cabins Ltd. raises a large number of non-planning matters that will be addressed outside the remit of the Planning and Development Act 2000(as amended).
- It is further concluded that the details submitted with the application and the appeal response demonstrate that the existing Aldi Store can operate efficiently and effectively with the proposed reduction in car parking spaces.

6.3. Planning Authority Response

- None received

6.4. Further Responses

(1) A further response was received from Philip Ryan. The issues raised are as follows;

- In relation to the Traffic Survey prepared by TPS M Moran & Associates it is stated that the survey appears to be at odds with the reality on the ground. The survey results state that the car park is never occupied by more than 80 cars and that the average use is closer to 60 spaces being used at the one time.
- TPS state that the surveys carried out in March and October 2021 are robust and identify the existing car park has ample capacity. The appellant states

that he strongly disagrees with this and considers that due to the lack of public transport and partly rural catchment of Newcastle West that there is significantly higher use of cars in the area than other urban locations.

- The appellant states that he considers that the survey carried out by TPS is not accurate as he disputes the figures provided based on his own analysis of car parking he carried out on the 23rd of October 2021. He states that he observed 93no. cars parked in the car park at 12.45pm on Saturday 23rd of October 2021.
- In relation to the matter of pedestrian access it is stated that the proposed pedestrian route through the car park as detailed in the appeal response is an improvement on the previously proposed surfaced walkway.
- The existing pavement to be removed has a width of 2m. The Planning Authority conditioned a new segregated walkway of 2m be provided. The existing segregated walkway which runs parallel to the store has a width of 1.6m and bollards are located along the outside part of the walkway. It is stated that the walkway is too narrow to allow two people to walk side by side while someone can safely pass without stepping out onto the path of vehicles.
- The proposed pedestrian layout would require people to walk 26m in a shared space. The proposed design does not appear to give pedestrian priority.
- The appellant does not consider that the examples of pedestrian accesses provided at other Aldi premises detailed in the report from TPS M Moran & Associates are directly comparable to the site at Newcastle West.
- The appellant states that he considers that the layout proposed is substandard. He recommends that the existing walkway along the store is extended to create a raised segregated walkway 2m wide between the wall of the store and the inside edge of the bollards.
- A raised segregated walkway should be maintained and it could be provided by installing a raised footpath through parking spaces no. 48, 49 and 50. It is stated that two zebra crossings could be provided within the car park. The appellant notes that there would be issues with providing those design elements.

(2) A further response was received from U-Store Cabins Ltd. The issues raised are as follows;

- The submission reiterates the assertion of the appellant that the applicant does not have sufficient legal interest to carry out the development as originally proposed or as required by the Planning Authority by condition.
- The site where the Aldi is located is part of the designated 'Opportunity area 6- Nash backlands, the Square & Castle Demesne' in Newcastle West Local Area Plan 2014-2020 (as extended). The opportunity site is identified as having the potential for 'reinforcing the use, function and character of the town centre'. It is stated in the LAP that the development of the area will require the provision of 'substantial car parking to serve the development, town centre and visitors.
- The Aldi store has been developed on the southern portion of the lands however other lands within Opportunity area 6 remain to be developed. It is highlighted that it is important that adequate car parking is available to serve the redevelopment of the area.
- It is considered that the reduction in car parking at the Aldi site would be a retrograde step in this context.
- It is stated in section 2.3 of the report prepared by TPS M Moran & Associates that the Aldi car park is adequate to serve the Aldi Customers but also those who link their Aldi trip to visits to the town centre. It is further stated in the report that these activities do not impact on the operation of the Aldi store and can be considered a reflecting this town centre parking location.
- The appellant considers that this multi-purpose function is reasonable as people link other activities with their shopping trips.
- TPS M Moran & Associates state that the surveys carried out on Thursday 6th October 2021, Friday 7th October 2021 and Saturday 8th October 2021 show that the reduced number of spaces can accommodate the car parking which would be generated.
- The appellant states that the low figures from the surveys would not correlate with their own knowledge of the situation being an adjoining landowner.

- The appellant states that they took ariel photographs of the car park on Saturday 30th November 2021 at 11.51am and on Sunday 31st November at 1.01pm. They state that the car park was effectively full on the Saturday at 11.51am and that the car park was less full on Sunday at 1.10pm with 66 no. cars in the car park. Therefore, the appellant states that they cannot understand how the applicant maintains that the reduction in car spaces is warranted.
- In relation to the matter of pedestrian access, part (f) of Objective ED 4 in the Newcastle West Local Area Plan 2014-2020 (as extended) is cited. The objective includes measures aimed at 'improving conditions for pedestrians.'
- Opportunity area 6- Nash backlands, the Square & Castle Demesne as detailed in the LAP is noted by the appellant. They state that pedestrian linkage with the town centre is an important aspect of the development potential of the site.
- Under the subject application the pedestrian access proposed is a resin strip bonded onto the road located behind parking spaces and removed from lighting.
- The appellant notes the example of other Aldi premises where the sharing of carriageway space occurred as detailed in the submission from TPS M Moran & Associates. The appellant considers that the examples provided including the premises at Castlebar and the distribution centre at Michelstown are not comparable to the site at Newcastle West.
- The alternative proposals provided with the appeal response as indicated on drawing no: 19193/FI/003 are noted. The appellant has strong concerns in relation to the proposal as a raised and segregated pedestrian path is not proposed. The footpath and pedestrian crossing point are located at one of the two access points to the car park. Therefore, persons using the pathway would have to manoeuvre across two roads close to the junction where vehicles are moving around a one way system.
- It is noted that the proposed pedestrian access would be required to pass behind three car parking spaces. The proposal would direct all pedestrian traffic from the south onto the walkway that runs parallel with the east facing

front of the store. The existing walkway contains bollards and the effective width is 1.1m. Concern is expressed that it does not provide sufficient width for two persons to pass.

- It is stated that the appellant has a right of way over all the roadway and that the provision of the resin footpath or the extension of the footpath could not be carried out without their consent.

7.0 Assessment

The main issues in this appeal are raised in the grounds of appeal. Appropriate Assessment also needs to be addressed. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Car parking and pedestrian access
- Other issues
- Appropriate Assessment

7.1. Carparking and pedestrian access

- 7.1.1. The proposal entails the reduction of 20 no. car parking spaces from 101 no. to 81 no. in the car park. The existing Aldi supermarket was granted permission under Reg. Ref. Reg.13/502. The permitted supermarket had a gross floor area of 1,565m² is served by 101 no. car spaces with vehicular access from the Demesne.
- 7.1.2. The third party appeals both raised concerns in relation to the proposed reduction in car parking. Table 10.5 of the Limerick County Development Plan 2010-2016 (as extended) refers to Vehicle Parking Requirements. In relation to retail class 1 in core retail areas which includes town centre locations and Newcastle West is included in this, 1 car parking space per 50sq m gross floor area for development is required. The Aldi supermarket has a gross floor area of 1,565sq m. Therefore, this would equate to a requirement of 31 no. car parking spaces.
- 7.1.3. The applicant employed TPS M Moran & Associates to provide a Car Parking Assessment Report which was submitted with application. The report set out that the existing car park contains 101 no. customer parking spaces of which 9 are parent and child, 5 are for non-able bodied customers and there is 1 setdown space. As

part of the compilation of the report, TPS conducted all day traffic, parking and accumulation surveys. The survey were carried out on Thursday 11th March 2021, Friday 12th March 2021 and Saturday 13th of March 2021. As detailed in the report TPS state that the results of the survey confirm that the provision of customer parking proposed is sufficient to accommodate the hourly and daily parking demands.

- 7.1.4. The Planning Authority in their assessment of the application sought further information on a number of matters. I note that they did not have any specific issues with the car parking survey carried out or the conclusion of the Car Parking Assessment Report. The appellants both raised concerns that the surveys were carried out when the Government Covid 19 restrictions were in place which limited public travel. In response to this a second survey was conducted by the TPS M Moran & Associates in October 2021. This formed part of the Traffic Report prepared as part of the response to the third party appeals.
- 7.1.5. The surveys were carried out on Thursday 7th October 2021, Friday 8th October 2021 and Saturday 9th October 2021. The surveying indicates that the maximum car parking accumulation was during the time period 10.00-11.00 on Thursday 7th when 80 were recorded. On Friday 8th the maximum car parking accumulation was during the time periods 11.00-12.00 and 14.00-15.00 which was 52. On Saturday 9th October the maximum accumulation was during the time period 13.00-14.00 which was recorded as 60. It is set out in the report that the sales in the store were identified as being lower during the October survey period than the period of surveying during March 2021. It is stated in the report that the findings of the surveys conducted in March 2021 can be considered as worst case assessments.
- 7.1.6. The further responses from the appellants have queried the findings of the surveys carried out in October 2021. The appellant Philip Ryan submitted a number of photographs which are stated as being taken on Saturday 23rd October 2021 between 12.38pm and 12.54pm. While I note this submission, it does not provide a representative parking survey given the limited time frame when it was carried out. The appellant U-Store Cabins submitted two ariel photographs of the subject car park. It is stated that the first photograph was taken at 11.51am on Saturday 30th October 2021 and the second was taken at 1.01pm on Sunday 31st October 2021.

While I note this submission it does not provide a representative parking survey given the limited time frame when it was undertaken.

- 7.1.7. Therefore, having regard to the findings of the car parking surveys conducted in March 2021 and October 2021 by TPS M Moran & Associates which were conducted over three day periods in both months, I am satisfied that the applicant has demonstrated that the subject car park with the number of car parking spaces reduced by 20 no. spaces from 101 no. spaces to 81 no. spaces can accommodate the traffic generated by the Aldi store.
- 7.1.8. The existing pedestrian access on the site comprises a footpath to the front along the Demesne. There is a marked walkway at the vehicular entrance with textile paving at the edge of the pavement and the crossing. There is an existing crossing at the north-eastern side of the supermarket to access the footpath which runs parallel to the existing parking spaces no. 80-101 along the eastern side of the site. There is a footpath along the eastern side of the supermarket which has bollards with reflective bands.
- 7.1.9. The pedestrian layout as originally proposed under the current application did not include a pedestrian footpath or walkway along the eastern side of the site to link pedestrian access to Nash's Lane. As part of the further information the Planning Authority required that the applicant submit revised proposal for the provision of pedestrian connectivity through the site to Nash's Lane. In response to the matter the applicant submitted a revised Site Layout Plan, Drawing no. 19193/FI/003 which indicated a walkway along the eastern site boundary. The walkway design comprises a cold applied 3mm resin bonded to tarmac and to be coloured. It is indicated as joining the footpath to the south-eastern corner of the site. The Planning Authority in their assessment of the further information response stated that there was no objection to the principle of the development however condition no. 2 of the permission required some revisions to the proposed layout which included that a pedestrian walkway at the same level of road was not permitted and that a new footpath was required to be constructed with a minimum width of 2m and raised with a kerb height of 125mm.
- 7.1.10. In relation to the pedestrian access within the site it is stated in the applicant's response to the appeals that should the Board have concerns in respect of the

proposed marked walkway along the eastern site boundary than an alternative proposal is provided. As detailed on drawing no: 19193/FI/003 FI-2 it is alternatively proposed to extend the existing footpath which runs adjacent to the store building to facilitate pedestrian access for Aldi customers. As detailed on the drawing an extension of the footpath would be provided with a section of walkway to be provided with the installation of cold applied 3mm resin bonded coloured surface to the tarmac with walk symbols applied. The section of walkway would extend for circa 21m between the existing footpath to the east of the store and existing footpath at the south-eastern corner of the site.

- 7.1.11. The third party appellants have both raised concerns in respect of the proposed pedestrian access within the site. In the further response from the appellant Philip Ryan he states that the proposed pedestrian route through the car park as detailed in the appeal response is an improvement on the previously proposed surfaced walkway. However, the appellant had concerns in relation to the width of the existing footpath running along the eastern side of the store. He considers that a raised segregated walkway should be maintained, and it could be provided by installing a raised footpath through parking spaces no. 48, 49 and 50.
- 7.1.12. In relation to the proposals for pedestrian access the appellant U-Store Cabins Limited considers that if the development were carried out as proposed, it would result in inadequate pedestrian and vehicular separation on an important pedestrian route from the town square. The appellant has expressed concern that if the proposal is granted permission and it is required that a raised footpath is install along the eastern side of the site as required under condition no. 2 by the Planning Authority that it would also result in the 22 no. spaces on the appellants lands having no means of vehicular access as a raised footpath is to be provided to all sides.
- 7.1.13. The layout as originally proposed did not provide a footpath or walkway along the eastern side of the site. The applicant submits that the proposed use of a walkway within the car parking is a design element which has been used at other Aldi premises around the Country. It is the preference of the Planning Authority that a raised and segregated footpath be installed along the eastern side of the site to provide pedestrian connectivity to Nash's Lane.

7.1.14. I note the various design responses to the matter. In relation to the proposal to provide a walkway along the eastern boundary of the site, this would extend for over 64m and would run alongside the existing parking spaces located outside the redline site boundary. While the provision of the walkway would facilitate access to the parking spaces immediately to the east of the site the provision of a walkway of that length would not in my opinion be a preferable design solution. In relation to the requirement of the Planning Authority as detailed in condition no. 2 that a new 2m wide footpath be constructed along the eastern side of the site while this would provide separation between vehicles and pedestrians and provide pedestrian connectivity between the supermarket and Nash's Lane it would result in the narrowing of the car park aisle along the eastern side of the car park to 4m which would reduce the area that cars could use to manoeuvre into and out of spaces. The provision of such a footpath would also curtail access to the existing row of car parking spaces immediately to the east of the site. Accordingly, I do not consider that this is an appropriate design response to the matter.

7.1.15. The alternative proposal is provided by the applicant as detailed on drawing no: 19193/FI/003 FI-2 to extend the existing footpath which runs adjacent to the store building by provide a section of walkway to facilitate pedestrian access to Nash's Lane does in my opinion provide the best design option. This layout provides pedestrian access between the store and Nash's Lane and would involve the provision of a more limited section of walkway at circa 21m. While I would note that the existing footpath along the east of the store is not 2m in width, it is raised and separated from the vehicular area of the car park by bollards.

7.1.16. Accordingly, should the Board decide to grant permission I would recommend that it be conditioned that pedestrian layout as proposed by the applicant in their appeals response submitted to the Board on 19th of October 2021 be implemented.

7.2. Other issues

Sufficient legal interest

7.2.1. The third party appeal submitted by U-Store Cabins Limited questions whether the applicant has sufficient legal interest to carry out the proposal, specifically the construction of a footpath along the eastern boundary of the site. The appellant also

raised the fact they have a right of way over all the roadway and that the provision of the resin footpath or the extension of the footpath could not be carried out without their consent.

- 7.2.2. In response to the matter the first party stated that are not matters for consideration under the Planning and Development Act 2000, as amended. I note that the extent of the proposals under the current application relate solely to lands within the redline site boundary which are within the ownership of the applicant Aldi Stores Limited.
- 7.2.3. Accordingly, I would note that these matters raised by the appellant relate to Civil Law, I consider it is outside the remit of the Board to determine legal interests and/or obligations held by the applicant, in relation to such lands.
- 7.2.4. The Planning and Development Act 2000, as amended, requires that the applicants have sufficient legal interests in the lands to carry out the development. Furthermore, I note that it is not within the remit of the Board to determine legal interests and/or obligations held by the applicant, in relation to such lands. Section 34(13) of the Planning and Development Act, 2000, as amended, relates as follows: "A person shall not be entitled solely by reason of a permission or approval under this section to carry out a development." This subsection makes it clear that the grant of permission does not relieve the grantee of the necessity of obtaining any other permits or licences which statutes or regulations or common law may necessitate."
- 7.2.5. Accordingly, I do not consider that these matters are reasonable and substantive grounds for refusal of the proposed development.

7.3. **Appropriate Assessment**

- 7.3.1. Having regard to the nature and scale of the proposal, the nature of the receiving environment, and the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposal would 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. It is recommended that permission be granted subject to conditions for the reasons and consideration set out below.

9.0 Reasons and Considerations

Having regard to the zoning objective for the site and the policies and objectives of the Limerick County Development Plan 2010-2016 (as extended) and the Newcastle West Local Area Plan 2014-2020 (as extended), it is considered, subject to the conditions set out below, that the proposed development would be acceptable in terms of visual amenity and traffic safety and pedestrian 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 9th day of August 2021 and as amended by the further plans and particular received by An Bord Pleanála on the 19th day of October 2021, 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. The proposed layout of the car parking including junctions, parking areas, footpaths, kerbs and public lighting shall be in accordance with the detailed standards of the planning authority for such works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

3. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

Siobhan Carroll
Planning Inspector

31st March 2022