



An
Bord
Pleanála

Inspector's Report ABP 312106-21

Development	Change of use of convenience shop to include a part off-license.
Location	Westbourne Daybreak Limited, 60 College Road, Cork City.
Planning Authority	Cork City Council.
Planning Authority Reg. Ref.	21/40493
Applicant(s)	Westbourne Daybreak Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Westbourne Daybreak Limited
Observer(s)	None
Date of Site Inspection	04 th July 2022
Inspector	Brendan Coyne

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
4.0 Planning History.....	7
5.0 Policy and Context.....	9
5.1. Development Plan.....	9
5.2. Natural Heritage Designations	10
5.3. EIA Screening	Error! Bookmark not defined.
6.0 The Appeal	10
6.1. Grounds of Appeal	10
6.2. Applicant Response	Error! Bookmark not defined.
6.3. Planning Authority Response	15
7.0 Assessment.....	15
8.0 Recommendation.....	19
9.0 Reasons and Considerations.....	19
10.0 Conditions	20

1.0 Site Location and Description

1.1. The site (0.37 ha) is located on the southern side of College Road, on a junction with Highfield Avenue, in Cork City. The site contains a 2.5-storey premise comprising a convenience retail unit at ground floor level, a café and a residential unit on the second floor, and a third-floor residential unit. The retail unit fronts onto College Road and contains a retail area, deli serving area, freezer room, office and store. A recessed external forecourt area to the front of the premises contains two picnic benches. A laneway leading to Wellington Avenue adjoins the eastern boundary. Neighbouring development east of the site along College Road and south along Highfield Avenue and Wellington Avenue is residential. University College Cork campus is located opposite the site to the north. Bon Secours Hospital is located c. 170m to the west, on the northern side of College Road.

2.0 Proposed Development

2.1. Permission is sought for the following (as described in the public notices);

- Change of use of the existing convenience shop to include part off-licence use.
- The floor area of the off-licence is 14.5 sq.m.
- Associated works.

2.1.1. Revised proposal as submitted on appeal to An Bord Pleanála on the 03rd December 2021.

The revised proposal, as submitted on appeal to An Bord Pleanála, comprises the following:

- Internal relocation and reconfiguration of the alcohol sales and display area.
- The total footprint of the space dedicated to alcohol sales and associated circulation is 8.8 sq.m.
- The area for the display of alcohol is 4.2 sq.m.

3.0 Planning Authority Decision

3.1. Decision

Cork City Council REFUSED permission for the proposed development. The reason for refusal was as follows;

Having regard to the amenities of the nearby residents at this location, it is considered that the proposed off-licence would lead to an increase and exacerbation of noise, litter and general disturbance. The proposed development would be contrary to paragraph 16.94 of the Cork City Development Plan 2015 - 2021 and would adversely affect the residential amenity in the area and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

The planner's report is consistent with the decision of the Planning Authority and can be summarised as follows:

- The site is zoned 'Z.O. 11 Local Centres', with the objective 'to protect, provide for and improve the retail function of local centres and provide a focus for local services'.
- The site lies within the U.C.C./College Road and Magazine Road Architectural Conservation Area.
- The site is located in a mature residential area immediately south of University College Cork.
- Paragraph 16.94 of the Cork City Development Plan 2015-2021 states that off-licences in the city's commercial areas (i.e. the city centre, district, neighbourhood and local centres) provide a valuable local commercial service.
- The Development Plan states that off-licenses will only be considered in areas outside the city centre and district, neighbourhood and local centres where they fall outside the catchments of existing or proposed local or neighbourhood centres.

This implies that zoned commercial areas, including local centres, are the preferred locations for off-licences.

- The Cork City Development Plan states that the proportion of off-licences within local centres should not be disproportionate to the number of units but states that the number and control of off-licences will primarily be a licensing issue.
- The consideration of proposals for off-licences should have regard to the amenities of nearby residents, including noise, general disturbance, hours of operation and litter.
- A key element of the planning application submitted under P.A. Ref. 15/36597 was the proposed change of use of 6 sq.m. of the existing retail space for off-licence sales.
- An extract from the planning assessment under P.A. Ref. 15/36597 is provided, as follows;

However as outlined in my original report on file I do have concerns regarding the appropriateness of the off license in this location given the documented evidence of the level of nuisance caused and erosion of residential amenity in the general area as a result of anti-social behaviour (see attached media reports). If permitted in this location the off license would support on-street drinking and anti-social behaviour in the rented properties throughout the immediate area. The need to support a balanced residential neighbourhood is considered a valid planning objective in this instance.

- Condition No. 2 under P.A. Ref. 15/36597 required that '*No permission is granted for the change of use of the retail area to off licence on foot of this grant of permission.*'
- Although zoned as a Local Centre, the area is not a historical centre and not of the scale of established village centres elsewhere in the city.
- The question of impact on residential amenities must be carefully considered.
- The proposed off-licence could lead to increased anti-social behaviour both on the street and in the surrounding houses, which have become increasingly used as rental property over time.

- The increased use of residential properties as rented accommodation has negatively impacted local residential amenities in terms of noise and general disturbance.
- The general physical appearance of the area has severely degraded with poorly maintained properties and littering.
- There are two picnic tables outside the shop, which appear to be permanently outside. These, in conjunction with an off-licence, could lead to persons gathering once alcohol has been purchased and, by default, cause associated noise and littering, which is not in keeping with the objectives for this A.C.A.
- The proposal seeks permission for a change of use to an even larger off-licence area of 14.sq.m.
- The previously proposed 6 sq.m change of use from retail to off-licence was deemed unacceptable and was not permitted under P.A. Ref. 15/35957. Significant anti-social behaviour, noise and littering in the vicinity adversely affected residents at that time. Since then, several more serious reports of ongoing anti-social behaviour and issues relating to noise and littering have been reported.
- Website links provided to several reports dated 2018 - 2021, highlighting the ongoing issues since the application submitted under P.A. Ref. 15/35957 (refer to the Planning Authority report).
- The negative residential issues have progressed to the point where residents are requesting the formation of a national strategic team to assist in addressing them.
- The adverse residential issues still exist.
- The previously proposed 6 sq.m off-license was deemed unsuitable due to nuisance, noise, and littering concerns that would negatively impact neighbouring residents.
- Reference to an additional note made by the Senior Planner on the planning report under P.A. Ref. 15/36597 as follows:

As a general point, I would consider that matters relating to the control of off-licenses and anti-social behaviour are primarily for the licensing laws and the

Gardai rather than the planning code. I would, however, consider that it is relevant to this case given:

- *The degree to which anti-social behaviour is an issue in the area (much more than in other areas of the city),*
- *The nature of the nuisance (midweek associated with students) within an established residential area,*
- *The extent of local community opposition, and*
- *The fact that the County Development Plan specifically identifies that the amenities of residents is a consideration for off-licence planning applications.*

On balance, given the nature and extent of nuisance prevalent and county development plan provisions, I consider the Condition appropriate.

- An even larger off-licence is not in the interest of residential amenities in this area and should be refused permission.
- Recommendation: Refuse Permission

3.2.2. Other Technical Reports

Development Contributions Report: €0 Development Contributions.

4.0 Planning History

P.A. Ref. 15/36597 Permission sought for the change of use from a permitted retail use to retail use, including the sale of alcohol for consumption off the premises (i.e. off-licence use), where the floor area for the off-licence use is 6 sq.m. and is restricted within the overall unit and is ancillary to the primary retail use. Permission also sought for the retention of a chilled freezer unit (6.3 sq.m.), storage cabin (14.7sq.m.) to the south of existing premises, the relocated window in the south elevation, gates to the west elevation, awning and signage to the north elevation, and for non-permitted internal alterations which include, change of use of residential to retail, to extend shop area and conversion of toilet to store at ground level, the extended food preparation area at first floor in place of W.C.

Permission was GRANTED subject to Conditions. Of note, Condition No. 2 required the following:

2. No permission is granted for the change of use of the retail area to off licence on foot of this grant of permission.

Reason: To clarify the extent of this permission and having regard to the need to safeguard existing residential amenity.

P.A. Ref. 07/31852 permission GRANTED in 2007 for a change of use of a first-floor apartment granted permission under T.P. 04/28769 to a cafe.

P.A. Ref. 05/30079 Permission REFUSED in 2005 for a ground floor change of use from residential (2 bedroom apartment) to retail, to extend the existing shop, to extend the residential unit on the first floor and provide new entrance gates fronting Highfield Avenue. The proposed change of use on the ground floor would result in the loss of one apartment and an increase in the total floor area of the retail unit to approximately 129.2 sq.m., excluding the storage areas provided to the rear of the shop. The reason for refusal was as follows:

'Having regard to the City Council development objective to restrict the conversion of housing stock to commercial uses in suburban area, the location of the site at a busy junction, the extent of intensification proposed as well as the resulted loss of amenity space, it is considered, by reason of its nature and scale, the proposed development would seriously injure the amenities of property in the vicinity and would result in the diminution of the amenity value of the permitted development on site. Therefore the proposed development would be contrary to the proper planning and sustainable development of the area.'

P.A. Ref. 04/28769 and ABP Ref. P.L. 28. 211699 Permission GRANTED ON APPEAL in 2005 for the construction of 4 no. two-storey terraced houses on Highfield Road, to extend the existing shop, to demolish a portion of existing residential and to construct 4 no. apartments on three floors - all at 1, 2 and 3 Westbourne, College Road. Condition 5 omitted the use of the premises as an off licence of a hot food takeaway.

5.0 Policy and Context

5.1. Development Plan

Cork City Council Development Plan 2022-2028 is the statutory plan for the area. The following provisions are considered relevant:

Land Use Zoning: The site is zoned 'ZO 8, Neighbourhood and Local Centres', with the objective 'To protect, provide for or improve local facilities' (Zoning Map 08 and Chapter 12).

Adjacent lands to the east and south are zoned 'ZO 1, Sustainable Residential Neighbourhoods'.

Architectural Conservation Area: The site is located within the University College Cork (U.C.C.), College Road and Magazine Road Architectural Conservation Area.

Section 8.35 Development in Architectural Conservation Areas

Objective 8.23 Development in Architectural Conservation Areas

Section 7.91 Neighbourhood and Local Centres

Objective 7.31 Neighbourhood and Local Centres

To support, promote and protect Neighbourhood and Local Centres which play an important role in the local shopping role for residents and provide a range of essential day to day services and facilities. It is also aimed to support and facilitate the designation of new Neighbourhood and Local Centres where significant additional population growth is planned or where a demonstrable gap in existing provision is identified, subject to the protection of residential amenities of the surrounding area and that they are adequately served by sustainable transport. Proposals should demonstrate the appropriateness of the site by means of a Sequential Test, demonstrate retail impact and provide for a mix of uses appropriate to the scale of the centre.

Objective 7.32 Small Local Shops

To support, promote and protect small local shops including corner shops which provide an important retail service at a local level. Any proposed new local shops should serve a local need only and be of a size and scale which would not be

detrimental to the health of nearby centres defined within the retail hierarchy and subject to the protection of residential amenity.

Section 11.190 Off-Licences

Off-licences provided in the city's designated commercial centres (City Centre, Town, District and Neighbourhood / Local Centres) provide a valuable local commercial service. Off-licences in other locations will only be considered where they fall outside the catchments of existing/proposed centres. Cork City Council will ensure that centres provide a real diversity in retail provision that suits the needs of communities by ensuring that the proportion of off-licences is not disproportionate to the number of units.

However, the number and control of off-licences will primarily be a licensing issue. The consideration of proposals for off-licences will also have regard to the amenities of nearby residents, i.e. noise, general disturbance, hours of operation and litter.

5.2. Relevant Government Policy / Guidelines

Retail Planning Guidelines (2012)

The Architectural Heritage Protection Guidelines (2011)

5.3. Natural Heritage Designations

The nearest Natura 2000 European Site is the Cork Harbour S.P.A. (Site Code: 004030), approx. 4 km southeast of the site.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first-party appeal was received from A.P.S. Consulting Engineers representing the Applicant, Westbourne Daybreak Limited, against the decision made by the Planning Authority to refuse permission for the proposed development. The grounds of appeal are summarised under the headings below;

6.1.2. Zoning & Residential Amenity

- The site is zoned ZO10 Local Centres. Convenience retailing is a conforming use under this zoning.
- The definition of convenience retailing is contained within the *Cork City Development Plan*, and the *Retail Planning Guidelines*, which includes the sale of alcoholic beverages for consumption off the premises.
- The Cork City Development Plan identifies that off-licences in local centres provide a valuable local commercial service.
- There are no other off-licences located within the local centre.
- The proposed change of use to include a part off-licence use within the existing established convenience retail outlet is an appropriate use and conforms to the site's zoning objective.
- The existing convenience shop operates between 7 am and 10:30 pm Monday to Thursday, 7 am and 9 pm on Fridays, 9 am to 7:30 pm on Saturdays, and 9 am to 9 pm on Sundays.
- The off-licence will be operated as part of the existing retail outlet and will be open outside of these hours.
- The hours of operation of the off-licence will be restricted to those permitted under the relevant licensing laws & regulations.
- The location of the proposed display area of alcohol products, as indicated on the drawings submitted, is an unobtrusive position and represents a good balance between complying with the Responsible Retailers of Alcohol in Ireland Code of Practice and relevant licensing laws & regulations.
- The area for sale and display of alcohol products will be provided with CCTV security cameras and will be designed in such a manner that allows it to be closed to customers outside of the permitted hours of operation of the off-licence.
- Regarding the nature and extent of the proposed development, it will not negatively impact the residential amenities of local residents.
- The Applicant understands the legitimate concerns regarding anti-social behaviour in the area and welcomes constructive proposals for dealing with it. However, the

Applicant does not believe the proposal will cause an increase in anti-social behaviour and considers that refusing permission for the proposed development on this basis is an unreasonable burden on them.

6.1.3. Architectural Heritage

- The subject site is an established, previously approved convenience retail outlet.
- There are no changes proposed to the external appearance of the premises.
- The proposal complies with the various policies and guidance concerning development in Architectural Conservation Areas contained in the City Development Plan.

6.1.4. Existing off-licence premises in the area.

- A map is submitted highlighting the other part off-licences and stand-alone off-licences located within 500m of the proposed development.
- Several public houses in the area offer off-license sales to the general public. However, these establishments have been excluded from the area analysis of off-licences because they primarily sell alcohol on the premises.
- There is currently one off-licence located within 500m of the appeal site. This is a part off-licence located at Centra Denroches Cross.
- There are several off-licences located more than 500m from the site in the wider area. Most of these are located outside what would be considered the normal catchment area of the existing shop and are unlikely to serve the immediate local area.
- Given the number of existing off-licences within 500m, the proposed development will not result in the excessive proliferation of such uses, and its overall impact on the wider amenity of the area will be somewhat limited.
- It is not the purpose of the planning system to inhibit competition, preserve existing commercial interests or prevent innovation, and it is not within the remit of the planning system to interfere with competition in the retail sector.

6.1.5. Size of the off-licence

- The proposed off-licence, including associated circulation space, will occupy 8.8 square meters or 9.5% of the net retail floor space.
- The original drawings submitted as part of the local authority planning application indicated that the floor space of the off-licence would be 14.5 square meters.
- The proposed layout of the store and off-licence element has been altered in order to address some of the concerns raised in the objections.
- Due to legal provisions in the Public Alcohol Bill, the area of sale of alcohol is required to be structurally separated from the rest of the store. This results in the inclusion of circulation space within the off-licence area, which is not necessarily used for the display of alcohol products.
- When this circulation space within the off-licence area is excluded, the area of retail sales space dedicated to alcohol sales is 4.2 square meters.
- Given the limited size of the proposed off-licence, the loss of this small proportion of the shop's overall net retail sales area will not significantly affect the shop's ability to continue providing an important convenience retail offer to its existing customers. It is critical to the commercial viability of the Applicant's business that it continues to do so.
- The addition of the off-licence element will offer an additional service to customers within their locality.

6.1.6. Proximity to the University.

- Under the Intoxicating Liquor Act, the sale of alcohol to persons under the age of 18 is restricted.
- In premises that are engaged in mixed trading, it is a requirement that alcohol products must be displayed and sold in a specified area that is structurally separated from the rest of the premises.
- Security requirements concerning the sale and display of alcohol products are covered under the Intoxicating Liquor Act.

- The proximity of the subject site to the university is not a valid justification to restrict the proposed development.

6.1.7. Potential anti-social behaviour, littering and noise.

- The Applicant acknowledges that there have been issues of anti-social behaviour in the area. However, these issues are not related to the Applicant's business.
- It is not the sale of alcohol products in and of itself which causes such issues. Instead, it is the inappropriate and anti-social behaviour sometimes associated with the misuse of such products which can cause disturbance and nuisance.
- There are sufficient laws and powers to control anti-social behaviour, noise and litter. The planning code is not an appropriate mechanism to control such issues.
- There have been continuing issues without the presence of an off-licence in the immediate area. It is unreasonable to inhibit competition and restrict the development of the Applicant's business as a result of anti-social behaviour unrelated to the Applicant's business and as a means to seek to address these issues.
- The assertion that the proposed development, if permitted, would cause a significant increase in anti-social behaviour within the area, which would affect the amenities of local residents, is not persuasive.
- The proposed development is unlikely to give rise to any significant adverse impacts regarding noise, general disturbance or litter.

6.1.8. Traffic / Parking

- The proposal does not give rise to any additional parking requirement.
- Having regard to the modest nature of the proposed development, the proposal will not give rise to a material intensification in terms of trips to and from the shop.
- Any trips to the shop would not solely be for purchasing additional alcoholic products but rather to avail of the wider range of products within the shop.

6.2. Planning Authority Response

6.2.1. The Planning Authority did not respond to the grounds of appeal.

6.3. Observations

6.3.1. None

7.0 Assessment

7.1.1. I have reviewed the proposed development and the correspondence on the file. The main issue for consideration is the reason for refusal, as cited by the Planning Authority. This can be addressed under the heading 'Impact on Residential Amenity'. I am satisfied that all other issues were fully addressed by the Planning Authority and that no other substantive issues arise. The issue for consideration is addressed below.

7.2. Impact on Residential Amenity

7.2.1. The Planning Authority refused permission for the proposed development on the grounds that the proposed off-licence would lead to an increase and exacerbation of noise, litter and general disturbance, would be contrary to Paragraph 16.94 of the Cork City Development Plan 2015 - 2021 and would adversely affect the residential amenity in the area.

7.2.2. The Applicant contests this reason for refusal, as detailed in Section 6.1 above.

7.2.3. Paragraph 16.94 of the (then effective) Cork City Development Plan 2015-2021 referred to 'Off-Licences', and stated the following;

Off licences provided in the city's commercial areas (local, neighbourhood and district centres and the Commercial Core Area) provide a valuable local commercial service. Off licences in other locations will only be considered where they fall outside the catchments of existing / proposed local and neighbourhood centres (Objectives 4.6 & 4.7 in Chapter 4 Retail Strategy). The City Council will ensure that centres provide a real diversity in retail provision that suits the needs of communities by ensuring that the proportion of off licences within local and neighbourhood centres is not disproportionate to the number of units. However, the number and control of off licenses will

primarily be a licensing issue. The consideration of proposals for off-licences will also have regard to the amenities of nearby residents, i.e. noise, general disturbance, hours of operation and litter. The proportion of off licences should therefore not generally exceed 10 per cent of retail units or retail frontage within any local or neighbourhood centre.

- 7.2.4. Since the decision of the Planning Authority to refuse permission for the proposed development on 08th November 2021, the Cork City Development Plan 2022-2028 was adopted by resolution of the Council on 10th June 2022 and took effect from the 8th August 2022. Section 11.190 of the City Development Plan 2022-2028 refers to Off-Licences and states the following;

Off-licences provided in the city's designated commercial centres (City Centre, Town, District and Neighbourhood / Local Centres) provide a valuable local commercial service. Off- licences in other locations will only be considered where they fall outside the catchments of existing/proposed centres. Cork City Council will ensure that centres provide a real diversity in retail provision that suits the needs of communities by ensuring that the proportion of off-licences is not disproportionate to the number of units.

However, the number and control of off-licences will primarily be a licensing issue. The consideration of proposals for off-licences will also have regard to the amenities of nearby residents, i.e. noise, general disturbance, hours of operation and litter.

- 7.2.5. The appeal site is zoned 'ZO 8 Neighbourhood and Local Centres', with the objective 'to protect, provide for or improve local facilities'. As detailed under Chapter 12, Section ZO 8.2 of the Cork City Development Plan 2022-2028, Neighbourhood and Local Centres provide for local convenience shopping. Appendix 1 of the Retail Planning Guidelines (2012) identifies 'convenience goods' as including (inter alia) food, and alcoholic and non-alcoholic beverages. Furthermore, the Glossary of the Cork City Development Plan defines 'convenience retail' as retail goods, including food, alcoholic and non-alcoholic beverages. Having regard to the permitted retail use on the site, I am satisfied that the proposed off-licence ancillary to retail use would be consistent with the established use and, therefore, would not be contrary to the zoning objective of the site.

- 7.2.6. The stated net floor area of the existing retail unit is 93 square metres. The floor area of the proposed off-licence alcohol display area is 4.2 square metres, and the designated circulation area and alcohol display area is 8.8 square metres, as revised with the appeal submission. Given that the net floor area of the existing retail unit is 93 sq.m., the proposed off-licence display area would represent 4.5% of the overall net floor area, or 9.4%, including the designated circulation area serving the proposal. It is my view that the size of the proposed off-licence ancillary is not excessive or disproportionate relative to the existing retail unit.
- 7.2.7. The appeal site is located directly opposite University College Cork (U.C.C.). The revised floor plans submitted with the appeal detail the location of the proposed alcohol display areas. The Applicant states that the area for sale and display of alcohol products will be provided with CCTV security cameras and designed to allow it to be closed to customers outside of the permitted hours of operation of the off-licence. I note that security requirements concerning the sale and display of alcohol products are covered under the Intoxicating Liquor Act. Furthermore, I note that under the Intoxicating Liquor Act, the sale of alcohol to persons under the age of 18 is restricted and that where non-licensed business is carried on in any premises to which an off-licence is attached, it is a requirement that alcohol products must be displayed and sold in a specified area that is structurally separated from the rest of premises. I am satisfied that such provisions would address public order and safety concerns within the premises. I acknowledge the Planning Authority's concerns regarding noise and anti-social behaviour in the surrounding area. However, I am satisfied that concerns regarding noise, intoxication and disorderly conduct in a public place are dealt with under the Criminal Justice (Public Order) Act 1994 (as amended). Furthermore, civil proceedings in relation to anti-social behaviour in households causing significant or persistent impairment of residential amenities are dealt with under the Criminal Justice Act 2006 (as amended). Concerns regarding litter can be dealt with by way of Condition, in the event of a grant of permission.
- 7.2.8. The Applicant details in the grounds of appeal that the existing convenience shop operates between 7 am and 10:30 pm Monday to Thursday, 7 am and 9 pm on Fridays, 9 am to 7:30 pm on Saturdays, and 9 am to 9 pm on Sundays. Furthermore, the Applicant states that the proposed off-licence will be operated as part of the existing retail outlet and will be open outside of these hours. It is my view that this may be a

typographical error and, in any event, can be dealt with by way of a Condition requiring that the off-license use not be operated separately or independently from or outside the hours of opening of the main convenience store use and not after 10.00 pm. The sale and display of alcohol products are restricted to the hours specified under the Intoxicating Liquor Act.

- 7.2.9. The Applicant has submitted a map of off-licences in the vicinity of the appeal site. This map shows only one other off-licence within a radius of 500m of the appeal site. The applicant details that this is a part off-licence at Centra Denroches Cross. The Applicant also acknowledges that several public houses within 500m of the site can offer off-licence sales to members of the public. However, the Applicant puts forward that these public houses should be excluded because they predominately provide alcohol for sale on the premises. Having regard to the location of the premises in a Local Centre (ZO 8 zoned lands), its distance of c. 600 metres from the closet off-licence located at Centra Denroches Cross (to the south-east) and having regard to the modest scale of the proposed off-licence ancillary to convenience retail use, I do not consider that the proposal would result in a proliferation of off-licences / ancillary off-licences at this location. I note that Section 2.5.3 of the Retail Planning Guidelines 2012 recommends that the planning system should not be used to inhibit competition or preserve existing commercial interests.
- 7.2.10. Regarding traffic and parking, the site is located within a 50km/hr speed limit zone and fronts onto a straight stretch of road that is of a good standard in terms of width, alignment and the provision of footpaths on either side. A signalised traffic light pedestrian crossing is located to the front of the premises, across College Road. Pay and Display on-street parking is available along Highfield Avenue. Given the 4.2 sq.m. area for the display of alcohol, I do not consider the proposal would generate a significant increase in traffic or give rise to any additional parking requirement. The proposal would make no changes to the external appearance of the premises. As such, I consider the proposal would not impact the character and visual amenity of the University College Cork (U.C.C.), College Road and Magazine Road Architectural Conservation Area, in which it is located.
- 7.2.11. In conclusion, it is my view that the proposed development would be consistent with the provisions of Objective 7.31 of the Cork City Council Development Plan 2022-2028 regarding Local Centres, Objective 7.32 regarding Small Local Shops and Section

11.190 regarding Off-Licences. Given the context of the site and the scale and nature of the proposed development, I do not consider the proposal would adversely impact the residential amenity of the surrounding area. I recommend, therefore, that the Planning Authority's reason for refusal should not be upheld and that the proposed development be granted permission.

7.3. Appropriate Assessment

- 7.3.1. The nearest Natura 2000 European Site is the Cork Harbour S.P.A. (Site Code: 004030), approx. 4 km south-east of the site. Having regard to limited nature and scale of the proposed development and the nature of the receiving environment and proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that permission be granted, subject to conditions, for the reasons and considerations below.

9.0 Reasons and Considerations

- 9.1. Having regard to the land use zoning and architectural conservation area designation for the site, the established convenience retail use on the site and the nature and extent of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 received by An Bord Pleanála on 03rd December 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the canopy, on the forecourt building or anywhere within the curtilage of the site or adjoining lands under the control of the Applicant, unless authorised by a further grant of planning permission.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>The off-license use shall not be operated separately or independently from or, outside the hours of opening of the main convenience store use and not after 10.00 pm at night.</p> <p>Reason: In the interest of clarity and the amenities of the area.</p>

Brendan Coyne
Planning Inspector

07th September 2022