



An
Bord
Pleanála

Inspector's Report

ABP 322241 25

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| Development | Condition No 10: Change of delivery hours. |
| Location | Clarke Street/Cross Street, Athenry. |
| Planning Authority | Galway County Council |
| Planning Authority Reg. Ref. | 2560038 |
| Applicant(s) | Aldi Stores (Ireland Ltd.) |
| Type of Application | Permission. |
| Planning Authority Decision | Refuse |
| Type of Appeal | First Party |
| Appellant(s) | Aldi Stores (Ireland Ltd.). |
| Observer(s) | None |
| Date of Site Inspection | 4 th June 2025. |
| Inspector | Aisling Dineen |

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Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The site is located to the south of the centre of Athenry and is positioned just southeast of the interconnection point of Cross St., and Clarke St. It is accessed off these streets via a short access road. There are a number of residential dwellings to the north and west of the site. The area to the south of the site accommodates a public car park. The site is well connected to the town centre via pedestrian pathways.
- 1.2. The delivery dock/area is at the northwest end of the existing commercial structure, Aldi.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:

Variation of Condition No 10 of 21/1721. This variation essentially proposes that morning delivery hours would be brought back to 6 am, 7 days per week.

The proposed delivery times are as follows:

Monday to Saturday 6am to 9 pm and Sunday 6 am to 7 pm.

3.0 Planning Authority Decision

3.1. Decision

- 4.0 The planning authority made a decision to refuse permission on the 12th March 2025 for the following reason:

Having regard to the proximity of the subject site to established residential properties, the nature of the proposed development and associated delivery hours proposed, it is considered that the development would significantly impact upon and detract from the existing residential amenity of these properties by reason of noise nuisance and general residential amenity, and therefore if permitted as proposed,

the development would be contrary to the proper planning and sustainable development of the area.

The Chief Executive's decision reflects the planner's report.

4.1. Planning Authority Reports

4.1.1. Planning Reports

- The site at this central location is accessed from both Swan Gate/Old Church Street and Cross Street, contains many long-established residential properties along the northern and western boundaries which would be impacted upon by way of noise nuisance emanating from the lorries/trucks parked within the site at such early hours.
- The requirement for early delivery hours has not been thoroughly justified with no exceptional circumstances outlined.
- The negative impact upon existing residential amenity is not acceptable having regard to the existing permitted 7am delivery start time.
- A push back to 6 am is considered excessive when considering the proximity of residential property adjoining the site.

4.1.2. Other Technical Reports

None

4.2. Prescribed Bodies

None

4.3. Third Party Observations

None

5.0 Planning History

Planning Register Reference No 21/1721 (Parent Permission - Aldi)

For amendments to a permitted discount foodstore (to include off-license use) at Clarke Steet/Cross Street, Athenry Townland, Athenry, Co. Galway (Pl. Ref No: 15/356 & Extended by Pl. Ref. No: 20/41). The amendments comprise the following:

- Reduction in Gross Floor Area of Permitted Store from 1,760 sqm to 1,660 sqm (reduction in Net Retail Area from 1,379 sqm to 1,170 sqm)
- Amendments to permitted car parking layout including the provision of 4 no. EV charging points.
- Amendments to external appearance of proposed development including alterations to elevations, fenestration, and material finishes.
- Provision of 1 no. free-standing illuminated double sided sign, 3 no. gable signs, 1 no. entrance sign and 2 no. wrought iron signs.
- Provision of substation building (GFA: 25.25 sqm)

The application site is located in an Architectural Conservation Area. The parent planning permission (Pl. Ref. No: 15/356) includes for alterations to an existing stone wall forming part of the Athenry House demesne (Protected Structure RPS Reference 131).

Condition No 10 stated the following:

The hours of operation of the discount food store including delivery times shall be between 08.00 hours and 21.00 hours Monday to Saturday, and between 10.30 hours and 19.00 hours on Sunday.

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

Planning Register Reference No 23/60947 (Amendment Application)

Permission for a change of the opening & delivery hours in respect of an existing discount foodstore. The current opening & delivery hours are stipulated by condition no. 10 of an amendment of the parent planning permission (GCC ref: 21/1721). The proposed opening & delivery hours are as follows: - opening hours: Monday to Sunday - 8am to 10pm, - delivery hours: Monday to Saturday – 7am to 9pm & Sunday - 7am to 7pm.

Granted Subject to conditions including Condition No 10, which stipulated the following:

The hours of operation of the discount food store shall be between Opening Hours Monday – Sunday 8am – 10pm Delivery Hours Monday – Saturday 7am – 9pm and Sunday 7am-7pm.

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

PL 245198 (Planning Register Reference No 15/356)

Granted subject to 21 No Conditions, including condition no 9, which stipulated the following:

The hours of operation of the discount food store including delivery shall be between 08.00 hours and 21.00 hours Monday to Saturday and between 10.30 and 17.00 hours on Sunday.

6.0 Policy Context

6.1. Development Plan

Athenry Local Area Plan 2023-2029

The site has the following zoning: C1 Town Centre, where it is an objective to:

Provide for the development and improvement of appropriate town centre uses including retail, commercial, office and civic/community uses and to provide for the "Living over the Shop" scheme Residential accommodation or other ancillary residential accommodation.

ASP 11 Town Centre

- (a) It is a policy objective of Galway County Council that Athenry Town Centre will remain the primary focus for the location of new retail and commercial development. The Planning Authority will ensure that the location of future retail development is consistent with the key policy principles and order of priority as set out in the Guidelines for Planning Authorities: Retail Planning 2012 (and any updated/superseded document) and will require Retail Impact Assessments, including details of the sequential approach and Design

Statements for retail developments in accordance with the Retail Planning Guidelines.

- (b) This plan will also promote the development of commercial and complementary mixed uses, on suitable land that can provide a focal point for the provision of services to the town and opportunities for commercial enterprises, retail developments and employment creation.
- (c) The plan will protect and enhance the vitality and viability of the town centre by ensuring that it remains the primary retail, commercial and mixed-use centre of Athenry and prohibit the proliferation of any individual use or other uses, which in the opinion of the Planning Authority do not contribute to the vitality and viability of the town centre.

Galway County Development Plan 2022 -2028

Chapter 5: Economic, Enterprise and Retail Development

Chapter 15: Development Management Standards

Athenry Town is a recorded monument under SMR GA084-001.

6.2. Natural Heritage Designations

Rahasane Turlough SAC (Site Code 000322) is located c. 7.5 km South of the site.

Rahasane Turlough SPA (Site Code 004089) is located c. 7.5 km South of the site.

6.3. EIA Screening

I note that this proposal would not constitute a project or a class of development and so should be excluded at Pre-Screening, rather than preliminary examination stage, consistent with the findings of Form 1.

7.0 The Appeal

7.1. Grounds of Appeal

- Aldi Stores intends to apply for permission for a variation to Condition 10 of parent Planning Permission Register Reference 21/1721, as amended by

Planning Register Reference 23/60947 in relation to change of delivery hours at Aldi in Athenry.

- The proposed delivery hours are Monday to Saturday 6am to 9 pm and Sunday 6 am to 7 pm.
- A comprehensive Noise Impact Assessment Report (NIAR) has been prepared by MKO Acoustics, which confirms that the amended delivery hours schedule would operate within acceptable noise limits, ensuring that there will be no significant impacts on surrounding residential properties/residential amenity.
- Using standard industry methodologies and accounting for a worst-case scenario, the noise emissions will remain well below prescribed thresholds.
- The NIAR addresses mitigation measures that will ensure compliance with relevant noise regulations. Such measures include the installation of acoustic barriers, operational noise control, and best practice management strategies to minimise any potential disturbance.
- It is submitted that the information submitted addresses the reasons for refusal.

7.2. Applicant Response

Applicant is the appellant.

7.3. Planning Authority Response

No response submitted.

7.4. Observations

None

7.5. Further Responses

None

8.0 Assessment

8.1. Having examined all the application and appeal documentation on file and having regard to the relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and the planning authority's reason and considerations, and I am satisfied that no other substantive issues arise. AA also needs to be considered. The main issues, therefore, are as follows:

- Principle of Development
- Residential Amenity

8.2. Principle of Development

8.3. The site contains an established Aldi food store and is located within the TC zoning of the Athenry Local Area Plan 2023-2029. There is an established commercial use on site and the principle of the proposed development is satisfactory subject to satisfying normal planning and development criteria, such as residential amenity.

8.4. Residential Amenity

The planning authority has noted under the planner's report that the requirement for earlier delivery hours has not been thoroughly justified with no exceptional circumstances outlined. The report also stated that the proposed negative impact upon existing residential amenity is not acceptable having regard to the existing permitted 7am delivery start time. This report also takes account of the established residential dwellings in close proximity to the site.

8.5. The appellant takes issue with the reason for refusal and submits that a specific noise impact assessment has been submitted under the appeal, which finds that the noise emissions will remain below prescribed thresholds and the submission also states that mitigation measures will ensure compliance with relevant noise regulations. Such measures include the installation of acoustic barriers, operational noise control, and best practice management strategies.

- 8.6. I note that the existing permitted opening hours and delivery hours are as follows:
- The hours of operation of the discount food store shall be between
Opening Hours:
Monday to Sunday 8 am – 10pm
 - Delivery Hours
Monday to Saturday 7 am – 9 pm and Sunday 7 am - 7 pm.
- 8.7. I note that the proposed delivery hours are as follows:
- Monday to Saturday 6 am to 9 pm and Sunday 6 am to 7 pm.
- 8.8. Therefore, essentially the difference that the proposed variation aims to accomplish is to bring back the delivery hours from 7 am to 6 am in the mornings, each morning of the week (7 days incl.).
- 8.9. The justification for change in hours under the application cover letter is as follows:
'The change in operating hours is sought to facilitate Aldi in providing more flexibility to its customers in Athenry. The alteration to the delivery hours sought is intended to facilitate Aldi in ensuring that fresh produce can be delivered to the store and be on the shelves for customers when the stores open in the morning'.
- 8.10. Further justification for the increase in opening hours cited under the NIAR refers that the current opening hours are impractical as the delivery is not complete before the store opens. It also states the following: store personnel are required to complete stock checks and serve customers at the same time; insufficient time is available to have stock delivered and fresh produce to the shelves for 0800 hrs; the departing HGV is required to traverse a carpark and town streets with access and safety difficulties and the NIAR also states that the overall reduced efficiency and speed of operation delays onward deliveries.
- 8.11. In order to assess baseline noise levels during the period 0600 hrs to 0700 hrs, a site survey was carried out on the 30.03.25. The baseline soundscape was influenced by sporadic vehicles on the Athenry Rd., slightly audible M6 traffic, birdsong, Aldi refrigeration fans, aircraft, a compressor operation from a nearby service station and 2 x car movements in the Aldi carpark. A baseline level of 45dB was applied to Baseline Noise Station N2, as it was considered to be representative of the baseline soundscape in the rear gardens of Receptors R1 to R8.

- 8.12. The 'Noise Impact Assessment Report' (NIAR) actually states that most noise guidance documents refer that the interval between 6 am to 7 am is comprised of a 'night time period' for the measurement of noise and that the day time period starts at 7 am. The NIAR has identified that the most vulnerable receptors are as follows: 4 No detached dwellings located outside the northeast boundary, 3 No detached dwellings outside the north corner overlooking the Aldi carpark and loading dock, and, a dwelling outside the northwest corner and loading dock. I would concur that the stated noise sensitive receptors are the most vulnerable to a proposed change in deliver hours and I note that the planners report also identified these residences in terms of the assessment of residential amenity.
- 8.13. The NIAR submits that the Adli store presently receives 3 deliveries per day and that the early delivery, which arrives at C. 0700 hrs, is an articulated HGV. It is proposed under this application/appeal to reschedule this morning delivery to 0600 hrs.
- 8.14. The NIAR impact predictions acknowledge that the minimum noise levels over the EPA and WHO guidance will be exceeded at one NSL (noise sensitive location) during interval 1, at the rear upper floor of Receptor 4, but that this exceedance will be marginal. The NIAR also states that this exceedance is also lower than the 3dB threshold (3 dB threshold is the smallest degree of change in noise perceptible by the human ear). The report also refers to both tonal and impulsive noise at receptors and states that tonal noise emissions did not arise at the receptors on the 30.03.25, on the date that the assessment was carried out. It states that impulsive noise emissions such as cab door closure and tailgate closure may give rise to impulsive emissions outside the Aldi site boundary, if undertaken 'roughly' but on the date of the noise assessment as these activities were clearly undertaken in accordance with noise minimisation policy.
- 8.15. Overall, I note that based on the NIAR there is one marginal exceedance above recommended guidelines and the base line noise level at a NSL at Receptor 4. This occurs during Interval 1 and Table 11 of the NIAR describes this as not significant. Given the given the orientation and pattern of development, it is difficult to understand how such impacts, although marginal, would not naturally have some impacts on the flanking properties at receptor numbers 3 and 5 also. It is also noted that impulsive emissions are stated to be possible outside the Aldi site boundary, but these are mitigated by noise minimisation policy.

- 8.16. A number of mitigation measures are proposed under Section 8 of the NIAR. The mitigation measures presented are largely operational and involve compliance with noise minimisation policy on site, on a day-to-day basis.
- 8.17. It is noted that general disturbance issues including the issue of vehicular lights (during the winter months in particular), and general movement and disturbance, are also factors in the consideration of residential amenity.
- 8.18. It is acknowledged that there is a high stone wall on the NW boundary of the site close to the delivery area, which may contribute, to a degree, to the mitigation of nuisance, noise and lights, from the operations at the delivery area. However, I do not consider this wall to be a complete mitigatory factor to noise, and general nuisance to the residences indicated as R6, R7, and R 8 on the NIAR, owing to their proximity to the delivery area.
- 8.19. Overall, I note that the dwelling houses marked as receptors numbers R3, R4 and R5 are only a matter of 37 metres, 31 metres and 38 metres, respectively, from the loading bay. Given the close proximity of these established residential dwellings to the subject commercial development, it is important that the residential amenity of the said properties and properties in the area, is not negatively impacted. Such impacts would also depreciate the value of said houses. Notwithstanding the findings of the NIAR, I am of the viewpoint that deliveries at the early hour of 6 am including general reversing, operational manoeuvres and vehicular lights in such close proximity to adjoining residential development, at such an early hour, would negatively impact on the residential amenity of the adjacent houses, positioned at such a short proximity away from the loading bay.
- 8.20. I also consider that to permit such a change of delivery hours would authorise a very early 'delivery hour' which is categorised as being within 'night time' hours, by various guidance documents, may lead to an undesirable planning precedent in industry for deliveries close to, proximate to, and within residential areas.
- 8.21. Therefore, I concur with the decision of the planning authority and I recommend that permission be refused, for reason of negative impacts on the residential amenity of the established residential properties in the area.

9.0 AA Screening

- 9.1. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

10.0 Recommendation

- 10.1. I recommend that planning permission be refused for the proposed development having regard to the reasons and considerations as set out below.

11.0 Reasons and Considerations

Having regard to the location and nature of the development in close proximity to established residential dwellings, it is considered that the proposed development, notwithstanding the mitigation measures proposed in the Noise Impact Assessment Report, would seriously injure the residential amenities of properties in the vicinity by reason of noise, vehicular lights and general disturbance at an early hour, and would depreciate the value of properties in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Aisling Dineen
Planning Inspector

6th June 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

| | | | |
|--|--|--|--|
| An Bord Pleanála Case Reference | ABP 322241 - 25 | | |
| Proposed Development Summary | Condition No 10: Change of delivery hours. | | |
| Development Address | Clarke Street/Cross Street, Athenry | | |
| 1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings) | Yes | Tick if relevant and proceed to Q2. | |
| | No ✓ | Tick if relevant. No further action required | |
| 2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)? | | | |
| Yes | Tick/or leave blank | State the Class here. | Proceed to Q3. |
| No | Tick or leave blank | | Tick if relevant. No further action required |
| 3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class? | | | |
| Yes | Tick/or leave blank | State the relevant threshold here for the Class of development. | EIA Mandatory EIAR required |
| No | Tick/or leave blank | | Proceed to Q4 |
| 4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]? | | | |
| Yes | Tick/or leave blank | State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold. | Preliminary examination required (Form 2) |

| 5. Has Schedule 7A information been submitted? | | |
|---|---------------------|--|
| No | Tick/or leave blank | Screening determination remains as above (Q1 to Q4) |
| Yes | Tick/or leave blank | Screening Determination required |

Inspector: _____ **Date:** _____