



Inspector's Report

PL-501013-WD-26

Development

Construction of a single storey discount retail store with off-licence use and internal Deposit Return Scheme.

Location

Carrickphierish Road, Ballynamona, Gracedieu, Waterford

Planning Authority

Waterford City and County Council

Planning Authority Reg. Ref.

25/60386

Applicant(s)

Aldi Stores (Ireland) Limited

Type of Application

Permission

Planning Authority Decision

Grant Outline Permission with Conditions

Type of Appeal

First Party Normal Planning Appeal

Appellant(s)

Aldi Stores (Ireland) Limited

Observer(s)

None

Date of Site Inspection

29th May 2026

Inspector

Phillippa Joyce

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1.0 Site Location and Description

- 1.1. The appeal site is located on Carrickphierish Road, Ballynamona, Gracedieu in the northwest of Waterford City. The site is in an outer suburban area of the city which is presently undergoing developmental changes.
- 1.2. The site is greenfield in nature, and part of a larger undeveloped parcel of land (enclosing the site to the east and south). The site is square in configuration and indicated as measuring c.0.9ha.
- 1.3. Serving as the northern boundary of the site is Carrickphierish Road (local primary road, L1524), on the northern side of which are greenfield lands and residential developments under construction/ recently constructed. To the west of the site are the Waterford Educate Together and Gaelscoil na nDeise national schools and Carrickphierish Library. An access road serving the Educate Together school complex is located between the school and site (referred to as Paraid na Bpaisti).
- 1.4. The topography of the site is notable with ground levels decreasing in a southerly direction across the site from Carrickphierish Road.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - a single storey discount retail store with off licence use and internal deposit return scheme (DRS) unit (c.1,934 sqm gross floor area, c.1,367 sqm net retail floor area).
 - car parking (85 spaces) and loading bay, 18 no. cycle parking spaces in 2 no. cycle parking shelters, with vehicular and pedestrian access from Carrickphierish Road.
 - internally illuminated signage (c.13.8sqm at all elevations of the building [4 no. external gable signs and 1 no. glazing sign], c.12.58sqm at double sided pole sign c.5.4 metres in height at vehicle entrance), external plant, single storey ESB substation and switch room (c.21.7sqm), and PV panels at roof level.

- all associated works including landscaping (with detention strip bridge at southern perimeter), lighting and boundary treatments, and connections to public water services networks.

2.2. During the assessment of the application, Further Information (FI) was requested by the planning authority (see section 3.0 below for details). In response to the FI request, the applicant revised the proposed development.

2.3. For the Commission's clarity, my assessment (as contained in the sections of this report below) has had regard to the initially lodged plans and particulars as amended by those associated with the FI response.

3.0 Planning Authority Decision

3.1. Summary of Decision

3.1.1. The application was lodged with the planning authority on 30th May 2025. On 22nd July 2025, the planning authority requested Further Information (FI), which the applicant responded to on 30th January 2026. On 26th February 2026, the planning authority issued a Notification of Decision to Grant Permission for the proposed development subject to 16 conditions.

3.2. Planning Authority Reports

3.2.1. Planner's Report

Initial Assessment

The planner's report includes an assessment of the proposed development under the following headed items:

- Principle of Development
- Consent
- Retail
- Access and parking
- Bin Storage
- Bicycle Storage

- Archaeology
- Services
- Boundary Treatments
- Landscaping
- Ecology Lighting
- Environment Section
- Flood Risk Assessment
- Development Contributions

The majority of the headed items were assessed as being acceptable. The initial assessment concludes with a recommendation that FI be requested from the applicant.

Further Information Assessment

A FI request issued to the applicant on six items including:

- i. Engineering items (access and surface water).
- ii. Archaeology (Archaeological Impact Assessment).
- iii. Parking (car and cycle provision and standards).
- iv. Inclusion of a bring centre (glass and metal packaging).
- v. Biodiversity (Biodiversity Enhancement Plan), and
- vi. Boundary treatment (replace post and rail fence with wall and metal railings).

Key revisions made to the proposed development in the FI response include:

- Inclusion of a bring centre (located in west of site layout).
- Minor amendments to/ clarifications on surface water drainage proposals.
- Minor increase provision of EV parking spaces from 9 no. to 10. No. spaces.
- Minor change to boundary treatment on southern and parts of the eastern and western boundaries.

On assessment of the FI response, the planning authority found the responses to be satisfactory. The planning authority undertook screenings in respect of EIA, and the

Habitats and Water Framework Directives, screening out the need for each respective assessment.

Recommendation

The planning authority states regard was had to the nature of the development, the zoning provisions, and type of development in the vicinity of the site. It is concluded that the proposal would be in accordance with the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

District Engineer, Metropolitan Area: FI requested. No subsequent FI response report (written). Planning officer's report refers to the FI response being reviewed and details accepted by same.

Heritage Officer: FI requested. Subsequent report, no objection subject to condition.

Environment: No objection subject to condition.

3.2.3. Planning Conditions

The planning authority's Notification of Decision to Grant Permission for the proposed development is subject to 16 conditions. These arise from the technical reports, and there are both bespoke and standard conditions.

Due to the nature of the appeal, the following conditions are of relevance to the grounds of appeal:

Condition 5

(a) Notwithstanding the exempted development provisions of the Planning & Development Regulations 2001, as amended, or any statutory provision amending or replacing them, signs, symbols, nameplates, emblems or other advertising devices, other than signage permitted as part of this permission, shall not be erected or displayed externally on the site without a prior grant of planning permission.

(b) The proposed totem sign indicated on the site layout submitted at the location of the vehicular and pedestrian entrance to the development at the eastern boundary is expressly omitted from the development by virtue of this condition.

Reason: In the interests of visual amenity.

Condition 8

(a) The developer shall ensure that all construction works on site are carried out in a manner such that noise and dust emissions do not result in significant impairment of, or significant interference with, amenities or the environment beyond the site boundary.

(b) The developer shall ensure that material from the site is not spread or deposited on the roadway and shall maintain the roadway in a clean, tidy and safe condition. Any damage to or interference with the roadside drainage shall be made good without delay at the developer's expense, to the satisfaction of the Local Authority.

Reason: To prevent a noise nuisance or traffic hazard arising from the implementation of the permission.

Condition 9

During the construction phase of the development, Best Practicable Means shall be employed to minimise air blown dust being emitted from the site. This shall include covering skips and slack-heaps, netting of scaffolding, daily washing down of pavements or other public areas, and any other precautions necessary to prevent dust nuisances. There must be compliance with British Standard B.S. 5228 Noise Control on Construction and Open sites.

Reason: In order to safeguard the amenities of surrounding occupiers.

Condition 10

Prior to commencement of onsite development works, a Construction Management Plan shall be submitted to the Planning Authority for its confirmed written agreement. This plan shall provide details of intended construction practice for the development,

including onsite storage arrangements, hours of working, noise management measures, off-site disposal of construction and demolition waste/ material, construction traffic, construction lighting, a scheme for dust and dirt control, road cleaning of access/ egress routes to/from the site, vibration issues, foul and surface water discharges and any other nuisance or significant interference with amenities or the environment beyond the site boundary.

Reason: In the interest of the protection of amenities, the environment and public safety and for the proper planning and sustainable development of the area.

Condition 11

The daily duration of construction works shall be restricted to between 08:00 hours and 18:00 hours on Monday to Friday, 08:30 hours to 13:00 hours Saturday with no works permitted on Sundays and public holidays.

Reason: In the interests of the proper planning and sustainable development of the area.

Condition 12

(a) Prior to the commencement of development, the developer or any agent acting on its behalf shall prepare a Construction and Demolition Resource Waste Management Plan as set out in the Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for C&D Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The Resource Waste Management Plan shall include specific proposals as to how the Resource Waste Management Plan will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The Resource Waste Management Plan shall be submitted to the Planning Authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed Resource Waste Management Plan shall be made available for inspection at the site office at all times.

(b) The developer shall set aside an area to facilitate the provision of a bring centre for the deposit of glass and metal packaging. Details in this regard shall be agreed with the Environment Section, Waterford City & County Council.

(c) The developer shall ensure that any place where waste is to be stored prior to collection is secure, accessible at all times by staff and other authorised personnel and is not accessible by any other person other than an authorised waste collector.

(d) The noise from the development when measured at the nearest noise sensitive location, using the methodology set out in “Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4)” EPA, shall not exceed the following levels

<i>Daytime Noise Criterion, dB LAr,30mins (07:00 to 19:00hrs)</i>	<i>Evening Noise Criterion, dB LAr,30mins (19:00 to 23:00hrs)</i>	<i>Night-time Noise Criterion, dB LAeq,5mins (23:00 to 07:00hrs)</i>
<i>55dB</i>	<i>50dB</i>	<i>45dB</i>

Reason: To protect local amenities and in the interests of the proper planning and sustainable development of the area.

3.3. Prescribed Bodies Submissions

Development Applications Unit, Department of Heritage: FI requested. Subsequent report, no objection subject to condition.

Transport Infrastructure Ireland: No objection subject to condition.

Uisce Eireann: Confirmation of Feasibility report with application. Connections are feasible without infrastructure upgrades.

3.4. Third Party Observations

- 3.4.1. The planning authority indicates two submissions were received; one from Mount Suir Residential Management Company at the initial assessment stage (request to be informed). The second submission is from the principal of the adjacent Waterford

Educate Together national school at the FI response stage (supporting the proposed access onto Carrickphierish Road and strongly opposing any access point onto the access road serving the school (as had been included in the FI request)).

4.0 Planning History

Appeal Site (included within wider landbank)

ABP 316425-23

Confirmation on 15th September 2023 of the planning authority decision to include lands under the control of Kingscroft Developments Limited at Bawndaw and Ballynamona at Carrickphierish Road, Gracedieu in the draft map for the Residential Zone Land Tax.

PA Ref. 22/541

Permission refused to Kingscroft Developments Limited in August 2022 for 96 no. dwellings and childcare facility, with all associated site works.

ABP 308850, PA Ref. 20/660

Invalid first party appeal taken by Kingscroft Developments Limited against the planning authority decision to refuse permission for a mixed-use development on 5.25ha site at Bawndaw and Ballynamona at Carrickphierish Road, Gracedieu.

PA Ref. 10/500168

Permission granted in January 2011 to Leebury Developments Ltd for 10 years for a mixed-use scheme comprising retail, residential, medical and social uses. This permission has expired.

North of Appeal Site

ACP 323010-25, PA Ref. 24/60416

Permission refused to Lidl Ireland GmbH on 30th October 2025 for the construction of a discount food store supermarket with ancillary off-licence and all other associated site works. Permission refused for two reasons.

Firstly, that the proposal would be of insufficient architectural quality on a prominent site, would seriously injure the visual amenities of the area, would militate against an attractive pedestrian environment, and would fail to comply with/ be contrary to several development plan policies (objectives for the regeneration site OPS24: Neighbourhood Centre Carrickphierish, Policy Objective Place 02 and Policy Objective Place 05).

Secondly, that the proposal, a food store/ supermarket use partially located on lands zoned as 'Existing Residential', would conflict with Table 11.1 (Land use Zoning Objectives) and Table 11.2 (Zoning Matrix), and contravene the zoning objectives of the development plan.

5.0 Policy Context

5.1. Local Policy Context

- 5.1.1. Waterford City and County Development Plan 2022-2028 (CCDP) is the applicable development plan for the assessment of the appeal case. The CCDP comprises several volumes including Volume 1: Written Statement, Volume 2: Development Management Standards, Volume 3: Appendices, and Volume 4: Maps.
- 5.1.2. Relevant policy and objectives from Volume 1 include those in Chapters 4 and 8. From Volume 2 are those in Sections 5.0 and 11.0, and from Volume 3 are those in Appendices 8 and 21.
- 5.1.3. The relevant CCDP policy and objectives include:

Volume 1

- **Chapter 4: Economy, Tourism, Education and Retail**
 - Table 4.2: Appropriate Level of Retail Development – for Tier 4 (sic 5) neighbourhood centres as local shopping destinations serving the surrounding hinterland with a limited offer of convenience and comparison goods, and retail and leisure services.

- Objective Retail 02: Retail Hierarchy and Urban Centres

....the type of retail development should be of an adequate level, type, size, scale, and the nature of the floorspace proposed should be appropriate to that centre having regard to the retail hierarchy, the appropriate level of development at each tier of the settlement hierarchy indicated in the development plan and retail planning guidelines...

- **Chapter 8: Placemaking**

- Policy Objective Place 02

Ensure that all development is of high quality design with a focus on placemaking consistent with ...the NPF, and ... the RSES.

- Policy Objective Place 05

Ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, way finding and detailed design.

Volume 2

- **Section 5.0 Non-Residential Development (Volume 2)**

- Policy in Section 5.2 District/ Neighbourhood Centres

... Neighbourhood Centres are intended to cater for the daily shopping and service needs of the immediately surrounding neighbourhood, and will consequently be generally small in scale....

- Policy in Section 5.9 Advertising

.... Council recognises the role of well-located and sympathetically designed advertising, whether attached to a building or free standing, to contribute to the character and vitality of commercial areas, particularly at night. Advertising signs, where permitted, should be simple in design and sympathetic to the surroundings and features of the building on which they will be displayed...

- Development Management DM 20
 - *The size and scale of signs should not conflict with existing structures in the vicinity;*
 - *The size, form, scale, illumination, appearance and its proximity to existing advertising signage avoids the creation of visual clutter and a reduction to the character of the area;*
 - *Large scale commercial advertisement structures are not acceptable on or near buildings of architectural or historical importance, in parks/ open public space, Architectural Conservation Areas and in areas of high amenity, and in residential areas;*
 - *Signs will not be permitted if they compete with road signs or otherwise endanger traffic safety;*
 - *Free standing signs will generally be resisted;*
 - *Signs should not interfere with windows or other façade features or project above the skyline;*
 - *Signs attached to buildings are preferable to those on freestanding hoardings;*
 - *Signs should not exceed 5.4 sqm;*
 - *Digital advertising may be permitted, in certain locations subject to design, size, detail, and level of illumination and the above criteria;*
 - *As with shopfront design, Waterford City & County Council will require commercial interests, especially chain outlets, to restrain the use of their corporate image advertising where these are considered to be too dominant; and,*
 - *Bus and taxi shelters incorporating advertising panels shall be carefully sited and shall not impact on vehicular sightlines or the safe movement of all street/ road users.*

- **Section 11.0 Zoning and Land Use**

Table 11.1 Land Use Zoning Objectives

The site is majority zoned as 'Regeneration RE' which seeks to *'Provide for enterprise and/ or residential led regeneration'*.

A narrow portion of the site along the northern boundary with Carrickphierish Road is zoned as 'Open Space and Recreation OS' which seeks to *'Preserve and provide for open space and recreational amenities'*.

Table 11.2 Zoning Matrix

The 'retail food (supermarket)' land use class is permitted in principle under the Regeneration RE zoning and not permitted under the Open Space and Recreation OS zoning.

Volume 3

- Appendix 8: Landscape and Seascape Character Assessment

Section 4.4(a) Least Sensitive Areas

The site is located within a 'Least Sensitive' Scenic Classification (as per Map A8.3).

...These are areas of concentrated existing development and infrastructure. Appropriate new development in these areas can reinforce the existing desirable landuse patterns. Regard shall be had to site development standards namely density, building lines, height of structures and design standards....

- Appendix 21: Regeneration and Opportunity Sites
 - Policy in General Objective for Regeneration
 - *All new development must be of an appropriate size, scale, character, have high quality public realm, incorporate excellent architectural/ urban design and place-making principles as outlined in Chapter 8 of the Development Plan, Volume 2 Development Management and Appendix 5 – Placemaking Strategy...*
 - *In addition to compliance with other national, regional and local development plan policies and development management standards, all developments on regeneration/ opportunity sites will be required to demonstrate that:*

- 1) *The scale of proposed development is consistent with the class/typology of settlement as set out in the Settlement Strategy;*
 - 2) *The proposal is compatible with the context of the site in terms of character, scale and density;*
 - 3) *The proposal will contribute to the visual and general/residential amenity of the site and its built quality;*
 - 4) *The proposal for any site should be accompanied by a program for developing out the site in terms of access to public water/wastewater, innovative solutions to wastewater such as integrated constructed wetlands and other services along with a completion timeframe; and,*
 - 5) *The proposal will not prejudice the future development of land in its vicinity and the expansion of public amenities or community land uses such as schools.*
- *The vision statement for each opportunity site should be read in conjunction with Policy Objective H05 'Regeneration Policy Objectives'...(as follows) .*
- Policy Objective H05: Regeneration Policy Objectives
- To maximise the efficient use of existing infrastructure and services and promote a positive modal shift towards sustainable transport use, we will facilitate the sustainable, compact, sequential regeneration and redevelopment of urban areas through the appropriate development of identified key infill and brownfield sites as per Table 3.2 and Appendix 21 for a mix of uses appropriate to the location.*
- To assist in this regard, we will carry out a viability assessment for key brownfield sites during the lifetime of the development plan with a view to assisting in delivery of regeneration projects.*
- Development proposals which are not fully consistent with the provisions of the land use zoning matrix (Volume 2 – DM Standards Table 11.2) will be considered on their own merits where it can be demonstrated that the proposed development is consistent with the 'Vision' for the site, and is in*

accordance with the proper planning and sustainable development of the area.

- OPS24: Neighbourhood Centre Carrickphierish (7.29ha)

➤ *Vision*

- *Development on this infill site should provide strong architectural design as a key landmark development for Carrickphierish Neighbourhood.*
- *Create a mixed use medium/ high-density development on both sites with an emphasis on community, neighbourhood scale retail uses, apartments and residential city living;*
- *Any development on this site must provide for adequate open space and facilitate the development of a walkway/ cycle route and green infrastructure links connecting the Carrickphierish Road with the IDA Industrial Estate to the south and surrounding residential developments.*
- *Provide a strong architectural response and be designed to an exceptional standard with a desirable street edge addressing the Carrickphierish Road.*
- *The site has potential to accommodate taller building(s).*

5.2. National Policy Context

Section 28 Ministerial Planning Guidelines

5.2.1. The relevant planning guidelines include the following (my abbreviation in brackets):

- Retail Planning, Guidelines for Planning Authorities, 2012.
- Development Management, Guidelines for Planning Authorities, 2007 (Development Management Guidelines).
 - Section 7.3 outlines the criteria for planning conditions. These include conditions being necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable.

5.3. Natural Heritage Designations

5.3.1. The appeal site is not located in or immediately adjacent to a European Site, a Natural Heritage Area (NHA) or a proposed NHA (pNHA).

5.3.2. The pNHA designations in proximity to the appeal site include:

- Grannyferry pNHA (000833) is c.2.06km to the north.
- Kilbarry Bog pNHA (001700) is c.2.49km to the southeast.

5.3.3. The European site designations in proximity to the appeal site include (measured at closest proximity):

- Lower River Suir SAC (002137) is c.1.07km to the north.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. This is a first party appeal in respect of the decision by Waterford City and County Council to grant permission for the development. The appeal grounds include the following:

Context

- Appeal relates to specific conditions only, these are Conditions 5(b), 9, and 12(d).
- Requests that the appeal is considered under section 139 of the 2000 Planning and Development Act, as amended, with considerations restricted to those named conditions.

Condition 5(b) – Totem Pole Signage

- Requests permission granted for the totem sign as indicated on the Proposed Site Layout Plan (as per FI response stage).
- No adequate justification in the planning authority decision for the omission of the totem signage.
- Reason given 'In the interests of visual amenity' is not applicable/ sufficient.
- Condition is contrary to the proper planning and sustainable development of the site.
- Condition fails to meet the tests for a condition as per the Development Management Guidelines (not necessary, not relevant).

- No assessment of the visual impacts associated with the proposed totem signage in the planning authority decision. Only reference is to its location; at entrance, not at the public road.
- Totem sign stated as being visually integrated with the Aldi store, scaled appropriately and proportionately to the scale of the development, located away from Carrickphierish Road, and is not a safety or traffic hazard in respect of sightlines.
- No issues were raised with the proposed totem sign at FI stage.
- Site is within the CCDP 'Least Sensitive' designation for landscape assessment.
- Proposed development not located within an ACA, not proximate to a protected structure, not along a 'Scenic Route' or 'Protected View'.
- Proposal will not negatively impact the landscape character of the area.
- Submits proposal complies with the requirements of Objective DM 20; responds to several sub-items.
- Complies with site specific requirements of Opportunity Site 24 (OPS24).
- References several examples of permissions for retail, business parks, petrol station developments with totem signage (photographs provided).
- Appeal is accompanied by an Architect's Design Statement outlining appeal grounds.
- Requests that Condition 5(b) be omitted.

Condition 9 – Construction Phase Noise Levels

- Condition 9 relates to the construction phase of the development and refers to 'British Standard B.S. 5228 Noise Control on Construction and Open sites'.
- Applicant accepts the code (full title 'BS 5228 Parts 1 & 2: 2009 + A1: 2014, Code of Practice for Noise and Vibration Control on Construction and Open Sites') is an appropriate standard for assessment of construction noise levels.
- Replicates 'Table E.1: Threshold of Significant Effects at Dwellings' of the code (as Table 4.1). Table includes threshold values (dB) for different

categories (A-C), different times of the day (daytime, evening, night), and week (weekdays, weekends).

- Applicant highlights Category A threshold values may likely be applicable to the construction phase of the proposed development for noise levels at nearest noise sensitive locations (NSLs).
- Closest noise sensitive receptor is a school complex located c.45m to the west (not a residential property).
- Category A threshold represents a more conservative approach to noise limitations compared to Category B and/ or Category C.
- Construction phase noise limits included in Table 4.1 of the code for the evening and nighttime periods (i.e., 19.00-7.00) would not be required for the school as no construction works are permitted therein (as per the stated working hours in Condition 11 of the decision).
- Identifies and refers to another guidance document 'Guidelines for the Treatment of Noise and Vibration in National Road Schemes', TII, 2014.
- Cites 'Table 4.2: Acceptable Levels for Construction' of the guidelines. Table includes ranges of threshold values (dB) for different times of the day (daytime, evening), and week (weekdays, weekends, public holidays).
- Requests clarity regarding the specific noise limits being imposed by Condition 9; suggests wording to be added to the condition, inclusive of a 65 dB noise limit at the nearest NSLs (different times of the day and week) and 70 dB at the nearest commercial premises.
- Appeal is accompanied by a Noise Impact Assessment (NIA) submission outlining the appeal grounds.
- Requests that Condition 9 be amended.

Condition 12(d) – Operation Phase Noise Levels

- Condition 12(d) refers to 'Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4)' EPA'.
- Condition 12(d) includes a table which specifies noise levels from the development that, when measured at the nearest NSLs, shall not be

exceeded. These include threshold values (dBs) at daytime, evening, and nighttime.

- States it is unclear if the condition relates to the construction or operation phases of the development.
- Requests clarity regarding the specific noise limits for the phase being imposed by the condition, i.e., namely the operational phase.
- Highlights that the nighttime noise criterion employs a compliance assessment duration of 5 minutes (LAeq,5mins); described as unusual, inappropriate, and not previously observed by the environmental consultant (author of the NIA submission).
- Highlights use of longer noise assessment durations of 15-30 minutes for nighttime activities; refers to the EPA guidance note and the BS code.
- Requests a longer noise assessment duration for nighttime be applied in Condition 12(d); i.e., LAeq,5mins be revised to LAeq,15-30mins.
- Requests further clarifying text to be added to the condition relating to the avoidance of tonal and impulsive noise.
- Appeal is accompanied by a NIA submission outlining the appeal grounds.
- Requests that Condition 12(d) be amended.

6.2. Planning Authority Response

- 6.2.1. The planning authority has responded to the appeal, stating it considers the conditions as recommended to be attached to the grant of permission are reasonable and that no conditions should be amended in this instance, and that the proposed development was so granted following a detailed and robust assessment which included input from other departments within the Council.

6.3. Observations

- 6.3.1. None.

7.0 Planning Assessment

7.1. Scope of the Appeal

- 7.1.1. In determining the scope of the appeal, it is necessary to consider the provisions of section 139 of the Planning and Development Act 2000, as amended (2000 Act), and the reasons as to why a determination by the Commission of the application in the first instance is not warranted.

Section 139 of the Planning and Development Act 2000, as amended

- 7.1.2. The applicant requests that the Commission considers the appeal in accordance with section 139 of the 2000 Act, the provisions of which the Commission will be familiar with.
- 7.1.3. As the planning authority granted permission for the proposed development, and the first party appeal relates exclusively to three conditions, I consider the appeal satisfies the provisions of section 139(1)(a) and (b).
- 7.1.4. Section 139(1)(c) outlines the course of action to be taken should the Commission be satisfied that the determination of the application as if it had been made to it in the first instance would not be warranted. While I outline the basis for my decision in this subsection below, in short, I am satisfied that in having regard to the nature of the three conditions appealed, such a determination is not warranted.
- 7.1.5. Section 139(1)(c) allows the Commission to give directions to the planning authority, as it considers appropriate *‘relating to the attachment, amendment or removal by that authority either of the condition or conditions to which the appeal relates or of other conditions’*.
- 7.1.6. In undertaking the determination of this appeal case, I confirm to the Commission that, as specified by section 139(2)(a), I have restricted my consideration to the matters to which regard is to be had (i.e., those specified in section 34(2)(a) of the 2000 Act (including an appropriate assessment of the proposed development on European sites)).
- 7.1.7. For this appeal case, these matters predominantly relate to the policy context formed by the development plan and section 28 guidelines (relevant provisions are cited in section 5.0 of this report above).
- 7.1.8. In respect of section 139(2)(b), there are no grants of permissions with terms that are relevant to the determination of this appeal case. Conversely, there is a planning

history of refusals of permission at and in the vicinity of the appeal site (see section 4.0 Planning History of this report above). As relevant, these are discussed below.

- 7.1.9. Finally, in respect of the proposed development, I have carried out screening exercises for environmental impact assessment (EIA), appropriate assessment (AA), and water status impact assessment (WSIA). These are presented in sections 8.0, 9.0, and 10.0 of this report below.

7.2. Determination of the Application in the First Instance

- 7.2.1. Section 139(1)(c) requires that the Commission must be satisfied that a determination of the application by it in the first instance is not warranted. In achieving such satisfaction, I identify the following items as material, and discuss each below:

- the nature of the conditions to which the appeal relates,
- the planning authority decision,
- the other conditions attached to the grant of permission,
- the nature of third-party involvement in the appeal case, and
- the extent of compliance with applicable local and national policy.

Nature of the Conditions

- 7.2.2. The applicant has appealed three planning conditions (cited in full in section 3.0 above). The first condition (Condition 5(b)) omits a totem sign from the proposed development. The other two conditions (Conditions 9 and 12(d)) relate to construction and operational phase noise levels.
- 7.2.3. I consider that the appealed conditions are not material in nature, that being, these conditions relate to a minor component of the scheme, and to processes. Condition 9 related to the construction phase is temporary in nature and duration. While the other conditions would have implications on the operational (occupation) phase of the proposal, the conditions do not materially amend or revise the proposal in a manner/ to such an extent that results in a significant change to the scheme or the final layout of same.

Planning Authority Decision

- 7.2.4. From a review of the case file, the proposed development has been subject to several stages of assessment. The applicant and planning authority undertook preplanning consultations, the proposal was subject to a FI request and response process, a range of environmental screening processes, and there are conditions attached to the grant of permission to manage its implementation and operation.
- 7.2.5. In its assessment (initial and FI response), the planning authority found the development to be in accordance with, as applicable to the issue, development plan policy and provisions (no material contraventions are identified), and national policy and planning guidelines requirements. This is in respect of the following:
- Principle of development (e.g., zoning and use class).
 - Qualitative features (e.g., placemaking, design and layout, buildings' external finishes, soft and hard landscaping).
 - Quantitative metrics (e.g., car and cycle parking provision).
 - Impacts on the receiving environment (e.g., biodiversity, archaeology, traffic and transportation, water services and utilities).
- 7.2.6. Further, I note that the internal sections of the planning authority and the prescribed bodies indicate satisfaction with and no objection to the proposed development.

Other Conditions attached to the Grant of Permission

- 7.2.7. Of the conditions attached to the grant of permission, I have reviewed the remaining conditions which are not subject of this appeal. I find these to be a mix of bespoke and standard conditions, a number arising from the requirements of the internal sections.
- 7.2.8. The basis or reasons for the conditions include addressing the requirements of the development plan, for public health and safety, safeguarding the amenities of the area, and proper planning and sustainable development. I consider that the conditions attached to the grant of permission are acceptable and would address all planning considerations that would be reasonably anticipated were a determination of the application to be undertaken by the Commission in the first instance (and were the decision to result in a grant of permission).

Nature of Third-Party Involvement in the Appeal Case

- 7.2.9. There are no third-party appellants against the planning authority decision, or observations on the appeal.

Compliance with Applicable Local and National Policy

- 7.2.10. For the most part, I concur with the planning authority's positive assessment of the proposed development. From a review of the application and appeal documentation, I consider that the applicant has demonstrated the proposed development complies with local development plan and national planning guidelines requirements. This is particularly in respect of the retail planning strategy, the urban/ settlement type tiers, and scale of retail provision permissible therein.
- 7.2.11. Of relevance to the appeal case, is the planning history decision for ACP 323010-25, PA Ref. 24/60416. In this decision, the Commission refused permission for a similar form of development on lands to the north of the appeal site. On review of both cases, I consider there to be material differences between the proposals (e.g., extent of 'Regeneration RE' zoning, site characteristics, and the design, layout, and finishes of the building, boundaries and landscaping).
- 7.2.12. From my assessment of the appeal case, I consider that the proposed development complies with the policy objectives cited by the Commission in its decision to refuse ACP 323010-25, PA Ref. 24/60416. These include Policy Objective Place 02, Policy Objective Place 05, the Vision for opportunity site OPS24: Neighbourhood Centre Carrickphierish, Table 11.1 Land Use Zoning Objectives, Table 11.2 Zoning Matrix, and Policy Objective H05 (I consider that the flexibility allowed for in this objective (in respect of zoning and use class) is applicable in assessing the vehicular entrance serving the proposal being sited across lands zoned 'Open Space and Recreation OS').

Conclusion

- 7.2.13. In conclusion, due to the nature of the conditions to which the appeal relates, the positive assessment of the proposal by the planning authority and prescribed bodies, the scope of the other conditions, the nature of third-party involvement in the appeal case, and the extent of compliance with applicable local and national policy, I recommend that the determination by the Commission of the application as if it had been made to it in the first instance would not be warranted.

7.3. Condition 5 – Signage

- 7.3.1. Condition 5 relates to signage associated with the proposed development. Condition 5(a) removes the signage provisions available by way of exempted development, and Condition 5(b) omits the proposed totem sign from the scheme.

Appeal Grounds

- 7.3.2. The appeal grounds relate to Condition 5(b) and the omission of the totem signage from the proposal. The applicant states that no adequate justification has been provided for the sign's removal and that no assessment of the visual impacts of the sign has been undertaken in the planning authority decision. It is submitted that the condition does not meet the test for conditions outlined in the Development Management Guidelines, the signage complies with applicable development plan policy (Objective DM 20, design requirements of OPS24), and there is planning precedent for similar signage elsewhere.
- 7.3.3. The applicant requests that Condition 5(b) be omitted.

Nature of Signage

- 7.3.4. The proposed development includes six internally illuminated signs; four wall mounted signs (c.1.6m x 1.7m) on the north (front), east and west elevations of the building, one glazing sign (c.1.2m x 1.4m) on the window of the south (rear) elevation, and the freestanding totem sign (c.2.1m x 2.4m). The totem structure (overall height c.5.4m) supports the main sign mounted at the top, under which is a panel for opening hours (as per Proposed Signage Details: Dwg No.: 22152/P/010).
- 7.3.5. The totem sign is located in a landscaped area in the eastern portion of the site. The sign is in close proximity to the entrance to the store, surface car parking area, and internal access road (as per FI response, Proposed Site Layout Plan: Dwg No.: 22152/P/004, and images in the Architectural Design Statement of the applicant's appeal submission).

Visual Impact

- 7.3.6. In respect of the wall and window mounted signage, I consider these to be well within acceptable parameters for signage serving a commercial operation, and do not anticipate any undue visual impacts, particularly when regard is had to the scale of the building and the proportion of signage to wall and glazing.

- 7.3.7. In respect of the totem sign, I note that it is located over c.50m from the public road within the site, adjacent to the east of the proposed building (east elevation dimensions including c.33.m in depth, heights varying from c.5.9m to c.8m) with intervening hard and soft landscaped screening. In this context, I consider the nature and scale of the totem sign to be acceptable and to be a relatively minor component of the development. I do not consider that the site is vulnerable to new developments within its built environment, and I find the totem sign would not injure the visual amenities of the area.
- 7.3.8. I have reviewed the planning authority decision, and I agree with the applicant that the opposition to the totem sign is not overtly evident in the planning officer's report. Nor is there an assessment and finding of adverse visual impacts arising from same, such that would serve as the basis for Condition 5(b) and justify omitting the totem sign from the proposal.
- 7.3.9. I note the applicant's Architectural Design Statement (submitted as part of the appeal), finding the design and external finishes of the proposal, including the signage, to be a high quality. I also note the totem sign serves wayfinding and information purposes. I accept the examples of other similar signs elsewhere in the city and permitted to the applicant as planning precedents for the proposed totem.

Policy Context

- 7.3.10. In respect of the policy context for determining the condition, I note the site is within a 'least sensitive' landscape character and there are no built heritage designations applicable to the site.
- 7.3.11. Key development plan policies and objectives applicable to the appeal include those in Section 5.9 Advertising, Development Management DM 20, and OPS24: Neighbourhood Centre Carrickphierish Vision (cited in Section 5.0 of this report above).
- 7.3.12. In respect of policy in Section 5.9 Advertising, I consider the proposed signage (including the totem sign) complies with same by being streamlined in design, subservient to the main building, well-located within the site, and will contribute to the character of this newly forming mixed-use neighbourhood centre.

- 7.3.13. In respect of the provisions of Development Management 20, I consider that the number, size, scale, and siting of the proposed signs do not conflict with any existing structures, avoid creating visual clutter, do not injure the character of the area, are not large-scale nor in open space or a residential area, do not interfere with windows, architectural features, or project above roof level, do not compete with road signs or endanger traffic safety (including the totem sign which is set back well within the site), do not exceed 5.4sqm, are suitable for illumination, represent a restrained use of the applicant's corporate image, and are not overly dominant. I note that the DM standard indicates preferences for mounted signs over freestanding signs, however for the reasons outlined above, I consider that the proposed totem is acceptable in this instance.
- 7.3.14. In respect of the relevant provisions of OPS24: Neighbourhood Centre Carrickphierish, I consider the proposed signage is part of a strong architectural design response at the site, is designed to a high standard and finish, and performs a supporting role to the main building creating a desirable street edge addressing the public road.
- 7.3.15. Finally, of the appeal ground that Condition 5(b) fails to meet the condition test included for in the Development Management Guidelines, I agree with the applicant. I find that the condition is not necessary as I do not anticipate any adverse impact on the visual amenities of the area which would justify its continued attachment to a grant of permission. I also find the condition be unreasonable as I consider the proposed signage complies with applicable development plan policy and that precedents for similar development are established in other comparable scenarios.

Conclusion

- 7.3.16. In conclusion, having regard to the above, I recommend that Condition 5 be amended to remove the reference to sub-items (a) and (b), and to remove sub-item (b) in its entirety.

- 7.3.17. I recommend that Condition 5 read as follows:

Condition 5

Notwithstanding the exempted development provisions of the Planning & Development Regulations 2001, as amended, or any statutory provision amending or

replacing them, signs, symbols, nameplates, emblems or other advertising devices, other than signage permitted as part of this permission, shall not be erected or displayed externally on the site without a prior grant of planning permission.

Reason: In the interests of visual amenity.

7.4. Condition 9 – Construction Phase Noise Compliance

- 7.4.1. Condition 9 relates to construction phase activities (dust nuisance) and noise compliance. The condition requires that '[t]here must be compliance with British Standard B.S. 5228 Noise Control on Construction and Open sites'. The reason given for the condition is in order to safeguard the amenities of surrounding occupiers.

Appeal Grounds

- 7.4.2. In the appeal grounds, the applicant outlines that the construction phase noise levels which may be applied to the proposed development from the BS code are those for Category A (most sensitive receptors). The applicant submits these are among the most conservative. The applicant identifies construction phase noise levels for the other categories in the BS code (Categories B and C), and for activities from other guidance documents (TII publication).
- 7.4.3. The applicant requests clarity on the specific noise limits being imposed by Condition 9, and that the condition be amended to include specific noise levels at different times of the day and week for different receptors (sensitive (i.e., school/ residence) and commercial).

Nature of Condition 9

- 7.4.4. Condition 9 relates to dust creating activities during the construction phase of the development. The condition lists several activities, and then generally states that noise levels are to comply with the BS code.
- 7.4.5. In the first instance, I highlight to the Commission that I have considered the nature of Condition 9, with regard to the requirements of Section 7.3 of the Development Management Guide
- 7.4.6. lines relating to the criteria of conditions, and whether the condition is necessary and/ or relevant.

- 7.4.7. I consider there to be a notable degree of overlap/ similarities between Condition 8 and Condition 10 of the grant of permission (cited in section 3.0 of this report above). Condition 8(a) refers to noise and dust emissions during construction works and Condition 10 requires the preparation of a Construction Management Plan, which shall include, inter alia, noise management measures.
- 7.4.8. On balance, due to the generality of references in Condition 8(a) and Condition 10 to noise management, and the different reasons cited for the three conditions, I am satisfied that Condition 9 is necessary, relevant, and reasonable. I agree in principle with the attachment of a construction phase noise-specifying condition such as Condition 9.

Applicable Noise Levels

- 7.4.9. As highlighted above, Condition 9 lists several dust creating construction activities, but generally states noise levels are to comply with the BS code. I concur with the applicant that there is a lack of clarity regarding the specific noise limits being imposed by Condition 9.
- 7.4.10. Condition 9 refers to the 'BS 5228 Parts 1 & 2: 2009 + A1: 2014, Code of Practice for Noise and Vibration Control on Construction and Open Sites' (full title). I have reviewed this BS code and note Table E.1: Threshold of Significant Effects at Dwellings (pg., 119). The table includes threshold noise values (dB) for different categories (A-C), different times of the day (daytime, evening, nighttime), and week (weekdays, evenings, weekends, Saturday (part of)).
- 7.4.11. The BS code guides that, in practice, the ambient noise level determined, rounded to the nearest 5 dB, and then compared with the site noise level. If the site noise level exceeds the appropriate category value, then a potential significant effect is indicated. As highlighted by the applicant, Category A is the most conservative with a noise threshold value of 45 dB at nighttime (23.00-7.00) and of 65 dB during daytime (7.00-19.00) and Saturday (7.00-13.00). The equivalent noise threshold values for Category B at nighttime is 50 dB and 70 dB for the daytime.
- 7.4.12. The applicant requests that additional text be added to Condition 9 to clarify the noise limits being set. The requested text specifies the noise thresholds for different times of the day and week as measured at the nearest NSLs and at the nearest commercial premises. The text reads as follows:

‘The noise from the construction phase of the development, when measured at the nearest noise sensitive location, shall not exceed the following levels:

- 65 dB LAeq,1hr, Mon-Fri (08.00-18.00hrs) and Sat (08.30- 13.00 hrs) at the nearest NSLs;*
- 70 dB LAeq,1hr, Mon-Fri (08.00-18.00hrs) and Sat (08.30-13.00 hrs) at the nearest commercial premises’.*

7.4.13. I note two items in the appeal grounds which I consider material in justifying the inclusion of the above text. Firstly, the threshold values in the BS code are applicable to dwellings (the closest residences are c.150m-c.170m from the site boundaries), while the closest sensitive receptor to the proposal is the Educate Together school complex (c.48m to the west). Secondly, Condition 11 of the grant of permission conditions the construction hours to 08:00-18:00 Monday to Friday, 08:30-13:00 hours Saturday, with no works permitted on Sundays and public holidays.

7.4.14. While the school complex is a noise sensitive receptor, the periods of disturbance from construction phase noise (times of the day, days of week, months during the year) would differ to/ be less than those experienced by residential properties. Further, the BS code uses different time periods for daytime and Saturdays (and also refers to evenings and weekends) than those construction phase working hours permitted in Condition 11.

7.4.15. From a review of the case file, I have not identified the basis for the condition (i.e., it is not a recommended condition from a technical section report). The appeal response from the planning authority is general in nature and does not respond to the appeal grounds per se.

7.4.16. In the interests of completeness, I have reviewed An Coimisiún Pleanála model noise conditions (e.g., the Construction Environmental Management Plan) and note the reference to the BS code and specification of noise threshold limit values.

7.4.17. Due to the generality in Condition 9 of the reference to compliance with the BS code, the nature of the receiving area, and for the avoidance of doubt and/ or conflict with the requirements of Condition 11, I consider the applicant’s request to amend Condition 9 to be acceptable.

7.4.18. I consider that the additional text allows for greater clarity (including the use of a 1 hour measurement period/ assessment duration (i.e. LAeq,1hr) for construction phase activities as per Table E.2 of the BS code (pg., 121), is more specific/ responsive to the proposal, and would not diminish the noise protections afforded to NSLs in applying the threshold values in Category A of the BS code.

Policy Context

7.4.19. For the Commission's clarity, I have not identified any development plan objective or national planning guideline policy to which the Commission is required to implement or have regard to which would require Condition 9 to remain as is.

Conclusion

7.4.20. In conclusion, having regard to the above I recommend that Condition 9 be amended into sub-items (a) and (b) to ensure more appropriate conditioning (i.e., activities, noise management), to refer to the full title of the BS code, to clarify the noise limits being imposed on activities during the construction phase of the development.

7.4.21. I recommend that Condition 9 read as follows:

Condition 9

(a) During the construction phase of the development, best practicable means shall be employed to minimise air blown dust being emitted from the site. This shall include covering skips and slack-heaps, netting of scaffolding, daily washing down of pavements or other public areas, and any other precautions necessary to prevent dust nuisances.

(b) During the construction phase of the development, there shall be compliance with 'BS 5228 Parts 1 & 2: 2009 + A1: 2014, Code of Practice for Noise and Vibration Control on Construction and Open Sites'.

The noise levels shall not exceed the following thresholds:

- 65 dB LAeq,1hr, Mon-Fri (08.00-18.00hrs) and Sat (08.30-13.00 hrs) at the nearest noise sensitive locations.*
- 70 dB LAeq,1hr, Mon-Fri (08.00-18.00hrs) and Sat (08.30-13.00 hrs) at the nearest commercial premises.*

Reason: In order to safeguard the amenities of surrounding occupiers.

7.5. Condition 12 – Environmental Management

- 7.5.1. Condition 12 relates to environmental management at the proposed development. The condition has four sub-items (a)-(d). The reason given for the condition is to protect local amenities and in the interests of the proper planning and sustainable development of the area.

Appeal Grounds

- 7.5.2. The appeal grounds relate to Condition 12(d) which specifies the maximum noise levels permissible from the proposed development as measured at the nearest noise sensitive location. The nearest noise sensitive receptor is identified by the applicant as the Educate Together national school c.45m to the west of the site.
- 7.5.3. The applicant states it is unclear which phase of development the condition relates to (construction or operation phase), disputes the use of a 5 minute assessment duration for the nighttime criterion, requests a longer measurement period be used (i.e., 15 and/ or 30 minute), and requests text be added relating to tonal and impulsive noise.

Phases of Development

- 7.5.4. I consider Condition 12 relates to environmental management (i.e., of waste and noise) at both the construction and operational phases of the proposal. Sub-item (a) requires a Construction and Demolition Resource Waste Management Plan (i.e., construction phase). Sub-item (b) requires an area be set aside in the scheme for a bring centre (details to be agreed) and sub-item (c) specifies the access arrangements for same (i.e., operational phase).
- 7.5.5. Condition 12(d) relates to noise levels emanating from the proposed development but does not specify or give an indication as to which phase the noise restrictions relate. I concur with the applicant regarding the lack of clarity as to which phase of development Condition 12(d) applies.
- 7.5.6. Notwithstanding, I consider it is likely that the condition relates to operation phase noise. This is based on the clearer nature of other conditions in the grant of permission, and also on the sequence of Condition 12(d) after sub-items (b) and (c) which relate to the bring centre.

- 7.5.7. In the FI response, the applicant indicated the provision of a bring centre along the western site boundary (as per Proposed Site Layout Plan: Dwg No.: 22152/P/004). There was no subsequent report from the Environment Section, and this location was noted in the planning authority report.
- 7.5.8. I consider a condition managing noise levels from the proposed development, which would also apply to the operation of the bring centre, to be necessary, relevant and reasonable. I agree in principle with the attachment of an operational phase noise-specifying condition such as Condition 12(d).

Measurement Period for Noise Levels at Nighttime

- 7.5.9. Condition 12(d) sets the noise levels which shall not be exceeded during specific time periods during the day. These are cited in the following table.

<i>Daytime Noise Criterion, dB LAr,30mins (07:00 to 19:00hrs)</i>	<i>Evening Noise Criterion, dB LAr,30mins (19:00 to 23:00hrs)</i>	<i>Night-time Noise Criterion, dB LAeq,5mins (23:00 to 07:00hrs)</i>
<i>55dB</i>	<i>50dB</i>	<i>45dB</i>

- 7.5.10. Condition 12(d) refers to the ‘Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4)’ EPA’. I have reviewed this guidance document and note ‘Table 1: Recommended Noise Limit Criteria’ (pg. 22), on which the table in Condition 12)(d) is based.
- 7.5.11. In Table 1 of the guidance document, the sample period (T) of the equivalent continuous sound level, LAeq,T, is unspecified. The noise levels (i.e., the dB values) for each period of the day in Condition 12(d) are replicated from ‘Scenario: All other Areas’ of Table 1.
- 7.5.12. In Condition 12(d), the equivalent continuous sound level for nighttime includes a measurement period/ assessment duration of 5 minutes. The applicant describes its use as unusual and inappropriate. The applicant’s environmental consultant (author of the NIA submission) states they have never seen a measurement period of 5 minutes applied in planning or licence conditions. The applicant states the use of longer noise assessment durations of 15-30 minutes is more appropriate for

nighttime activities, and requests that the use of LAeq,5mins be revised to LAeq,15-30mins.

- 7.5.13. I have reviewed the EPA guidance document referred to in the condition and cannot identify any reference to a sample period/ assessment duration as brief as 5 minutes (thereby requiring notably frequent testing intervals). When referring to measurement periods, the guidance document refers to 15 and 30 minute intervals. For example, the sampling periods in survey durations are stated as typically being either 15 minutes or 30 minutes in duration, and that these durations would apply to day time, evening and night time periods (pg., 35). The appendices in the guidance document rely on 15 minute intervals.
- 7.5.14. From a review of the case file, I note that the basis for Condition 12 arises from the Environment Section's report (four recommended conditions). However, on review of same and the planning officer report, I have not identified an explanation as to why a 5 minute assessment duration has been applied for the nighttime criterion in this instance. The appeal response from the planning authority is general in nature (i.e., conditions informed by other departments), but does not respond to the appeal grounds per se.
- 7.5.15. In the interests of completeness, I have also reviewed An Coimisiún Pleanála model noise conditions (e.g., for non-entertainment uses) and note that 15 minute intervals are used as the minimum measurement period for noise levels (including at nighttime). On balance, therefore, I accept the applicant's position and recommend that Condition 12(d) be amended to refer to a measurement period/ assessment duration of 15-30 minutes for nighttime noise.

Tonal and Impulsive Noise

- 7.5.16. Finally, the applicant requests that additional text relating to tonal and impulsive noise be added to the condition so as to further clarify the noise limits in the table. The text reads as follows:

'During all periods, rigorous efforts should be made to avoid clearly audible tones and impulsive noise at all sensitive locations. If tonal and impulsive noise is present, appropriate penalties are to be applied to day and evening time readings; no clearly audible tonal or impulsive characteristics should be present at night-time'.

- 7.5.17. On review of the ACP model noise conditions, I note that there are instances where caveats are included instructing that noise levels shall be corrected for a tonal or impulsive component. I consider this instruction to be more effective and efficient than the requested text and that this would address the key issue (i.e., allowances/ adjustments are made to the noise levels to take account of existing tonal and/ or impulsive noise).

Policy Context

- 7.5.18. For the Commission's clarity, I have not identified any development plan objective or national planning guideline policy to which the Commission is required to implement or have regard to which would require Condition 12(d) to remain as is.

Conclusion

- 7.5.19. In conclusion, having regard to the above I recommend that Condition 12(d) be amended to clarify its being applicable to the operational phase of the development, to increase the 5 minutes measurement interval to 15-30 minutes for nighttime noise, and to include an instruction that noise levels be corrected to account of tonal and/ or impulsive noise if/ as relevant.
- 7.5.20. I recommend that Condition 12 read as follows:

Condition 12

(a) Prior to the commencement of development, the developer or any agent acting on its behalf shall prepare a Construction and Demolition Resource Waste Management Plan as set out in the Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for C&D Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The Resource Waste Management Plan shall include specific proposals as to how the Resource Waste Management Plan will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The Resource Waste Management Plan shall be submitted to the Planning Authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed Resource Waste Management Plan shall be made available for inspection at the site office at all times.

(b) The developer shall set aside an area to facilitate the provision of a bring centre for the deposit of glass and metal packaging. Details in this regard shall be agreed with the Environment Section, Waterford City & County Council.

(c) The developer shall ensure that any place where waste is to be stored prior to collection is secure, accessible at all times by staff and other authorised personnel and is not accessible by any other person other than an authorised waste collector.

(d) During the operational phase of the development, the noise from the development, when measured at the nearest noise sensitive location using the methodology set out in “Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4)” EPA, shall not exceed the following levels (corrected for a tonal or impulsive component if applicable):

<i>Daytime Noise Criterion, dB LAr,30mins (07:00 to 19:00hrs)</i>	<i>Evening Noise Criterion, dB LAr,30mins (19:00 to 23:00hrs)</i>	<i>Night-time Noise Criterion, dB LAeq,15-30mins (23:00 to 07:00hrs)</i>
<i>55dB</i>	<i>50dB</i>	<i>45dB</i>

Reason: To protect local amenities and in the interests of the proper planning and sustainable development of the area.

8.0 Environmental Impact Assessment

8.1. Background

- 8.1.1. Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended (2001 Regulations), and section 172(1)(a) of the Planning and Development Act 2000, as amended (2000 Act), identify classes of development with specified thresholds for which EIA is required.
- 8.1.2. The following class of development in the 2001 Regulations is of relevance to the proposed development:
- Class 10(b) relates to infrastructure projects that involve:

(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

- 8.1.3. The proposal is an urban development project on a site measuring c.0.9ha. The proposal is sub-threshold in terms of the mandatory EIA requirements arising from Class 10(b)(iv) of the 2001 Regulations.
- 8.1.4. Waterford City and County Council considered the need for an EIA of the proposal, having regard to the information submitted with the application. This included the applicant's EIA Screening Report (EIASR), which concluded that an EIA was not required for the proposed development. The planning authority concluded that based on the nature, size and location of the proposed development in the context of the criteria set out in Schedule 7 to the 2001 Regulations, it was satisfied that EIA is not required.

8.2. Grounds of Appeal

- 8.2.1. No issues relating to EIA are raised within the first party appeal. The appeal relates to conditions attached to the planning authority's grant of permission for the proposed development, which I assessed in section 7.0 of this report above.
- 8.2.2. Table 1 below provides a summary of the nature of these conditions with commentary in relation to EIA requirements.

Table 1: Conditions to which the appeal relates within the context of EIA

Condition	Nature of Condition	Commentary
Condition 5(b)	Signage	The planning authority's condition requires the omission of a freestanding totem sign. The applicant has requested the removal of the condition. The amendment of the planning authority's condition, as recommended in my assessment above, involving removal of sub-item numbering and granting all signage applied for, would have

		no material consequence on the conclusions of the applicant's EIASR or planning authority's EIA screening exercise.
Condition 9	Construction Phase Noise Compliance	The planning authority's condition requires construction phase noise compliance with B.S. 5228. The applicant has requested the amendment of the condition. The amendment of the planning authority's condition, as recommended in my assessment above, involving insertion of sub-item numbering and specifying noise levels within the scope of those allowed for in B.S. 5228, would have no material consequence on the conclusions of the applicant's EIASR or planning authority's EIA screening exercise.
Condition 12(d)	Environmental Management	The planning authority's condition specifies maximum noise levels permissible from the proposed development, measured at the nearest noise sensitive location, and for different periods of the day. The applicant has requested the amendment of the condition. The amendment of the planning authority's condition, as recommended in my assessment above, involving reference to the operational phase of the development, the use of a 15-30 minutes measurement interval for nighttime noise, and an instruction that noise levels be corrected to account of tonal and/ or impulsive noise if/ as relevant, would have no material

		consequence on the conclusions of the applicant's EIASR or planning authority's EIA screening exercise.
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Conclusion

- 8.2.3. Having regard to the nature of the conditions to which the appeal relates, none of which have any material consequences on the need for EIA, I consider that the determination by the Commission of the application as if it had been made to it in the first instance, involving pre-screening and preliminary examination of the proposed development for EIA, would not be warranted for this appeal case.

9.0 Appropriate Assessment

9.1. Stage 1 – Screening Determination for Appropriate Assessment

- 9.1.1. In accordance with section 177U(4) of the Planning and Development Act 2000, as amended (2000 Act), and on the basis of objective information, I conclude that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (Stage 2) under section 177V of the 2000 Act is not required (see Appendix 1 of this report below).

- 9.1.2. This conclusion is based on:

- Nature, scale and location of the project.
- Qualifying interests and conservation objectives of the European sites.
- Absence of any meaningful pathways to any European site.
- Distances from European sites.
- Objective information presented in the Appropriate Assessment Screening Report.
- Standard pollution controls and project design features that would be employed regardless of proximity to a European site and the effectiveness of same.

- 9.1.3. No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

10.0 Water Status Impact Assessment

10.1. Background

- 10.1.1. The appeal relates to conditions attached to the planning authority's grant of permission for the proposed development. No issues relating to water status have been raised within the first party appeal. I have undertaken a planning assessment of the conditions in section 7.0 and considered the conditions in the context of EIA in section 8.0 of this report above.

10.2. Grounds of Appeal

- 10.2.1. Having regard to the nature of the conditions to which the appeal relates, none of which have any material consequence on water status, I consider that the determination by the Commission of the application as if it had been made to it in the first instance, involving an assessment of proposed development in light of objectives set out in Article 4 of the EU Water Framework Directive, would not be warranted for this appeal case.

11.0 Recommendation

Following from the above assessment, and having regard to the nature of the conditions to which the appeal relates, the Commission is satisfied that the determination by the Commission of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to:

AMEND Condition 5, Condition 9 and Condition 12 as follows and for the reasons therefor.

12.0 Reasons and Considerations

Having regard to the applicable zoning objectives of 'Regeneration RE' and 'Open Space and Recreation OS' and other policies and objectives relating to placemaking, advertising, regeneration, and opportunities sites in the Waterford City and County

Development Plan 2022-2028, to the safeguarding of amenities of surrounding property, to the protection of visual amenity of the area, to the planning history in the vicinity of the site, and to the guidance on the criteria of planning conditions in the Development Management, Guidelines for Planning Authorities, 2007, it is considered that Condition 5, Condition 9 and Condition 12 of the planning authority's grant of permission shall be amended as follows and for the reasons therefor.

Condition 5

Notwithstanding the exempted development provisions of the Planning & Development Regulations 2001, as amended, or any statutory provision amending or replacing them, signs, symbols, nameplates, emblems or other advertising devices, other than signage permitted as part of this permission, shall not be erected or displayed externally on the site without a prior grant of planning permission.

Reason: In the interests of visual amenity.

Condition 9

(a) During the construction phase of the development, best practicable means shall be employed to minimise air blown dust being emitted from the site. This shall include covering skips and slack-heaps, netting of scaffolding, daily washing down of pavements or other public areas, and any other precautions necessary to prevent dust nuisances.

(b) During the construction phase of the development, there shall be compliance with 'BS 5228 Parts 1 & 2: 2009 + A1: 2014, Code of Practice for Noise and Vibration Control on Construction and Open Sites'.

The noise levels shall not exceed the following thresholds:

- 65 dB LAeq,1hr, Mon-Fri (08.00-18.00hrs) and Sat (08.30-13.00 hrs) at the nearest noise sensitive locations.
- 70 dB LAeq,1hr, Mon-Fri (08.00-18.00hrs) and Sat (08.30-13.00 hrs) at the nearest commercial premises.

Reason: In order to safeguard the amenities of surrounding occupiers.

Condition 12

(a) Prior to the commencement of development, the developer or any agent acting on its behalf shall prepare a Construction and Demolition Resource Waste Management Plan as set out in the Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for C&D Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The Resource Waste Management Plan shall include specific proposals as to how the Resource Waste Management Plan will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The Resource Waste Management Plan shall be submitted to the Planning Authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed Resource Waste Management Plan shall be made available for inspection at the site office at all times.

(b) The developer shall set aside an area to facilitate the provision of a bring centre for the deposit of glass and metal packaging. Details in this regard shall be agreed with the Environment Section, Waterford City & County Council.

(c) The developer shall ensure that any place where waste is to be stored prior to collection is secure, accessible at all times by staff and other authorised personnel and is not accessible by any other person other than an authorised waste collector.

(d) During the operational phase of the development, the noise from the development, when measured at the nearest noise sensitive location using the methodology set out in “Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4)” EPA, shall not exceed the following levels (corrected for a tonal or impulsive component if applicable):

Daytime Noise Criterion, dB LAr,30mins (07:00 to 19:00hrs)	Evening Noise Criterion, dB LAr,30mins (19:00 to 23:00hrs)	Night-time Noise Criterion, dB LAeq,15-30mins (23:00 to 07:00hrs)
55dB	50dB	45dB

Reason: To protect local amenities and in the interests of 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 me, directly or indirectly, following my professional assessment and recommendation set out in my report, in an improper or inappropriate way.

Phillippa Joyce

Senior Planning Inspector

24th June 2026

Appendix 1: Appropriate Assessment – Screening

I have considered the project in light of the requirements section 177U of the Planning and Development Act 2000, as amended.

The project is for a retail store (c.1,934 sqm) with all associated site works on a greenfield infill site within a city suburban area. The project includes connections to public water networks, and an on-site surface water drainage system.

The closest European site is the Lower River Suir SAC, c.1.07km to the north of the site. The QIs of the SAC include salt meadows, vegetation, woods, forests, mussel, several fish species, and otter (conservation objectives to restore and maintain the favourable condition of same).

The site displays no evidence of environmental sensitivities, or of habitats or species with links to any European sites. As such, there are no ecological connections to any European sites. There are no open watercourses at or adjacent to the site (a branch of St. John's Stream to the west of the site is culverted). The River Suir is the closest notable watercourse, located c.1km to the north of the site (crow-flies measurement), flowing in an easterly direction to Waterford Harbour. The ground level of the site is notably elevated from that of the watercourse (c.42m higher), and the intervening lands comprise built-up urban areas. As such, there are no meaningful direct hydrological connections to any European sites.

An Appropriate Assessment Screening Report (AASR) has been prepared for the project. The AASR concludes that the proposed works 'are unlikely to impact the nearest Natura site, the Lower River Suir SAC due to the scale, nature, duration of the works, and distance between the site and the SAC'. The planning authority screened out the need for appropriate assessment, and no nature conservation concerns are raised in the planning appeal.

Based on the above, I too am satisfied that the project can be eliminated from further assessment because there is no conceivable risk to any European site.

Conclusion

In accordance with section 177U(4) of the Planning and Development Act 2000, as amended, and on the basis of objective information, I conclude that the project would not have a likely significant effect on any European site either alone or in combination with other plans or projects.

It is therefore determined that Appropriate Assessment (Stage 2) under section 177V of the Planning and Development Act 2000, as amended, is not required.

This conclusion is based on:

- Nature, scale and location of the project.
- Qualifying interests and conservation objectives of the European sites.
- Absence of any meaningful pathways to any European site.
- Distances from European sites.
- Objective information presented in the Appropriate Assessment Screening Report.
- Standard pollution controls and project design features that would be employed regardless of proximity to a European site and the effectiveness of same.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

Inspector: _____

Date: _____