

Case reference	NA-EAY-025
Application details	Erection of class 1 foodstore with associated car parking, landscaping, access and other works
Site address	Titchfield Street, Kilmarnock
Applicant	Aldi Stores Ltd
Determining Authority	East Ayrshire
Local Authority Area	
Reason(s) for notification	Category 2 - SEPA objection
Representations	1 (plus separate objection to Scottish Ministers)
Date notified to Ministers	15 January 2018
Date of recommendation	6 February 2018
Decision / recommendation	Clear

Description of Proposal and Site:

- Planning permission (16/0594/PP) is sought for the erection of a Class 1 foodstore with associated car parking, landscaping, access and other works. The proposed foodstore has a floorspace of 1780 sqm and a retail floorspace of 1253 sqm. A car parking area with 83 parking spaces and cycling parking is also proposed.
- The site is located at the southern end of Titchfield Street at its junction with High Glencairn Street in Kilmarnock. The site area extends to 0.68 ha and was previously occupied by Kwiksave supermarket which has since been demolished. The brownfield site is now vacant with rubble and scrub vegetation present.



Figure 1 - Site layout and location

- The Council highlight in their committee report that there is a 'no build zone' (Figure 2) on the site plan due to the existence of the culverted Galleon Burn which runs along the northern site boundary and part of the eastern boundary.
- The site is allocated in the East Ayrshire Local Development Plan 2017 as 'site 326M' and is zoned as 'Miscellaneous Opportunity'.

Proposed Site Layout

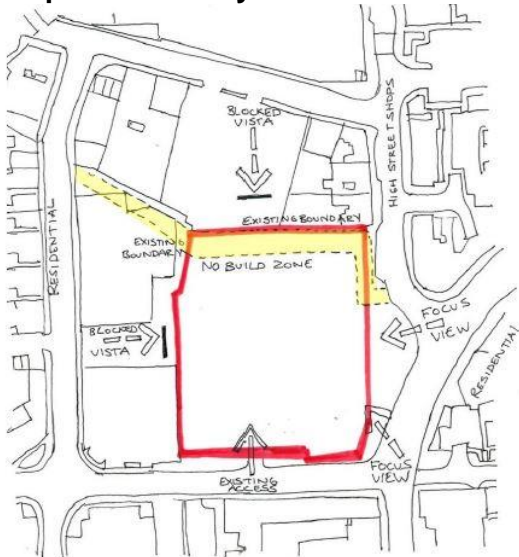


Figure 2 - No Build Zone (design statement)



Figure 3 - Retail Layout (design statement)

EIA Development:

- East Ayrshire Council screened the proposal as the site falls within Schedule 2 (category 10(b)) of the EIA Regulations. Following screening under Schedule 3 of the EIA Regulations, the Council concluded that EIA is not required for this case as they consider that the development is not likely to have significant effects on the environment and have provided the checklist used to determine this.

Consultations and Representations

SEPA

- SEPA objects to the proposal on the grounds that the proposed development may place buildings and persons at flood risk, contrary to Scottish Planning Policy (SPP).
- SEPA requested that the Irvine Valley Flood Study (IVFS) outputs be used to inform the development levels as they noted that the draft outputs from the IVFS show that part of the site would be inundated during the 1:200 year flood event. This corresponds with the SEPA flood map and the result of an integrated Catchment Model commissioned by Scottish Water.
- The most recent response from SEPA in October 2017 maintains their objection and requested clarification on the provision of compensatory storage and revision to the minimum finished floor levels.
- SEPA also noted that approximately 1100m³ of flood plain loss would occur as a result of the proposal and stated that as this is a loss of floodplain, they would require the provision of appropriate compensatory storage. However, as the FRA does not indicate

that this will be provided, SEPA therefore requested that the appropriate compensatory storage is provided.

Ayrshire Roads Alliance (ARA) (Flooding)

- The ARA Flooding Team (internal consultee) also objected to the application as it will have detrimental impact on the flood plain and existing properties. Their concerns also relates to the development being within the 1: 200 year flood outline and that despite changes to mitigate the impact on the flood plain, it has not been possible for the applicant to offer full compensatory storage.
- The primary concern of ARA (Flooding) is that there would be a detrimental impact on the flood plain as a result of the development. It should be noted that the proposed development would add 8mm on the predicted flood level in the event that the 1: 200 year flood occurs.

Scottish Government Flooding Policy Team

- Following notification to Scottish Ministers, the Scottish Government Flooding Policy Team was consulted and concluded that the development does not raise any issues of national importance that would warrant its call in by Scottish Ministers.

New River Retail Ltd

- During consideration of the application, one objection was received on behalf of New River Retail Ltd. They submitted further correspondence to Scottish Ministers during the notification process. However, as the issues relate to retail matters that are not relevant for this notified application, they will not be considered by Scottish Ministers.

Assessment

1. The Council are minded to grant planning consent for this proposal against the advice of SEPA and the ARA (Flooding) Team. The application has been duly notified to Scottish Ministers as a result of SEPA's objection. As mentioned above, SEPA have objected on the grounds of insufficient flood compensatory storage. Similar concerns were raised by the ARA (Flooding) Team.
2. The Council acknowledged in their committee report that the proposed development would lead to a loss of flood storage capacity. The committee report also acknowledges that the loss of flood storage capacity would be partially mitigated, through proposals for compensatory storage within the car park.
3. This would be achieved through altering levels. However, the Council acknowledges that there would remain a residual loss of storage capacity which cannot be fully compensated for. The Council highlight that the loss of storage capacity could be lowered if the finished floor level was reduced. Therefore, the FRA proposed that the finished floor level would be above the 1: 200 year flood level, but would provide half the level of freeboard normally recommended.
4. The Council acknowledge that as the proposal cannot provide for full flood protection and mitigation, it does not fully accord with SPP on managing flood risk. Overall, the committee report highlights that the Council have taken account of these concerns and have concluded that a higher freeboard allowance would remove more of the

compensatory storage that is proposed within the car park area due to the need to increase site levels.

5. As a result, the Council consider that the applicant has sought to achieve a compromise in providing a level of flood protection for the building, whilst mitigating for some of the loss of flood storage area. The Council has also taken account of the brownfield nature of the site and the predominately commercial land use of the area (as opposed to more vulnerable uses), and conclude that the mitigation measures proposed provide for a level of compromise, in ensuring the finished floor level, is above the 1: 200 year flood level and providing for compensatory storage of more than half the flood water that would be displaced.
6. The response from the Scottish Government Flooding Policy Team recognises that the Council have considered the impact in terms of the risk from flooding and have weighed this alongside other planning considerations. They also recognise that SPP does allow local authorities scope to balance regeneration goals in built up areas against flood risk concerns. Overall, while the Scottish Government Flooding Policy Team note the local flooding concerns, they conclude that the case does appear to raise any issue of national importance which would warrant its call in by Scottish Ministers.
7. In light of the above information, it is not considered that this particular proposal raises issues of national importance to warrant intervention by Scottish Ministers.

Decision/Recommendation

- It is recommended that the application be cleared back to East Ayrshire Council.