



An
Bord
Pleanála

Board Direction
PL04.248147

The submissions on this file and the Inspector's report were considered at a Board meeting held on September 4th 2017.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the nature of the proposed development, which replaces the existing store with an improved design, to the scale and limited extent of increased net retail sales area to be provided relative to the level of existing retail development in the vicinity, to the site location within the development area of the town, relatively proximate to the existing town centre of Mitchelstown, it is considered that the proposed development, subject to compliance with the conditions set out below, would not adversely affect the vitality and viability of Mitchelstown Town centre, would not seriously injure the visual amenities of the area, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 19th day of January 2017, except as may otherwise be required in order to comply with the following conditions. Where

such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The net retail sales area of the development shall not exceed 1,424 sq metres. Any increase in the net retail sales area of the subject building, whether by way of internal re-arrangement or otherwise, shall be the subject of a separate planning permission, notwithstanding any of the provisions of the Planning and Development Regulations, 2001, as amended.

Reason: In the interests of orderly development, as the present permission is predicated on a limited increase in net retail sales area over that already authorised on this site, and to allow any further increase in such area to be considered by the planning authority through the statutory planning process.

3. The proposed development shall not be open to the public outside the hours of 0900 to 2200 Monday to Saturday inclusive, nor outside the hours of 1000 to 1900 on Sundays or public holidays. Deliveries shall not take place before the hour of 0730, from Monday to Saturday inclusive, nor before the hour of 0800 on Sundays and public holidays, nor after 2200 on any day.

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

4. As PA condition number 4.

Reason: In the interest of residential amenity.

5. The landscaping scheme shown on drawing no. 034216 LP 01, as submitted to the planning authority on the 19th day of January, 2017 shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

6. Details, including samples, of the materials, colours and textures of all external finishes to the proposed building, shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of the visual amenities of the area.

7. The following requirements shall be provided for and adhered to in the development:
 - (a) External shutters are not permitted. Internal shutters, if erected, shall be of the open lattice or perforated type only, and shall be coloured to match the fenestration colour. No advertising matter shall be provided on the shutters.
 - (b) No advertising material shall be affixed to the windows or the shopfronts, nor located on the exterior of the trolley bay structure.

Reason: In the interest of visual amenity.

8. Notwithstanding the provisions of the Planning and Development Regulations 2001, as amended, no advertisement signs other than those specifically shown on the submitted drawings and authorized by this grant of permission, nor any advertisement structures, banners, awnings, canopies, flags, or other projecting elements shall be displayed on the building or erected within the curtilage of the site, without a prior grant of planning permission.

Reason: To protect the visual amenities of the area.

9. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

10. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennae or equipment, unless authorised by a prior grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

11. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- a. Location of the site and materials compounds including areas identified for the storage of construction refuse;
- b. Location of areas for construction site offices and staff facilities;
- c. Details of site security fencing and hoardings;
- d. Details of on-site car parking facilities for site workers during the course of construction;
- e. Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f. Measures to obviate queuing of construction traffic on the adjoining road network;
- g. Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

- h. Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i. Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- j. Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- k. Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- l. Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Note 1: The Board noted the request by the applicant's agent that the appeal be dismissed under Section 138 of the Planning and Development Act 2000, as amended. However, the Board was satisfied that valid planning issues had been raised in the appeal and accordingly decided not to dismiss the appeal.

Note 2: The Board noted the reference of the applicant's agent to the provisions of Section 145(b) of the Act, regarding the awarding of costs, having regard to the nature of the third party appeal. The Board decided, pursuant to Section 145 of the Planning and Development Act 2000, as amended, and having regard to its conclusion in relation to the dismissal request, not to award any costs in this case.

[Please issue a copy of this Direction with the Board Order]

Board Member

Philip Jones

Date: 11th September 2017