



An  
Bord  
Pleanála

**Board Direction**  
**BD-002833-19**  
**ABP-302449-18**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 16/04/2019.

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 Cork County Development Plan 2014 – 2020, the Fermoy Town Development Plan 2009 – 2015, the Fermoy Municipal District Local Area Plan 2017, the Retail Planning Guidelines and the planning history of the site, it is considered that, subject to compliance with the conditions set out below, the proposal would be appropriate from a land use perspective, would comply with retail planning policies and would enhance the visual amenities of the area. It would also be acceptable in terms of traffic safety and convenience and public health. The proposal would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment Stage 1**

The Board considered the Screening Report for Appropriate Assessment, the Natura Impact Assessment and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in

relation to the potential effects of the proposed development on designated European Sites.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Blackwater River SAC (site code 002170), and the Blackwater Callows SPA (site code 004094), are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

### **Appropriate Assessment Stage 2**

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites, namely, the Blackwater River SAC (site code 002170), and the Blackwater Callows SPA (site code 004094) in view of the sites' Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' Conservation Objectives.

### **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 11<sup>th</sup> day of May 2018, 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 area of the net retail floorspace hereby permitted shall not exceed 1,338 square metres. Notwithstanding the provisions of the Planning and Development Regulations, 2001 – 2018, or any statutory provision modifying or replacing them, any increase in this area, either by internal re-arrangement or otherwise, shall be the subject of a separate planning application and it shall not be provided in the absence of a grant of planning permission.

**Reason:** For the avoidance of doubt and in order to afford the Planning Authority the opportunity to control any such increase in area in the light of retail planning policy.

3. The landscaping scheme shown on Drg no. 044517\_LP\_01 revision C, as submitted to the Planning Authority on the 11<sup>th</sup> day of May 2019, 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.

4. (a) The new food store shall not be open to the public outside the hours of 0800 to 2100 on Monday to Saturday inclusive or outside the hours of 0900 to 2100 on Sundays and public holidays.

(b) Deliveries shall not take place before 0730 on Monday to Saturday inclusive or before 0800 on Sundays and public holidays and no deliveries shall take place after 2200.

**Reason:** In the order to safeguard the amenities of the area.

5. No advertisement or advertisement structure other than those shown on the drawings submitted with the application shall be erected or displayed on the building or within the curtilage of the site in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

6. No external security shutters shall be erected on the new food store building unless authorised by a further grant of planning permission.

Details of all internal shutters shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

7. a. The mitigation measures outlined in the Natura impact statement submitted as further information to the planning authority on 11th May 2018 shall be carried out in full.
  
- b. The monitoring of the otter holt during the construction period shall be undertaken in accordance with the programme set out under the further information received by the Planning Authority on 11<sup>th</sup> May 2018.

**Reason:** In the interest of the environment and wildlife protection.

8. 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 compound(s) including area(s) 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.

(m) Construction working hours.

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.

9. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.

10. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.

**Reason:** In the interest of visual amenity.

11. 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.

12. S48 unspecified

**Board Member**

**Date:** 16/04/2019

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Terry Prendergast