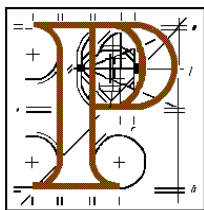


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dublin City

Planning Register Reference Number: 2965/15

An Bord Pleanála Reference Number: PL 29N.245656

APPEAL by Seofraí De Búrca of 5 Donard Terrace, Annamoe Road, North Circular Road, Dublin and by others and by Lidl Ireland GmbH care of BMA Planning of 128 Lower Baggot Street, Dublin against the decision made on the 5th day of October, 2015 by Dublin City Council to grant subject to conditions a permission to the said Lidl Ireland GmbH in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Development consisting of a mixed use development comprising the following elements: (1) a supermarket incorporating ancillary bakery and off-licence area of 1,251 square metres (net retail sales area) and associated accommodation within a building of 2,555 square metres gross floor area. The supermarket is located over a surface level undercroft car park containing 81 number car parking spaces and connection from the car park to the retail above is contained within a circulation area (via travelators, lift and stair cores). The proposed building is a three storey equivalent structure with a maximum height of 9.8 metres. The supermarket includes an external delivery/service area and dock leveller; (2) a café (95 square metres) fronting onto the Old Cabra Road; (3) Retail (bathroom/tile) showroom and DIY Hardware Store (900 square metres) with seven number car parking spaces and dedicated external delivery area; (4) four number three bed terraced houses and ancillary accommodation with a single access off Annamoe Road with six number car parking spaces. Vehicular access to the retail/commercial elements is via the Old Cabra Road and Annamoe Road. Permission is also sought for boundary treatments, hard and soft landscaping, signage and all associated site and development works. The proposed development involves demolition of all existing buildings (2,185 square metres) fronting onto the Old Cabra Road and the warehouse type structures to the rear on a site of (0.837 hectares) at 12-32 Old Cabra Road

and 8-16 Annamoe Road, Dublin (lands comprising PH Ross Builders' Merchants and Home Improvement Centre and site to the rear of 1-7 Annamoe Road, known as 1A Annamoe Road).

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to:

- the provisions of the Dublin City Development Plan 2011-2017 including, in particular, the Z6 zoning of the site which is 'to provide for the creation and protection of enterprise and facilitate opportunities for employment creation' where neighbourhood shop is 'permitted in principle' and where both 'retail bathroom and tile showroom/DIY' and 'residential' uses are 'open to consideration';
- the existing use of the site and to the pattern of development in the area;
- the planning history of the site;
- the design, nature and extent of the development proposed;
- the documentation on file, including all observations and submissions; and
- the report of the Planning Inspector,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the zoning objective for the site as set out in the development plan, would comprise an attractive mixed use development which would enhance the area, would not seriously injure the amenities of the area or of properties in the vicinity and would be acceptable in terms traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable of the area.

The Board also considered that, having regard to the nature and scale of the proposed development which will connect to public infrastructure and the distance of the development from European Sites, no Appropriate Assessment issues arise and it is not considered that the proposed development, either individually or in combination with other plans or projects, would be likely to have a significant effect on a European site.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the use was acceptable on lands zoned Z6 where all uses proposed are either permitted in principle or open to consideration. The Board also considered that the proposed development was an appropriate use of the site taking into account the existing uses on the site. The Board considered that the Inspector's concerns regarding the impacts that noise and disturbance might have on residential amenity, and the creation of a gated community, were not so serious as to merit a refusal of permission and could be adequately addressed by planning condition.

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 8th day of September, 2015, 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. (a) The dwarf wall and railing to the north of number 7 Donard Terrace shall be relocated to start and the front boundary wall of number 7 Donard Terrace and curve around to meet the southern pier of the proposed pedestrian gateway as indicated on the Ground Floor Plan drawing number 2014.84.P02-FI submitted to the planning authority on the 8th day of September, 2015 with the enclosed area landscaped accordingly.
- (b) The gate serving the residential units shall be omitted.

Detailed drawings indicating these amendments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of the residential amenities of properties in the vicinity and to comply with policy QH9 of the Dublin City Development Plan.

3. (a) The proposed vehicular entrance/exit, and all associated footpaths and surfaces, at Cabra Road shall be modified to comply with Design Manual for Urban Roads and Streets.
- (b) A project traffic management plan for all stages of construction traffic shall be submitted to, and agreed in writing with, the planning authority before demolition and excavation commences. The plan shall detail access arrangements for labour, plant and materials and shall indicate the locations of plant and machine compounds.
- (c) All costs incurred by the planning authority, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

Detailed drawings indicating these amendments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of traffic and pedestrian safety and the amenities of the area.

4. The boundary wall to the site shall be repaired and made good. Any sections comprising of fencing or sheeting shall be removed and replaced with a two metre high wall.

Reason: In the interests of visual amenity and orderly development.

5. The proposed supermarket signage shall be amended as follows:
 - (a) The totem signs on the Old Cabra Road and on Annamoe Road shall be omitted.
 - (b) The most northerly wall mounted sign on the north western elevation shall be omitted.
 - (c) A ground mounted sign may be located at the Annamoe Road entrance.

Details of the revised signage shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interests of visual amenity.

6. Site development and building works shall be carried out only between the hours of 08.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

7. (a) The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

- (b) During the construction and demolition phases, the proposed development shall comply with British Standard 5228 'Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control'
- (c) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular, the rated noise levels from the proposed development shall not constitute reasonable grounds for complaint as provided for in B.S. 4142. Method for rating industrial noise affecting mixed residential and industrial areas.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works and in the interest of residential amenity.

8. The opening retail hours of the supermarket and DIY store shall not exceed the following times:

0800 to 2200 hours Monday to Saturday, and

1000 to 2100 hours Sunday.

Deliveries shall not commence prior to 0730 hours Monday to Saturday and 0830 hours Sunday and no delivery vehicles shall be on the site after 2200 hours Monday to Sunday.

Reason: In the interest of orderly development.

9. (a) The operation of the proposed development shall adhere to the noise management plan submitted to the planning authority as part of the Further Information submitted to the planning authority on the 8th day of September, 2015.
- (b) The site shall be fully secured with the closure of the security gates after trading hours as set out in the further information submitted to the planning authority on the 8th day of September, 2015.

Reason: In the interest of orderly development.

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

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

11. Details of the proposed methods of ventilation of the store and café shall be submitted to, and agreed in writing with, the planning authority for the effective control of fumes and odours from the premises. The scheme shall be implemented before the use commences and thereafter permanently maintained.

Reason: In order to safeguard the amenities of adjoining premises, residential amenity and the general surroundings.

12. Details of the signage relating to the other commercial operations included within the development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of trading.

Reason: In the interest of visual and orderly development.

13. Security shutters on the Old Cabra Road frontage, if necessary, shall have their shutter box located entirely behind the fascia and no part of the shutters, supports or fittings shall encroach on the public footpath. The shutters shall be open mesh or see-through, shall be finished in a single colour and shall not be left unpainted or used for advertising.

Reason: In the interests of visual amenity.

14. No additional signage, advertising structures, or other projecting elements including flagpoles shall be erected within the site, unless authorised by a further grant of planning permission.

Reason: In the interests of visual and residential amenity.

15. The developer shall comply with the following requirements of the planning authority:
- (a) The developer shall retain a suitably qualified licensed-archaeologist to advise regarding the archaeological implications of site clearance, demolition and/or construction methodology and to make appropriate recommendations for mitigation including detailed survey as necessary.
 - (b) The developer shall allow for the resolution of archaeology (both on site and necessary post excavation) in the project budget and timetable.
 - (c) The developer's archaeologist shall undertake licensed archaeological monitoring of all demolition and sub-surface works associated with the development including the breaking and removal of any floor slabs, levelling of ground
 - (d) The archaeologist shall consult with and forward their Method Statement in advance of commencement to the City Archaeologist.
 - (e) In the event of archaeological features being located in the course of the monitoring, the developer shall facilitate the archaeologist in fully recording such features, including if necessary the archaeological excavation of such features. In the event of significant archaeological features on site, the archaeologist retained by the developer shall immediately contact the City Archaeologist. The City Archaeologist (in consultation with the National Monuments Service, Department of Arts Heritage and Gaeltacht) shall determine the further archaeological resolution of the site.
 - (f) A written and digital report (on compact disc) containing the results of the archaeological monitoring shall be forwarded on completion to the City Archaeologist and National Monuments Service, Department Arts Heritage and Gaeltacht.
 - (g) Following submission of the final report to the City Archaeologist, where archaeological material is shown to be present, the archaeological paper archive shall be compiled in accordance with the procedures detailed in the Dublin City archaeological Archive Guidelines (2008 Dublin City Council) and lodged with the Dublin City Library.

Reason: In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.

16. 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.

17. The landscaping scheme shown on the Landcape Plan drawing number 15-406-DD-01 as submitted to the planning authority on the 9th day of June, 2015 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 three years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, 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 residential and visual amenity.

18. 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

19. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

20. No additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts or other external plant other than those shown on the drawings submitted with the planning application, unless authorised by a further grant of planning permission.

Reason: To safeguard the amenities of surrounding occupiers and the visual amenities of the area in general.

21. The area allocated to alcohol sales shall not exceed 10% of the net sales area.

Reason: To regulate the amount of space allocated to the sale of alcohol.

22. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.

Reason: In the interest of public safety and visual amenity.

23. 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.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.