

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Cork County

Planning Register Reference Number: 16/00020

An Bord Pleanála Reference Number: PL 88.246729

APPEAL by Aiden McCarthy of The Warner Centre, Barrack Street, Bantry, County Cork against the decision made on the 18th day of May, 2016 by Cork County Council to grant subject to conditions a permission to Lidl Ireland GmbH care of The Planning Partnership of viaFulcrum Unit 10a, South Ring Business Park, Kinsale Road Roundabout, Kinsale Road, County Cork in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Development comprising amendments to permitted supermarket and associated services and works (An Bord Pleanála appeal register reference number PL88.239840, Cork County Council planning register reference number 10/00239) at a site of approximately 3.52 hectares at Newtown, Bantry, County Cork. These amendments consist of: reducing the scale and extent of the permitted licenced supermarket development (condition number 2 of An Bord Pleanála appeal reference number PL88.239840, Cork County Council planning register reference number 10/00239) comprising a reduction of 1,618 square metres in gross floor area (permitted 4,258 square metres) to total 2,640 square metres gross floor area, a reduction of 577 square metres in net retail sales area (permitted 2,082 square metres) to total 1,505 square metres net retail sales area, and a reduction of 168 number in surface car parking spaces (permitted 277 spaces) to total 109 number surface car parking spaces and intensifying the use by extending the permitted licenced supermarket development's hours of operation (condition number 13 of An Bord Pleanála appeal reference number PL 88.239840, Cork County Council planning register reference number 10/00239) from 0800 hours and 2000 hours Monday to Wednesday, 0800 hours and 2100 hours Thursday to Saturday and 1000 hours and 1800 hours on Sunday, to 0800 hours and 2200 hours from Monday to Saturday, and 0900 hours and 2100 hours on Sunday. The construction of the amended

proposed licenced supermarket development with ancillary infrastructure (all totalling 2,640 square metres gross floor area and ranging in height equivalent from one to two storeys) comprises of: a retail sales area with ancillary off-licence use (total net retail sales area of 1,505 square metres), bakery, public facilities (including lobby and toilets), entrance pod, storage (including cold storage), stairs and lift of mezzanine floor, lobby and delivery warehouse area, all at ground floor level (totalling 2,273 square metres ground floor gross floor area); staff welfare (including toilets, change rooms and staff canteen area), managers office, IT, training room, plant room, void and terrace spaces and stairs from ground floor, all at first floor level (totalling 334 square metres first floor gross floor area), two number building mounted corporate internally illuminated sign, one number free standing internally illuminated totem pole sign at entrances, three number wall mounted externally illuminated poster panel display, one number wall mounted externally illuminated information display board, one number finger post directional signs, one number trolley bay covered structure (33 square metres gross floor area); 109 number surface car parking spaces (four number disabled, six number parent and child and 99 number regular), 27 number bicycle parking spaces, primary vehicular and pedestrian access to the development will be via the permitted site entrance from the National Secondary Road N71 (permitted An Bord Pleanála appeal reference number PL 88.239840, Cork County Council planning register reference number 10/00239) and Boundary treatments, hard and soft landscaping, services (including one number below ground attenuation tank) and all other ancillary and associated site development works above and below ground level.

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: -

- (a) the Bantry Electoral Area Local Area Plan, 2011, as amended on 14th December 2014, including, in particular, the inclusion of the subject site within the settlement boundary for Bantry Town and the retail policies in relation to Bantry Town contained therein and which include the identification of the subject site as suitable for convenience retail outlet,
- (b) the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 which, while favouring town centre and edge of centre sites for retail development, also allows that out-of-centre sites can be considered, and
- (c) the planning history pertaining to the subject site,

it is considered that, subject to compliance with the conditions set out below, the proposed development would 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 22nd day of April, 2016, 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. All relevant conditions attached to previous grant of planning permission, An Bord Pleanála appeal reference number PL 88.239840 shall be strictly adhered to save where amended hereunder.

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

3. This permission shall expire on the same date as An Bord Pleanála appeal reference number PL88.239840.

Reason: This permission is an application to amend the previous permission and shall not be used to extend the life of that permission.

4. The hours of operation shall be between 0800 hours and 2000 hours Monday to Wednesday, 0800 hours and 2100 hours Thursday to Saturday and between 1000 hours and 1800 hours on Sundays.

Reason: To protect the amenities of properties in the vicinity.

5. A solid and robust boundary structure shall be erected along the eastern side of the service yard. Details shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of the development.

Reason: To protect the amenities of the adjacent residential properties.

6. Details, including samples, of the materials, colours and textures of all the external finishes to the proposed buildings 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.

7. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of amenity and public safety.

8. Details of signage, shuttering (which shall be internalised) and lighting shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. No additional advertisement or advertisement structure including poster signs or flagpoles shall be erected or displayed on the building or within the curtilage of the site or along the roadside unless authorised by a further grant of planning permission.

Reason: In the interests of visual amenity and in order to allow the planning authority to assess the impact of any such advertisement or structure on the amenities of the area.

9. Final design details, including layout, drainage, surface finishes, lighting and Road Safety Audit recommendations shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of any works on the N71.

Reason: In the interest of traffic safety.

10. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

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

11. Any lighting associated with the hereby permitted advertising structures and signs for the retail premises shall be externally lit only. No internal illumination shall occur.

Reason: In the interest of orderly development and the visual amenities of the area.

12. All service cables associated with the proposed development (such as electrical, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

13. Water supply and drainage arrangements, including the disposal of surface water, shall be in accordance with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

14. No further structures, plant or antennae shall be erected on the roofs of any of the buildings in the development without a prior grant of planning permission.

Reason: In the interest of visual and residential amenity.

15. The wheels and underside of all construction traffic leaving the site shall be cleaned, as required, to prevent soiling of public roads. A wheel-washing facility, including water jets or other approved cleansing method shall be provided close to the site exit. In the event that any public roads become soiled by construction traffic from the site, these roads shall be cleaned immediately.

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

16. Prior to the commencement of development, the developer shall submit and obtain the written agreement of the planning authority to 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 on-going operation of these facilities.

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

17. 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 interests of sustainable waste management.

18. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Noise levels emanating from the construction works when measured at noise sensitive locations shall not exceed 55 dB(A) (15 minute Leq). Deviations from these times and noise levels shall only be permitted where prior written approval has been received from the planning authority.

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

19. No display or storage of goods, produce, waste, plant, packaging or crates, machinery or equipment shall be stacked or stored on this site at any time except within such buildings or storage areas as may be agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

20. The site shall be landscaped in accordance with a comprehensive scheme of hard and soft landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority before development commences. The scheme shall include a timescale for its implementation. A full plan of all trees to be retained on the boundaries of the site shall be provided, with specific measures proposed for their protection during the construction phase.

Reason: In the interest of amenity and in the interest of the proper planning and sustainable development of the area.

21. During the operational phase of the proposed development, the noise level from within the premises, measured at noise sensitive locations in the vicinity, shall not exceed-

(i) an L ArT value of 55 dB(A) during the period 0800 to 2000 hours from Monday to Saturday (inclusive), and

(b) an L AeqT value of 45 dB(A) at any other time.

All sound measurements shall be carried out in accordance with ISO Recommendations R 1996, "Assessment of Noise with Respect to Community Response" as amended by ISO Recommendations R 1996/1 and 2, "Description and Measurement of Environmental Noise", as appropriate.

Reason: To protect the amenities of properties in the vicinity of the site.
[Note: The measurement time intervals typically used are 1 hour by day and 15 minutes by night.]

22. A Noise Management System shall be put in place prior to the commencement of operations on site. A copy of this shall be made available to the planning authority on request in writing or by a member of staff of the planning authority at the site.

Reason: To protect the amenities of the area.

23. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

24. 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.