



Planning and Development Acts 2000 to 2018

Planning Authority: Cork County Council

Planning Register Reference Number: 18/04037

Appeal by Michael Riordan of Ballinahena, Fermoy, County Cork against the decision made on the 2nd day of August, 2018 by Cork County Council to grant subject to conditions a permission to Lidl Ireland GmbH care of The Planning Partnership of The Coach House, Dundanion, Blackrock Road, Cork in accordance with plans and particulars lodged with the said Council:

Proposed Development: Demolition of the existing Lidl licenced discount foodstore (1,342 square metres gross floor area with 1,052 square metres net retail sales area) and one number disused retail unit (745 square metres gross floor area) situated adjacent to the existing Lidl store and formerly operated as A Touch of Luxury along with the construction of a new mono-pitched licenced discount foodstore with ancillary infrastructure and associated site development works (all totaling 2,167 square metres gross floor area and ranging in height equivalent from one to two storeys). The construction of the proposed new licenced discount foodstore (2,125 square metres gross floor area) comprises of: A retail sales area with ancillary off-licence use and bakery (total net retail sales area of 1,338 square metres), entrance pod, public facilities (including lobby and toilets), staff facilities (including lobbies, operations office, meeting room, canteen, showers and

toilets), storage (including cold storage), IT room, plant room and delivery area, all at ground floor level; corporate signage consisting of two number building mounted corporate internally illuminated sign, one number free standing internally illuminated totem pole sign at entrance, three number wall mounted externally illuminated poster panel display boards, and one number free standing externally illuminated poster display board; one number covered trolley bay structure (42 square metres gross floor area); 140 number surface car parking spaces (six number disabled, six number parent and child, and 128 number regular); 10 number motorcycle and 21 number bicycle parking spaces; Primary vehicular and pedestrian access to the proposed new licenced discount foodstore development will be provided via a repositioned site entrance onto the N72 National Secondary Road, Courthouse Road; secondary pedestrian access to the proposed new licensed discount foodstore development will be provided via a new dedicated pedestrian entrance from Courthouse Road; 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, all on a site of approximately 1.101 hectares at Fermoy Lidl Licenced Discount Foodstore and the disused A Touch of Luxury retail unit on the N7 National Secondary Road, Courthouse Road, Fermoy, County Cork. The proposed development was revised by further public notices received by the planning authority on the 11th day of June, 2018.

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 Cork County Development Plan 2014–2020, the Fermoy Town Development Plan 2009–2015, the Fermoy Municipal District Local Area Plan 2017, the Guidelines for Planning Authorities on Retail Planning issued by the Department of the Environment, Community and Local Government in April 2012 and the planning history of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development 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 proposed development 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 (Cork/Waterford) Special Area of Conservation (Site Code: 002170), and the Blackwater Callows Special Protection Area (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 (Cork/Waterford) Special Area of Conservation (Site Code: 002170), and the Blackwater Callows Special Protection Area (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 11th 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, as amended, 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 drawing number 044517_LP_01 revision C, as submitted to the planning authority on the 11th day of May, 2018, 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 hours on Monday to Saturday inclusive or before 0800 hours on Sundays and public holidays and no deliveries shall take place after 2200 hours.

Reason: In 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 the 11th day of 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 the 11th day of 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. 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.

Terry Prendergast

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

Dated this day of 2019.