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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Mayo County Council**

**Planning Register Reference Number: P19/1015**

**Appeal** by Lidl Ireland GmbH care of The Planning Partnership of McHale Retail Park, Castlebar, County Mayo against the decision made on the 14<sup>th</sup> day of July, 2020 by Mayo County Council to refuse permission for the proposed development.

**Proposed Development:** The construction of a Discount Foodstore Supermarket with ancillary off-licence sales. The proposed development comprises: (1) the construction of a single storey (with mezzanine plant deck) mono-pitch Discount Foodstore (with ancillary off-licence use) measuring 2,268 square metres gross floor space with a net retail sales area of 1,420 square metres; (2) provision of associated car parking, free standing and building mounted signage, free standing trolley bay and enclosure, refrigeration and air conditioning plant and equipment, roof mounted solar panels, hard and soft landscaping, cycle parking, boundary treatments, pedestrian access, drainage infrastructure and connections to services/utilities, and all other associated and ancillary development and works above and below ground level; and (3) construction of a vehicular access road to N60/Kilcolman Road serving the proposed development and facilitating the future development of adjoining lands at Kilcolman Road, Clare,

Claremorris, County Mayo. Further public notices were received by the planning authority on the 19<sup>th</sup> day of June, 2020.

## **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 'Retail Planning - Guidelines for Planning Authorities' published by the Department of the Environment, Community and Local Government, April 2012, the provisions of the Mayo County Development Plan 2014 - 2020, the location and town centre zoning of the site, and the quality, adequacy and effectiveness of the link to the main commercial area of Claremorris, it is considered that the proposed development would not seriously interfere with the character of the landscape, would not seriously injure the amenities of the area or of property in the vicinity, would not contravene Objective KTCS-05 of the development plan or adversely impact on the vitality or viability of convenience retail stores in the wider area, would be acceptable in terms of pedestrian and traffic safety and convenience, and would be consistent with relevant local and national policy. The proposed

development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board was satisfied that the proposed development would comply with national and local retail policy which favours town centres as the location for new retail development. Accordingly, the question of whether the permitted Chapel Lane site constitutes a more suitable site does not arise. The Board also noted that the proposed development would not result in the overprovision of convenience retail floorspace in the town of Claremorris.

The Board further noted that the applicant in the case of the Chapel Lane site was not the same as the applicant on the subject site.

## 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 24<sup>th</sup> day of April, 2020, 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. Details of the materials, colours and textures of all the external finishes to the proposed building 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.

3. 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.

4. No external security shutters shall be erected on any of the commercial premises 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.

5. Prior to commencement of development, details of all plant machinery, filters, extraction vents or odour control units to be used in connection with the development shall be submitted to, and agreed in writing with, the planning authority. These shall include details of any proposed sound attenuation measures to be incorporated within the plant and machinery, ducting, filters or extraction vents to be incorporated into the building. All plant shall not extend above roof level.

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

6. The hours of operation of the main retail unit shall be between 0800 and 2200 hours from Mondays to Sundays inclusive. Any 24-hour operation shall be restricted to four weeks of each calendar year specifying the specific dates/periods which shall be submitted to, and agreed in writing with, the planning authority in advance of commencement of trading. Any period of 24-hour operation shall be confined to times around the Christmas and Easter holiday period.

**Reason:** In order to protect the residential amenities of the area.

7. No deliveries shall be taken at or dispatched from the premises outside the hours of 0900 to 2000, Monday to Sunday.

**Reason:** To protect the residential amenities of the area.

8. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0700 to 1400 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.

9. (a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and the junction with the public road to the north of the site, shall be in accordance with DMURS.

- (b) A Stage 3 Road Safety Audit in relation to all road works including the junction with the public road, shall be prepared and submitted for the written agreement of the planning authority prior to commencement of development. Any necessary revisions and/or additions shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.

10. 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.

11. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

**Reason:** In the interest of public health.

12. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

**Reason:** In the interests of visual and residential amenity.



13. 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 noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

14. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, landscaping and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

15. 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.



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**John Connolly**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

Dated this 16<sup>th</sup> day of JUNE 2021

