

An
Bord
Pleanála

Board Order
ABP-309636-21

Planning and Development Acts 2000 to 2021

Planning Authority: Galway County Council

Planning Register Reference Number: 20/1918

Appeal by Lidl Ireland GmbH care of MKO of Tuam Road, Galway against the decision made on the 11th day of February, 2021 by Galway County Council to refuse permission for the proposed development.

Proposed Development: The provision of a 2,278 square metre discount food store including off-license use and also including roof mounted plant and solar panels. (Net retail area: 1,200 square metres). The provision of two number standalone retail units – Retail Unit 1 (139 square metres) and Retail Unit 2 (279 square metres). The provision of five number residential dwellings (Ground Floor Area: 592 square metres) comprising one number four bedroom detached unit, four number three bedroom semi-detached units. Provision of signage for discount food store and retail units. Provision of shared communal and private open space, pedestrian and vehicular access, alterations to existing car parking arrangements, appropriate landscaping and boundary treatments, street furniture, an ESB substation, 112 number car parking spaces, 30 number cycle spaces and all other site development works and services ancillary to the proposed development at An Fuarán, Moycullen, County Galway.

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Signed: Secretary 



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.

Reasons and Considerations

Having regard to the scale and nature of the mixed use retail and residential development on a site zoned town centre, to the relevant policies and objectives in the Moycullen Small Town Growth Plan 2022- 2028, and, to the established pattern and character of existing development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the vitality and viability of Moycullen town centre, would not seriously injure the visual amenities of the area, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Stage 1 Screening for Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the inspector's report that the Lough Corrib Special Area of Conservation (Site Code: 000297), the Lough Corrib Special Protection Area (Site Code: 004042), the Galway Bay Complex Special Area of Conservation (Site Code: 000268) and the Inner Galway Bay Special Protection Area (Site Code: 004031) are the European sites for which the proposed development has the potential to have a significant effect and must therefore be subject to Appropriate Assessment.

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Stage 2 Appropriate Assessment

The Board considered the Natura Impact Statement (and the updated Natura Impact Statement submitted to An Bord Pleanála on the 5th day of July 2021), and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites in view of the sites' Conservation Objectives (Lough Corrib Special Area of Conservation (Site Code: 000297), the Lough Corrib Special Protection Area (Site Code: 004042), the Galway Bay Complex Special Area of Conservation (Site Code: 000268) and the Inner Galway Bay Special Protection Area (Site Code: 004031)). The Board considered the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' conservation objectives using best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, the view of the Department of Tourism, Culture, Arts, Gaeltacht, Sports and Media and the mitigation measures which are included as part of the current proposal. The Board noted that the updated NIS submitted on the 5th day of July 2021 assessed the proposed development in combination with other plans and projects including in particular the developments identified by the Department in their submission dated the 11th day of May 2021.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the implications of the proposed development on the integrity of the aforementioned European Sites, having regard to the sites' Conservation objectives.

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In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of European sites in view of the sites' Conservation Objectives and there is no reasonable scientific doubt as to the absence of such effects.

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 received by An Bord Pleanála on the 9th day of March 2021 and the 5th day of July 2021, 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 mitigation and monitoring measures set out in the Natura Impact Statement submitted to An Bord Pleanála on the 5th day of July 2021 shall be implemented in full.

Reason: In the interest of the natural heritage of the area and protecting the environment.

3. 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.

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4. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.

Reason: In the interest of public health.

5. (a) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, kerbs and car parking bay sizes shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii within the development shall be in accordance with the guidance provided in the National Cycle Manual.
- (b) The materials used in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.

Revised drawings and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of pedestrian, cyclist, and traffic safety.

6. The hours of operation of the main retail unit shall be between 0800 and 2200 hours from Mondays to Saturdays inclusive and between 0900 and 2100 hours on Sundays and public holidays. Deliveries shall not take place before 0800 hours from Monday to Saturday inclusive, before 0900 hours on Sundays and public holidays, nor after 2200 hours on any day.

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

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7. 30 number bicycle parking spaces shall be provided within the site within covered stand(s). The layout and demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

9. The landscape masterplan shown on drawing number 065320-LP-01, as submitted to An Bord Pleanála on the 5th day of July 2021, 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 [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.

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10. A minimum of 10% of all communal car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted to and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

11. Prior to the commencement of development, the developer shall submit revised proposals for the on-site commercial signage for the written agreement of the planning authority.

Reason: In the interest of visual amenity.

12. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

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13. Details 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.

14. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 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.

15. Prior to the commencement of any house in the development as permitted, the application or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing in the common good.

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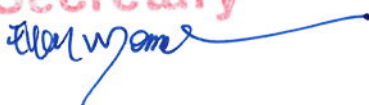
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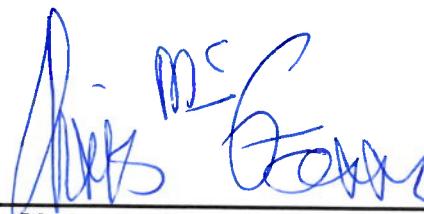
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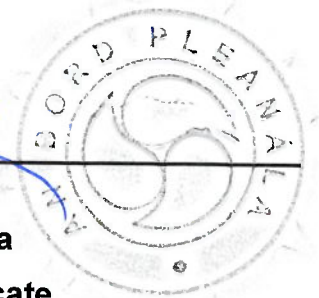
16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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.



Chris McGarry

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



Dated this 21st day of December 2022

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