



Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 3930/22

Appeal by Adrienne Duffy and Michael Connolly and others care of Marston Planning Consultancy of 23 Grange Park, Foxrock, Dublin and by Lidl Ireland GmbH care of BMA Planning of Taney Hall, Eglinton Terrace, Dundrum, Dublin against the decision made on the 18th day of November, 2022 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: The proposed development will consist of the demolition of existing buildings on site (1,316 square metres gross floor area) and the construction of a mixed use retail/commercial and residential development totalling 9,177 square metres gross floor area comprising a supermarket with ancillary off-licence and bakery and associated circulation, storage, staff accommodation, canteen, toilets, shower facilities, deliveries room and ESB substation totalling 2,811 square metres gross floor area (of which 1,463 square metres is net retail sales area), three number ground floor independent retail/commercial units of 181 square metres including a mezzanine, 194 square metres and 82 square metres and 60 number residential apartments on four levels (Levels 1M, 2, 3 and 4) comprising 30

number one-bedroom units, 29 number two-bed units and one number three bed unit and all associated private amenity space, circulation, lift and stair cores and escape stairs. The supermarket is located at first floor level over an undercroft car park with access gained via travellers located in the entrance lobby at street level fronting Herberton Road.

The proposed development also comprises communal amenity space in the form of a landscaped podium level courtyard (610 square metres) located at second floor level. Access to the apartment units is gained via three number entrance points one of which is located on the north eastern corner of the building fronting Herberton Road and two remaining entrances are located on the southern elevation addressing the new internal access road. The ground floor level includes ancillary residential accommodation including entrance lobbies, bin store and cycle stores, and other ancillary uses. Vehicular access to serve the proposed development will be provided via a new entrance from Herberton Road located at the south eastern boundary of the site. The supermarket is serviced by an external delivery/service area and dock leveller located at the north western corner of the building. The development is serviced by a surface level undercroft car park containing 56 number car parking spaces. 14 number surface car parking spaces are provided on the internal access road. 128 number cycle parking spaces are proposed within secure designated storage areas and surface cycle parking as part of the development. The proposed building is a six-storey equivalent structure (four floors of residential over commercial). Permission is also sought for public lighting, signage, hard and soft landscaping, boundary treatment and all ancillary and associated site development works; all on site (0.45 hectares) at lands known as Bright Ford Rialto, Herberton Road, Dublin.

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 nature, scale and design of the development proposed, the site location in the city and the brownfield nature of the site as existing, the Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable form of mixed-use development in this urban location, would not seriously injure the residential or visual amenities of the area, would provide for an acceptable standard of residential amenity for future residents in the development, would not increase flood risk elsewhere, would be acceptable in terms of urban design, height and quantum of development, and would be respectful of the type of development envisaged for 'Z10' zoned land at this locality as provided for under the Dublin City Development Plan, 2022-2028. It is further considered that the proposed development would be acceptable in terms of pedestrian and traffic safety and would not give rise to any undue inconvenience for road users or vulnerable users of the public domain. Moreover, the proposed development would appropriately address adjoining lands on Herberton Road and would facilitate future connectivity to the adjoining lands to the west of the site should they be redeveloped in future. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Having regard to the appeal by the first party, the Board noted the planning authority's response to the appeal against a development contribution 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 received by the planning authority on the 24th day of October 2022, 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 buildings shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Proposals for a development name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all development signs and apartment numbers shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

4. Prior to commencement of development the developer shall submit to, and agree in writing with, the planning authority, full details of the proposed green roof in the podium roof garden and proposals for privacy screens between balconies of the apartments, including heights and materials.

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

5. 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 hereby approved, unless authorised by a prior grant of planning permission.

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

6. Notwithstanding the provisions of the Planning and Development Regulations 2001, as amended, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting element shall be displayed or erected on the building or within the curtilage, or attached to the glazing without the prior grant of planning permission.

Reason: In the interest of visual amenity.

7. No external security shutters shall be erected for any of the retail/commercial premises hereby permitted 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 the commencement of development.

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

8. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

9. 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.

Reason: In the interest of visual and residential amenity.

10. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas including a parking management plan, EV charging facilities, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in

writing with the planning authority, before any of the residential or commercial units are made available for occupation.

Reason: To provide for the future maintenance of the development in the interest of residential amenity and orderly development.

11. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works. Flood mitigation measures identified in the 'Flood Risk Assessment – LIDL Ireland GmbH' (AECOM) received by the planning authority on the 10th day of May 2022 shall be fully implemented.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

12. The developer shall enter into water and wastewater connection agreements with Uisce Eireann, prior to commencement of development.

Reason: In the interest of public health and orderly development.

13. (a) 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 for each apartment unit 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.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

14. 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 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. The construction of the development shall be managed in accordance with a Construction and Environmental 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) the location of the site and materials compounds including areas identified for the storage of construction refuse;
 - (b) the location of areas for construction site offices and staff facilities;
 - (c) the details of site security fencing and hoardings;
 - (d) the details of car parking facilities and/or mobility plan for site workers during construction;
 - (e) the 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) the details of appropriate mitigation measures for noise, dust and vibration, and the location and frequency of monitoring of such levels;
- (j) the 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; and,
- (k) the means to ensure that surface water run-off is controlled such that no silt or other pollutants/contaminants enter local surface water sewers or drains.

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 interests of amenities, public health and safety.

16. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written

agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

17. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

18. 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, watermains, drains, public open space 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 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.

19. The developer shall pay to the planning authority a financial contribution as a contribution in lieu of the public open space requirement in respect of public open space benefiting the 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.

20. 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.

21. The developer shall pay to the planning authority a financial contribution of €627,657.54 (six hundred and twenty seven thousand and six hundred and fifty seven euro and fifty four cents) 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. The application of any indexation required by this condition 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.

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.



Tom Rabbette

Member of An Bord Pleanála

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

Dated this 18th day of July 2024.