

An
Bord
Pleanála

Board Order
ABP-315409-22

Planning and Development Acts 2000 to 2022

Planning Authority: Galway County Council

Planning Register Reference Number: 2260734.

Appeal by Lidl Ireland GmbH care of The Planning Partnership of McHale Retail Park, Castlebar, County Mayo against the decision made on the 25th day of November 2022 by Galway County Council to refuse a permission for the proposed development.

Proposed Development: for 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 2,275 square metres gross floor space with a net retail sales area of 1,409 square metres; (2) Construction of a vehicular and pedestrian access points to both Clonfert Avenue and Dominic Street and associated works; and, (3) Provision of associated car parking, free standing and building mounted signage, trolley bay cover / enclosure, refrigeration and air conditioning plant and equipment, roof mounted solar panels, hard and soft landscaping, cycle parking, boundary treatments, modification of existing footpaths, drainage infrastructure and connections to services / utilities, electricity sub-station and

all other associated and ancillary development and works above and below ground level, at Clonfert Avenue and Dominic Street, Portumna, County Galway.

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 site's zoning objective and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the residential or visual amenities of the area or property in the vicinity, would be acceptable in terms of built heritage and traffic safety and convenience, would not materially contravene the Galway County Development Plan 2022-2028, and would constitute an acceptable form of development at this zoned and serviced location, proximate to the centre of town. 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 did not agree that proposed development would contravene materially the zoning objective of the site and noted that the planning authority accepted the principle of the development was acceptable at this location and that the intention for the area of land zoned 'Open Space, Recreation and Amenity' is not to create an active area of open space, but rather to reflect the flood risk of this part of the site and that the proposed development does not create a flood risk elsewhere, and flood storage is catered for within the site. In this context, the Board noted that this modest

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component of the subject site is proposed for ancillary surface parking only. The Board also did not agree that the proposal lacked appropriate pedestrian/cycle permeability, the Board considered that the adjustments have been made in Drawing number 01-02 enhanced pedestrian and cycle permeability within the site and maximise accessibility for pedestrians and cyclists to an acceptable level within the site. The Board noted in particular that the pedestrian desire line from Clonfert Avenue has been enhanced, through the refinement of the road and path layout from the public footpath to the store entrance, cycle parking has been adjusted to avoid cluttering and carriageway widths have been reduced and dropped kerbs have been expanded to provide more direct and obvious pedestrian routes.

Appropriate Assessment: Stage 1:

The Board considered the Natura Impact Statement submitted with the application, and all the other relevant submissions on file, and carried out an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on neighbouring European Sites. The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report that the River Shannon Callows Special area of Conservation (Site Code 000216), Lough Derg North East Shore Special Area of Conservation (Site Code 002241), Middle Shannon Callows Special Protection Area (Site Code 004096) and Lough Derg (Shannon) Special Protection Area (Site Code 004058) are the only European Site's in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the sites and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an appropriate assessment of the implications of the proposed development on the River Shannon Callows

Special Area of Conservation (Site Code 000216), Lough Derg North East Shore Special Area of Conservation (Site Code 002241), Middle Shannon Callows Special Protection Area (Site Code 004096) and Lough Derg (Shannon) Special Protection Area (Site Code 004058) in view of these 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 site-specific Conservation Objectives for the European Sites,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and
- (iii) mitigation measures which are included as part of the current proposal.

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.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of these European Sites in view of the sites' conservation objectives. This conclusion is based on:

- (a) A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the conservation objectives of the above mentioned sites.
- (b) Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- (c) The Appropriate Assessment undertaken by the planning authority.
- (d) No reasonable scientific doubt as to the absence of adverse effects on the integrity of these European Sites.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars submitted to the planning authority on the 1st day of November 2022 and the information submitted to An Bord Pleanála in response to Section 137 notice on the 8th of August 2024, 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. Mitigation and monitoring measures outlined in the plans and particulars lodged with the application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

3. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Prior to the occupation of the supermarket, details of all advertising signage, including the proposed colour and finish and level of illumination (lux) of the signage shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of visual amenity.

5. 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 elements shall be displayed or erected on the retail units 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.

6. The development shall open only between 0800 and 2200 hours on Mondays to Saturdays and between 0900 hours and 2100 hours on Sundays and Public Holidays.

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

7. Appropriate times relating to deliveries to the development shall be agreed in writing with the planning authority prior to the commencement of operation of the store.

Reason: In the interest of public amenity.

8. The developer shall submit a landscape scheme to the planning authority, for their written agreement, prior to commencement of development. The landscape scheme shall be implemented fully in the first planting season following the substantial completion of the external construction works. All planting shall be adequately protected from damage until established. Any trees, plants or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of visual amenity.

9. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted 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.

10. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas, or equipment, unless agreed in writing with the planning authority.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

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11. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of the development.

Reason: In the interest of amenity and public safety.

12. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

13. 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.

14. The developer shall enter into water and wastewater connection agreement with Uisce Éireann, prior to commencement of development.

Reason: In the interest of public health.

15. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and surface water management.

16. 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.

17. Prior to commencement of development, the developer 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 file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to 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.

18. 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 interest of public safety.

19. 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.



Peter Mullan

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



Dated this 9th day of April, 2025.