



An  
Bord  
Pleanála

**Board Order**

**ABP-316387-23**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Cavan County Council**

**Planning Register Reference Number: 22/344**

**Appeal** by Aiden Smith and others care of Noeleen Shannon of 9 Corraback, Belturbet, County Cavan and by Lidl (Ireland) GmbH care of The Planning Partnership of The Bank building, 52 Oliver Plunkett Street, Mullingar, County Westmeath against the decision made on the 29<sup>th</sup> day of March, 2023 by Cavan County Council to grant permission, subject to conditions, to the said Lidl (Ireland) GmbH in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of a new Discount Foodstore Supermarket with ancillary off-licence sales at this site of 0.905 hectares. The proposed development comprises: 1) the demolition of existing single storey Discount Foodstore (with ancillary off-licence use) measuring circa 1,596 square metres gross floor space with a net retail sales area of circa 1,165 square metres; 2) the construction of a single storey mono-pitch (with flat roof loading bay) Discount Foodstore (with ancillary off-licence use) measuring 2,560 square metres gross floor space with a net retail sales area of 1,652 square metres; 3) redevelopment/reconfiguration of existing site layout, car parking 122 number spaces and hard and soft landscaping, with retained existing vehicular access point to existing access road, relocated dock leveller HGV delivery bay; and, 4) provision

and renewal of boundary treatments, free standing and building mounted signage, covered trolley bay, refrigeration and air conditioning plant and equipment, ESB unit sub-station, external lighting, electric vehicle charging infrastructure, roof mounted solar panels, cycle parking, modification of existing drainage, utility and services infrastructure and connections, and all other associated and ancillary development and works above and below ground level; all at Lidl, Ballinagh Road, Cavan, County Cavan as amended by the revised public notice received by the planning authority on the 7<sup>th</sup> day of February, 2023.

## **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 Cavan County Development Plan 2022 – 2028 and to the “Retail Planning Guidelines for Planning Authorities” issued by the Department of the Environment, Community and Local Government in April, 2012, it is considered that the applicant has demonstrated that the proposed increase in net retail sales floor space on the extended site would not have a significant impact upon Cavan Town centre and would comply with the advice set out in the county retail strategy. The proposed discount foodstore would be constructed on an extended site, which is wholly zoned as a neighbourhood centre and as a permissible in principle use within this zone, would comply with the attendant zoning objective. It is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the visual and residential amenities of the area. Furthermore, it is considered that operational and non-operational traffic generated by the proposal would be safely accommodated on the public road network and that proposed access and circulation arrangements for pedestrians, cyclists, and drivers as well as proposed parking provision would comply with the provisions of the

Development Plan. It is considered that the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The attachment of a special contribution condition towards the funding of improved pedestrian facilities in the surrounding area would not be warranted as the planning authority was not in a position to present specific proposals or costings including apportionment among businesses in the area.

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening submitted to the planning authority and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development may have a significant effect on the Lough Oughter and Associated Loughs Special Area of Conservation (Site code: 000007) and the Lough Oughter Complex Special Protection Area (Site code: 004049) in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment is, therefore, required.

### **Appropriate Assessment**

The Board completed an Appropriate Assessment in relation to the effects of the proposed development on the Lough Oughter and Associated Loughs Special Area of Conservation (Site code: 000007) and the Lough Oughter Complex Special Protection Area (Site code: 004049), taking into account the nature, scale and location of the proposed development, the submitted Natura impact statement, including the mitigation measures proposed, and the Inspector's report and submissions on file.

Following the Appropriate Assessment, the Board adopted the conclusions of the Inspector and determined that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of the Lough Oughter and Associated Loughs Special Area of Conservation (Site code: 000007) and the Lough Oughter Complex Special Protection Area (Site code: 004049), or any other European site, in view of the sites' conservation objectives.

This conclusion is based on a complete assessment of all aspects of the proposed project alone (and in combination with other projects) including possible construction related pollution and invasive species.

Measures designed to prevent adverse effects have been incorporated into both a construction management plan and invasive species management plan.

There is no reasonable scientific doubt as to the absence of adverse effects on the integrity of the said 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 the further plans and particulars submitted to the planning authority on the 30<sup>th</sup> day of January, 2023 and by the further plans and particulars received by An Bord Pleanála on the 19<sup>th</sup> day of May 2023, 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 proposed development shall be amended so that a four-metre-high noise barrier shall be installed along the exposed side of the ramp to the loading bay beside the northern elevation of the proposed foodstore.

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

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

3. Prior to the commencement of the use of the foodstore, the noise barrier referred to in condition number 2 and the timber acoustic fence shown on drawing number 06-02 for project number L265 and received by the planning authority on the 30<sup>th</sup> day of January, 2023 shall be installed and, thereafter, they shall be retained in-situ for the duration of the use of the foodstore as such.

**Reason:** In the interest of the residential amenities of the area.

4. Details of the materials, colours, and textures of all the external finishes to the proposed building and all the surface finishes to the car park 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.

5. Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.

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

6. (a) The proposed access points, on-site circulation lanes, parking spaces, footpaths, delivery ramp, and lighting shall all be in accordance with the detailed standards of the planning authority for such works.
- (b) The proposed access point from Old Ballyjamesduff Road (L-25008) shall be used exclusively by delivery vehicles and shall operate as a site entrance point only.

**Reason:** In the interest of driver and pedestrian safety.

7. Prior to their opening, the proposed pedestrian and vehicular access points to the site from surrounding public roads shall be the subject of a Stage 3 Road Safety Audit, which shall be submitted to, and agreed in writing with, the planning authority. Any recommendations made by this Audit shall be fully implemented and the cost of the same shall be borne by the developer.

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

8. The landscaping scheme shown on drawing number 078722\_LP\_01\_Lidl Cavan 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 residential and visual amenity.

9. Unless otherwise agreed in writing with the planning authority, the construction phase of the development shall proceed in accordance with the Preliminary Construction and Demolition Waste Management Plan, and the Preliminary Construction Environmental Management Plan, and the construction phase mitigation measures set out in the Natura impact statement, all of which were received by the planning authority on the 30<sup>th</sup> day of January 2023.

**Reason:** In the interests of amenities, public health and safety.

10. Prior to the commencement of development, a revised management plan for handling Japanese Knotweed on the site shall be submitted to, and agreed in writing with, the planning authority. This plan shall specify a methodology for the removal of this invasive species from "Location B" on the site, and its subsequent transportation to an authorised disposal facility.

**Reason:** In order to safeguard and promote biodiversity.

11. 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.



12. The foodstore shall be open between 0800 hours 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.

13. Bicycle parking facilities shall be fully in compliance with Section 7.7 of the Cavan County Development Plan 2022-2028. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transportation.

14. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected (on the building/within the curtilage of the site) unless authorised by a further grant of planning permission.

**Reason:** In order to afford the planning authority the opportunity to assess the impact of any such advertisement or structure on the amenities of the area.



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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Joe Boland

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

Dated this 18<sup>TH</sup> day of April 2024