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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Wexford County Council**

**Planning Register Reference Number: 20230487**

**Appeal** by David Bowe care of Ian Doyle Planning Consultant of Woodleigh, Cornwall, Killurin, Enniscorthy, County Wexford against the decision made on the 30<sup>th</sup> day of June, 2023 by Wexford County Council to grant subject to conditions a permission to Lidl Ireland GmbH care of The Planning Partnership of McHale Retail Park, Castlebar, County Mayo in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Permission for development consisting of 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 2,209 square metres gross floor space with a net retail sales area of 1,420 square metres; (2) construction of an access road from Rosslare Road serving the proposed development and facilitating the future development of adjoining lands and associated and ancillary works and pedestrian access to the foodstore site from Rosslare Road and (3) provision of associated car parking (including electric car charging facilities), 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, electricity sub-station, drainage infrastructure and connections to

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services/utilities (including foul sewer link from the proposed development site at Rocksborough to connect to existing infrastructure to the south in the townland of Kerloge, including within the curtilage of a Protected Structure) and all other associated and ancillary development and works above and below ground level at Rosslare Road, Rocksborough/Kerloge, Wexford.

## **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 policies and objectives of the Wexford County Development Plan 2022-2028 including, inter alia, the Wexford County Retail Strategy 2021-2027, to the Guidelines for Planning Authorities Retail Planning issued by the Department of the Environment, Community and Local Government in April 2012, to the nature and scale of the proposed development, and to the pattern of development in the surrounding vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the retail strategy for the county and would not seriously injure the visual or residential amenities of the area, or give rise to traffic hazard or obstruction of road users. 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 noted (i) that the site is not currently zoned, (ii) the limited impact the development would have in terms of available expenditure and the projected capacity/need for retail floorspace up to 2027 in the Wexford town catchment, (iii) the applicant considered the available sites in the town and regarded the development location to be appropriate in terms of the sequential approach. The Board further noted the development is in accordance with the requirements of the Development Plan in relation to design and layout, the character and amenities of the area, archaeological protection, drainage, traffic and transportation, and construction and environmental management. The Board, therefore, concurred with the assessment of the planning authority.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 developer shall ensure that all environmental mitigation measures set out in the Natura Impact Statement are implemented in full.

**Reason:** In the interest of protection of the environment.

3. Prior to the commencement of development, the developer shall submit, for the written agreement of the planning authority, a revised site layout plan showing details of the final access, road design, and pedestrian crossing. All roads and footpaths (and cycleways where applicable) shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands with no obstruction including the erection of any structure which would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended.

**Reason:** In the interests of pedestrian and traffic safety, permeability and proper planning and sustainable development.

4. The access road, including the connection to the adjoining lands to the west shall be completed prior to the opening of the store.

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

5. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction and Environmental Management Plan (CEMP) for the written agreement of the planning authority. The Construction and Environmental Management Plan shall incorporate details for the following:
- (a) collection and disposal of construction waste,
  - (b) surface water run-off from the site,
  - (c) on-site road construction,
  - (d) environmental management measures during construction including noise control, dust and vibration control and monitoring of such measures, and

- (e) the location of petrol interceptors so that the surface drainage of any area surrounding metering pumps, dispensers and tanker delivery points or the drainage of any petrol spillages or water contaminated with petrol shall be prevented from entering any water course, public drain or sewer.

A record of daily checks, that the construction works are being undertaken in accordance with the Construction and Environmental Management Plan, shall be kept at the construction site office for inspection by the planning authority. The agreed Construction and Environmental Management Plan shall be implemented in full in the carrying out of the development.

**Reason:** In the interests of landscape and environmental protection.

6. 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.

7. 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.

8. 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:** To protect the visual amenities of the area.

9. The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development. Prior to the commencement of such works, the archaeologist shall consult with and forward to the Local Authority archaeologist or the National Monuments Service as appropriate a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation. The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the



National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

**Reason:** To ensure the continued preservation either in situ or by record of places, caves, sites, features or other objects of archaeological interest.

10. (a) Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.
- (b) Details of SuDS measures shall be submitted to the planning authority for written agreement prior to commencement of development.

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

11. A comprehensive boundary treatment and landscaping scheme in accordance with the Boundary Treatment 01 of 02 Diagram and Sections and the Boundary Treatment 02 of 02 Diagram and Sections Plans drawing numbers PA-500 and PA-501 shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. This scheme shall include the following:
  - (a) details of all proposed hard surface finishes, including of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development,
  - (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings,
  - (c) details of proposed street fixtures, including bollards, lighting, road signage, and

- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

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

12. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Uisce Éireann.

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

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 with the proposed development.

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

14. The hours of public opening shall be restricted to between the hours of 0700 to 2200, Mondays to Sundays and public holidays, unless otherwise agreed in writing with the planning authority and, if deemed necessary, subject of a separate grant of permission.

**Reason:** In the interest of clarity.

15. No deliveries shall take place between the hours of 2000 and 0700.

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

16. Public lighting shall be provided in accordance with the Lighting Impact Assessment Report.

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



17. 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 amenities of property in the vicinity.

18. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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 the 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 developers 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.

*Eamonn James Kelly*

**Eamonn James Kelly**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

Dated this *29<sup>th</sup>* day of *July*, 2024.

