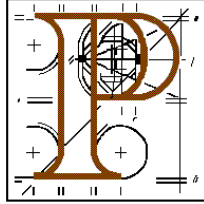


An Bord Pleanála



Inspector's Report

Development:

Extension of car park of the Lidl store currently under construction, demolition of habitable house, provision of additional car parking spaces to development previously permitted under reg ref 13/703188.

Location:

Bohernasup, Ballina, Co Mayo.

Planning Application

Planning Authority: Mayo County Council
Planning Authority Reg. Ref.: 15/656
Applicant: Lidl Ireland GMBH
Type of Application: Permission
Planning Authority Decision: Refuse Permission

Planning Appeal

Appellants: Lidl Ireland GMBH
Observer: Máire Ní Chathail
Type of Appeals: 1st v Refusal
Date of Site Inspection: 28th July 2016
Inspector: Dolores McCague

1 SITE LOCATION AND DESCRIPTION

- 1.1 The site is located north of the town centre in Ballina where it fronts onto the road known as Bohernasup near its junction with Circular Road and Humbert Street.
- 1.2 Bohernasup is a steep road running north from the town, which has a frontage of suburban type residential development. Some residential estates are served by the road. Over part of the road, there is a planted median.
- 1.3 The site is bounded by a dwelling site to the north, a recently constructed Lidl store and associated car park to the south and east, and the public road to the west. Part of the site is occupied by a detached, single storey dwelling.
- 1.4 The adjoining recently opened Lidl store was constructed on foot of a planning permission granted by the Board under ref PL 16.244269, in 2015.
- 1.5 The site is located close to the town centre, with the town's traditional shopping streets to the south. South of the Lidl site, there is public car park and further the south a shopping precinct with Dunnes Stores together with smaller shops in the covered shopping complex, which adjoins the traditional shopping streets to the south and west.
- 1.6 The subject site is given as 0.3585ha. including the grounds of a dwelling proposed to be demolished (0.1ha).

2 PROPOSED DEVELOPMENT

- 2.1 The proposed development is the demolition of a habitable house, and the provision of additional car parking spaces as an extension to the car park of the Lidl store, permitted under reg ref 13/703188; increasing and reconfiguring the previously permitted parking from 74 no. to an overall 108 no. spaces and enlarging the overall site area by 0.1 ha from 0.6634 to 0.7634 ha and all ancillary development and works including hard and soft landscaping, lighting, and surface water drainage.
- 2.2 The dwelling proposed for demolition is a bungalow, with converted attic, of 210 sq m floor area. Its short axis faces the public road, set back from the public road along a building line similar to the dwelling on the adjoining site to the north. The bungalow has a maximum width of 12.07m and a maximum length of 23.62m. Part of the former rear

garden of the dwelling was included within the site of the planning application for the Lidl store, and has been developed as part of the existing car park. There is a rear garden area remaining with the dwelling.

3 PLANNING AUTHORITY DECISION

3.1 The application was submitted on the 13th October 2015. The application was accompanied by a letter from The Planning Partnership which stated that the overall Lidl site will increase in area from 0.6634ha to 0.7634ha, whilst the site area for the purposes of the subject planning application is 0.3585ha and includes the extended site area and relevant parts of the previously permitted car park which are to be slightly reconfigured. The proposed development provides an additional 34 no. parking spaces; increasing from the previously permitted 74 no. to a total of 108 no. spaces, including an extra 2 no. disabled and 3 no. parent and child spaces. The proposed level of parking will bring the previously permitted development above the parking requirements of the Development Plan; whereas the development was originally permitted with a shortfall of 15 no. spaces. A contribution was levied in respect of the shortfall, for the provision additional parking facilities off-site.

3.2 Initial Reports

3.3 Executive Architect – 4/11/2015 – recommending refusal:

The proposed demolition of the residential bungalow would expose the residential suburban street of Botharnasup to a busy commercial supermarket, not envisaged in the original planning. The residences of the street are very suburban in character and require a transition or barrier from the busy supermarket car park, in use day and night. It would be unfair to grant such a proposal as this would devalue the suburban landscape and the resident's quality of life.

3.4 Planning – recommending a request for further information.

3.5 Further information request 7/12/2015 on 6 points (per planning report):

1- Submit two front elevations showing streetscape with existing house and new Lidl store and streetscape per current application.

- 2- Submit an Environmental Assessment under Article 6 of the EU Habitat Directive.
- 3- Submit design calculations and sections for the proposed retaining wall along the northern boundary.
- 4- Submit a site layout plan clearly showing, delineated in colour, the extent of the proposed retaining wall along the northern boundary.
- 5- Submit a site layout plan showing the proposed lighting scheme for the proposed overall site.
- 6- Submit a detailed assessment of the potential impacts of the proposed lighting scheme on adjoining properties.

Advice note

Mayo County Council would advise that the proposed development would impact on the residential amenity of the area and would impact negatively on the visual amenities of the area by leaving a gap in a mature residential streetscape.

The site is zoned existing residential in the current Ballina Town and Environs Development Plan.

3.6 Further Information Response

- 3.7 A response to the further information request was received on 18th August 2014.

Item 1 - Elevations showing streetscape submitted; the increase in the gap is not significant, and there is no uniformity or clear pattern of structures along this streetscape. The structure to be demolished is not of any particular architectural merit. Proposed landscaping / tree planting will soften and partially enclose the gap.

In response in relation to item 2: 'submit an Environmental Assessment under Article 6 of the EU Habitat Directive', they refer to the An Bord Pleanála inspector's screening of the parent application, which should be used as a baseline. The proposed development involves the expansion of the parent permission and integrates with same in terms of layout and associated drainage etc. The proposed development also relates to the redevelopment of a brownfield site. They consider that the planning authority can conclude that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site, and can be screened out.

In response to item 3: retaining wall details – report by JA Gorman Consulting Engineers is submitted containing design calculations and sections, and a reference map.

In response to item 4: site layout plan showing the proposed lighting scheme – lighting scheme layout showing detail / dimensions / specifications and luminaries / light fixtures is submitted. A number of the existing 4 m columns along the eastern and north-eastern boundaries are not proposed to be changed / affected, as illustrated on the enclosed drawings. A report by The Lighting Consultancy is attached.

In response to item 5: detailed assessment of the potential impacts of the proposed lighting scheme on adjoining properties – a report by The Lighting Consultancy is attached. The proposed lighting will be in accordance with relevant / available standards and parameters for suburban areas. The 6m columns only relate to a portion of the site.

In response to the impact on streetscape – the gap would be insignificant. The streetscape is influenced by the central planted median. This results in the view of this part of the street being partially obscured /softened. The proposed development would not impact materially on the visual amenities of the area.

Re. the residential amenity of the area, the proposed development would not have a material change in terms of the character or activities in the area. The proposal is to extend an existing / permitted activity rather than introduce one.

Re. zoning – primarily residential use, R1 – the house to be demolished is currently vacant and is unlikely to be re-used for residential development. The zoning includes uses other than residential – local shopping for instance.

The encroachment by the permitted development on the residential zoning establishes a precedent. The additional residential site area is 0.1ha, increasing the site from 0.66ha to 0.76ha approx. 13% of the enlarged site approx. 87% being comprised of the parent permission site. The extent of encroachment is not significant. The Development Management Guidelines is cited in this regard.

- 3.8 Notice of receipt of Further Information – 8th April 2016.
- 3.9 Planning – 29/4/2016 the store was recently opened. Details of the existing store was considered adequate by Lidl, Mayo Co Co and An Bord Pleanála. There is an existing public car park directly adjacent to the store with car spaces as near the front door as Lidl's own provision. The existing store is generally considered to be a welcome addition to the streetscape and fits in well with the residential nature of its surroundings. The proposed car park extension would significantly extend the gap in the streetscape and impact negatively on the important visual balance between the existing residential and new commercial.

The recently constructed store was conditioned to a specific design to maintain this balance and was endorsed by An Bord Pleanála. The proposed development would go against the well thought out decision of An Bord Pleanála. The application clearly acknowledged that Bohernasup is an unusual mature residential enclave, with large detached houses encouraging long term residency, in the middle of town and the existing intrusion is the limit of what is acceptable. The proposal increases the height of lamp standards contrary to the An Bord Pleanála decision. Report recommends refusal of permission.

3.10 A decision to refuse planning permission was made, 3rd May 2016 for 4 reasons:

1 Having regard to the current zoning of the site, which is Existing Residential, in the Ballina and Environs Development Plan 2009 – 2015 it is considered that the proposed development would be contrary to the aforementioned zoning and would impact negatively on the residential amenity of the area and depreciate the value of property in the vicinity.

2 It is considered that the proposed demolition of a habitable dwelling, with front and rear gardens, in an established and mature residential streetscape would impact negatively on the streetscape, by creating an excessive gap in the streetscape, and therefore would be contrary to the proper planning and sustainable development of the area. In this regard the proposed development would depreciate the value of property in the vicinity.

3 Having regard to the existing onsite car parking provision which was considered adequate by the applicant, Mayo County Council and An Bord Pleanála under recent permission Ref P13/703188, and having regard to the large public car park directly adjacent to the site, it is considered that there is adequate car parking provision for the existing Lidl store and that the proposed development would impact negatively on this mature residential area and would depreciate the value of property in the vicinity.

4 The proposed development would contravene materially a condition attached to an existing permission for development, namely by proposing 6 meter high streetlamps which would be contrary to condition 2 (a) of permission P13/703188 which limited the height of the streetlamps to 4 metres and therefore the proposed development would impact negatively on the residential amenity of the area and depreciate the value of property in the vicinity.

- 3.11 The decision was in accordance with the planning recommendation.
- 3.12 Observations on the file have been read and noted.

4 PLANNING HISTORY

244269 PA reg ref 13/703188 - Complete demolition of cash and carry buildings, demolition of two existing houses; construct discount foodstore. Planning authority decision to grant permission, was appealed; the Board granted permission, 17th June 2015.

5 GROUNDS OF APPEAL

- 5.1 The Planning Partnership have submitted an appeal on behalf of the first party, Lidl Ireland GMBH, against the decision to refuse permission.
- 5.2 They enclose a detailed analysis of the parking usage of the existing store and also enhanced landscaping proposals to address issues arising in the decision.
- 5.3 The residential zoning – without significant investment the dwelling is unlikely to be re-used for residential development. In practical terms the proposal will not result in a loss of available residential property. The zoning includes uses other than residential – local shopping for instance. The zoning issue should be considered in the context of the expansion of the permitted development which has encroached on the residential zoning and establishes a precedent. The additional residential site area is 0.1ha, increasing the existing permitted site from 0.66ha to 0.76ha approx. 13% of the enlarged site approx. 87% being comprised of the parent permission site. The extent of encroachment is not significant.

The character of the area is not purely residential; there is a long established commercial area, where Lidl has been developed.

- 5.4 The change is not of such significance as to result in significant impacts on residential amenity.

Impact on residential amenity

- 5.5 The impact on residential amenity should take precedence over the specific zoning.
- 5.6 The proposed development would not lead to material or significant impacts on residential amenity or change the character of the area.
- 5.7 The area is transitional in nature, the difference between the existing and proposed is the expansion of the existing.
- 5.8 The proposed development would not lead to material or significant impacts on residential amenity.
- 5.9 The proposed development represents a similar arrangement to the parent permission, a supermarket car part adjoining a residential property. The proposed development would not lead to material change in the effects on residential amenity, the existing residential / commercial transition is effectively unchanged.
- 5.10 The proposed use is compatible with the area which is transitional in nature.

Visual Impact / Effect on Streetscape

- 5.11 The proposal would extend the gap by c 50%. The streetscape is not uniform, nor is the structure to be demolished of any particular architectural merit. The streetscape is influenced by the central planted median. This results in the view of this part of the street being partially obscured / softened. The proposed development would not materially interrupt the streetscape.
- 5.12 To mitigate the proposed extended gap in the streetscape the applicant has proposed substantial landscaping which will largely close the gap.
- 5.13 An expanded landscaped area to the front of the subject site, is now proposed, which would provide a greater area to provide a substantial 'green belt' which would assist in enclosing the streetscape where the existing dwelling is proposed to be demolished. This involves a reduction in the number of parking spaces to an overall figure of 101 spaces.

- 5.14 The proposed development would not impact materially on the visual amenities of the area.

Adequacy of Existing Car Park

- 5.15 In the previous application the applicant considered the associated parking provision to be adequate and anticipated that the adjacent public car park could act as an overflow. The previously planned pedestrian connection to the public car park has not materialised due to difficulties in acquiring agreement from the local authority to create the link: in terms of land title / wayleave issues. The linkages to the adjacent car park are not of a quality that would be considered to encourage trips to Lidl.
- 5.16 The planning authority and the Board attached development levies in respect of a shortfall in parking; accordingly the parent permission was deemed to have a shortfall in parking.
- 5.17 A 'parking statement' prepared by Transport Insights is enclosed, which assesses the current and projected parking requirements for the store.
- 5.18 'Operating capacity' is approx. 85% of total capacity, after which point congestion arises and customers are discouraged from shopping at the store.
- 5.19 The survey suggests that the car park is currently approaching the existing operational capacity, if not the total capacity, and trading may be undermined and potential growth prevented.
- 5.20 The proposed 'operational capacity' 86 spaces, 85% of the 101 total, would provide headroom of capacity for future growth into the long term in the interests of the proper planning and sustainable development of the retail sector and town centre of Ballina.
- 5.21 The Board is requested to consider the additional car parking as necessary to enable the long term sustainability and competitiveness of the existing Lidl store.

Contravention of Condition no. 2 (a) of the parent permission.

- 5.22 The proposed modification of this part of the parent permission should be assessed on its merits.
- 5.23 The condition stemmed from the planning authority requirements. Residential amenity is the primary concern and was addressed in detail in the application particularly at further information stage.

Impact on Residential Amenity of Proposed Lighting.

- 5.24 With lower columns more are required.
- 5.25 The existing 4 metre columns are considered to be inadequate to provide appropriate lighting in the existing car park, hence the proposed upgrade is considered necessary regardless of the outcome of the proposed extension to the car park.
- 5.26 A detailed lighting assessment submitted at further information stage confirms that the proposed development would lead to no material impacts on residential amenities.
- 5.27 The Board is requested to permit the proposed lighting.

The Transport Insights report is attached to the Grounds and includes:

In June 2015 the applicant stated in response to third party appeals that the proposed parking was adequate; and noted that any shortfall could be met in the adjoining substantial public car park. The attractiveness of using the public car park is dependent on ensuring it is easily accessible on foot from the Lidl store. The proposal was to introduce a fully accessible ramp in the southwest corner of the site, which would connect the northwest corner of the car park to the footpath on the adjoining public road. The proposed new pedestrian connection was not acceptable to Mayo County Council and it was not therefore introduced.

Strong trading in the initial months of operation indicates the popularity of the store has exceeded the applicant's expectations.

An off-street car park is located immediately to the south of Lidl Bohernasup with capacity for approx. 208 vehicles. Pay & Display

parking arrangements are in operation in this car park. The car park is connected to the adjoining Bohernasup via a 1.5-1.8m wide gap in a stone wall at the northwest corner of the site. A Dunnes Stores supermarket is located approx. 150m to the south on the N59 Humber Street, and a Tesco supermarket is located approx. 150m to the south on Market Square. On-site car parking facilities are provided at both retail locations. Other retail outlets include a Centra convenience store located to the west on the N59 Circular Road.

The operational performance of a car park starts to deteriorate when occupancy approaches its capacity, typically this happens when occupancy exceeds approximately 85%-90%, after which parking search time progressively increases and user satisfaction decreases. The specific level at which the performance deteriorates is however influenced by a range of factors, including the car park's layout, and the extent to which demand is evenly distributed throughout the car park.

Very high occupancy levels can give rise to unauthorised car parking: in parent and child bays, disabled bays etc. It can also act as a deterrent to customers in the food retail sector, some of whom will be concerned that they may be unable to find a car parking space without delay.

The carpark with 74 spaces (for 1,875 sq m gross floor area) is small by comparison to the other Lidl store in Ballina 106 spaces for 1,370 sq m; Balbriggan 129 spaces for 1,746 sq m; and Dun Laoghaire 146 for 1,639 sq m. A survey of the car park was carried out, within 3 months of the store opening, and used to forecast future growth in car parking demand. The survey was carried out on Thursday (19/5/2016) to coincide with maximum retail activity. Duration of stay and occupancy were surveyed. The car park has a single main east-west running access/egress aisle and is therefore likely to experience traffic congestion during peak occupancy periods. The morning peak occurred between 10.00 and 13.00 with average occupancy of 66% and peak occupancy (at 13.00) of 85%. The afternoon peak occurred between 14.30 and 17.00 with average occupancy of 61% and peak occupancy of 70% (at 15.30, 16.30 and 17.30). The all day average occupancy was 59%, with the 85% peak occurring at 13.00. Further increase in store related car parking demand would give rise to difficulties in users finding a vacant car parking bay and increase parking search times. The single access/egress aisle would amplify the impacts, resulting in traffic congestion. The duration of stay is given at half hour intervals e.g. 458 users stayed 30mins, 5 users stayed more than 4 hours. Those staying more than 2 hours are considered long stay. Only 9 vehicles stayed more than 2 hours during the peak periods: 3% of the total capacity.

This compares with 24% in Terenure and 10% in Tullamore at peak periods. During times when the car park approaches peak occupancy the rate of arrivals also spikes. The east west route limits the operational capacity with drivers tending to avoid the eastern end of the car park during peak periods, due to congestion in that area if the majority of parking bays are occupied and / or difficulties turning, if the majority of parking bays are occupied. Any increase in car parking demand beyond 85% could result in delay / inconvenience to car park users and overspill parking to adjoining public roads and car parking facilities.

The proposed revised layout includes the provision of 27 additional spaces including 3 parent and child. It facilitates changes to the internal circulation with the construction of an additional aisle to the north of the existing access road. The 85% capacity would increase from the current 63 spaces to 86 spaces as proposed, (85% of 101 – revised proposal). Car park demand is forecast to grow 10% in 0-12 months, 20% over 12-24 months and 30% over 24+ months; with peak demand rising from the current 63 spaces to 69, 76 and 82 over the forecast periods. The additional 27 spaces would accommodate this growth. A table, showing gross floor areas and number of parking bays provided for a number of Lidl stores, together with the peak occupancy recorded for each store, is given. The current parking provision at the Lidl Bohernasup store, at one space per 25 sq m, is substantially less than each of the other stores and despite having substantially greater levels of car parking relative to store sizes. Occupancy levels at each of the other surveyed car parks were in excess of the 85% maximum occupancy.

A landscape plan is included with the grounds of appeal.

6 OBSERVER

- 6.1 An observation has been received from Máire Ní Chathail, Bohernasup.
- 6.2 This includes: she points out that she is referring to both the current application and the previous application and connecting the two related applications.
- 6.3 She previously objected to encroachment into a residential zone and the precedent it would set. The applicant is now using precedent as an argument.

- 6.4 She doesn't accept the applicant's argument that the dwelling is unlikely to be re-used for residential development.
- 6.5 She queries the impact the demolition will have on the resident in the next house.
- 6.6 In the previous application the claim was made by the applicant that the development, involving a reduction in back garden area of the subject house, would not conflict with the residential zoning as it would not remove existing or prevent any future residential development, and the reduction in private open space would not affect the ongoing residential use of the property.
- 6.7 She wishes her objections to Mayo County Council to be considered; which include: the argument previously made by the applicant in the previous application: that the level of car parking was adequate and the duration of stay within a site is typically 34 minutes on average; and that the subject site is served by substantial adjacent public car parking.

7 RESPONSES

7.1 The Planning Authority

- 7.2 The Planning Authority has not responded to the grounds of appeal.

8 PLANS AND POLICIES

8.1 Ballina & Environs Development Plan 2009 – 2015

- 8.2 The Ballina & Environs Development Plan 2009 – 2015, as varied, is the relevant policy document. Relevant provisions include:
- 8.3 In relation to retail and commercial development the Plan notes the extensive catchment stretching from the Mullet Peninsula into North West Sligo.

- 8.4 The retailing sector is one of the big employers in the town and constitutes the heart of economic activity in Ballina for most individuals in the town and in its hinterland. 'In the public consultation undertaken around the Development Plan, it was generally accepted that there was a need to keep retailing in the centre of the town and there should be resistance to moving normal retail activity to the edge of the town. This was accepted by retailers and consumers alike.'
- 8.5 The County Retail Strategy has indicated that there is little need for additional retail space in the county over the next five years. What little there is, should be focused in the three largest towns.
- 8.6 The town centre commercial area is formed by the axis of Pearse Street/O'Rahilly Street and Tolan Street/Tone Street. There are a large number of vacant and under-utilised sites within the town centre area of Ballina. The initial focus for new development should be in the area located between Emmett Street, Market Road, Tone/Tolan Streets and Dillon Terrace/Humbert Street. This should be followed by focusing on the block bounded by Tone/Tolan Street, Kevin Barry/Teeling Street and Barrett Street where substantial under-utilised sites are available for future commercial and mixed use developments. This is reiterated throughout the plan under headings such as retail, town centre and heritage.
- 8.7 Significant level of vacancy in parts of the town, and under-utilised sites within the town centre area are noted in the plan. There is pressure on the retail sector to move to edge of town locations and out of town locations. With the quantity of space still available in the town centre and the vacancy level that exists in the town, this move should be strongly resisted.
- 8.8 Relevant objectives include:
- RC5 To implement the objectives of the Mayo County Retail Strategy. p60
- TC6 Promote the development of anchor mixed-use commercial hubs at either end of Pearse Street to generate a commercially viable urban structure.
- TC7 Assist and promote the redevelopment of underused/derelict sites

in the town centre, starting with the block bordered by Emmet Street and Pearse Street.

8.9 Mayo Retail Strategy 2008.

8.10 This remains in place and is referred to in the Development Plan.

The traditional town centre is concentrated in the area bound to the east by Cathedral Road; to the west by Barret Street, James Connolly Street and Bury Street; to the north by Circular Road and Humbert Street; and south by Kevin Barry Street, Teeling Street and Pound Street. The River Moy also acts as a physical boundary for central Ballina. The primary focus of the commercial and shopping core in Ballina is on Pearse Street, O’Rahilly Street, Tolan Street and Tone Street.

8.11 Guidelines for Planning Authorities Retail Planning, Department of the Environment, Community and Local Government, April 2012

The Guidelines set out key policy objectives to be progressed by planning authorities in planning for the continued development of the retail sector, including – inter alia – ensuring development is plan-led; promoting and securing the vitality of city and town centres through the use of the sequential approach; ensuring an effective range of choice for the consumer; facilitating a shift towards sustainable forms of travel, and delivering quality urban design outcomes.

The planning system continues to play a vital role in the management of an economic activity which represents 14.7% of national employment.

8.12 Retail Design Manual: A companion document to the Retail Planning Guidelines for Planning Authorities, Department of the Environment, Community and Local Government April 2012

8.13 This document gives advice on design quality, access & connectivity, density & mixed use, public realm, built form, environmental responsibility, and sustainable construction. Due to the major role that shopping plays in attracting people to cities, towns and villages, it is therefore important that these centres retain retailing as a core function

and provide a diversity of shopping choice, and high quality services and amenities, thereby supporting their ongoing role as the focus of their regions and rural hinterlands.

9 ASSESSMENT

9.1 The issues which arise in relation to this development are: zoning and existing use, streetscape and visual impact, residential amenity, need for additional car parking, impact on the town centre, lighting column height and appropriate assessment, and the following assessment is addressed under these headings.

9.2 Zoning and Existing Use

9.3 Part of the site is zoned R1 Residential. The remainder of the site, where the proposed development involves reconfiguring the parking in this area and providing higher columns for the street lighting, is already developed.

9.4 The land use zoning objectives are described as broad land use zoning categories.

9.5 The first party states that the area of site which is impacted by the residential zoning is only a small proportion of the overall site area and that the development is not a significant departure from the zoning; and also that the existing permission included land which was zoned residential, thereby establishing a precedent.

9.6 The observer notes her objection on the previous application with regard to encroachment into a residential zone and the precedent it would set; and that the applicant is now using precedent as an argument.

9.7 The first party states that it is unlikely that the dwelling will be used as a dwelling in the future and justifies the proposed demolition of the dwelling on that basis.

9.8 The observer notes that, in the previous application, the claim was made by the applicant that the development, involving a reduction in back garden area of the subject house, would not conflict with the residential zoning as it would not remove existing or prevent any future residential development, and the reduction in private open space would not affect the ongoing residential use of the property. The observer doesn't accept the applicant's argument that the dwelling is unlikely to be re-used for residential development.

9.9 While it may be the intention of the new owner that the dwelling will not be made available in the future for use as a dwelling, the dwelling is in good condition and there is no valid reason why it should not be retained

in residential use. The existing permission does not establish a precedent on which the proposed development can rely. The proposal to extend the commercial development into a residential site is contrary to the residential zoning, this and the loss of a dwelling through demolition are reasons to refuse permission.

9.10 Streetscape and Visual Impact

- 9.11 The second refusal reason refers to streetscape: that the proposed development would impact negatively on the streetscape, by the creation of an excessive gap.
- 9.12 The first party responds to this reason in the grounds of appeal stating that the proposal would extend the gap by c 50%; that the streetscape is not uniform, nor is the structure to be demolished of any particular architectural merit; that the streetscape is influenced by the central planted median, which results in the view of this part of the street being partially obscured / softened. Revised proposals accompanying the grounds of appeal include substantial landscaping, proposed to mitigate the extended gap in the streetscape, which the first party states will largely close the gap.
- 9.13 There is already a large open area for access and car-parking fronting the public road as a result of the existing development. The proposal would be to extend the frontage of the car park by c17.5m and this would create a significant gap in the developed road frontage along this road. In addition, since the ground levels rise steadily along Bohernasup, the extension of the car park requires a reduction in ground levels from the inner edge of the footpath, which would increase the visual impact of the street-front gap created by the car parking.
- 9.14 The interface between the public footpath and the reduced ground level within the site was not clearly addressed in the application documents, no section was provided from the public footpath, through the site, showing proposed levels.
- 9.15 In the grounds of appeal proposals in relation to the area closest to the road have been revised, with the omission of 7 car parking spaces (per the written statement, 8 per the layout) and an increase in the extent of the landscaped area.
- 9.16 I consider that the altered plans should not form the basis of the Board's assessment of the appeal, since they were not part of the application to the planning authority and other parties have not had an opportunity to consider them.
- 9.17 In my opinion the loss of a building along the street and this negative impact on the visual amenities of the area is a reason to refuse permission.

9.18 Residential Amenity

- 9.19 The dwelling the subject of this application was owned by the cash and carry owner whose disused commercial site comprised the major part of the recently developed Lidl site. Part of the rear garden of the subject dwelling was included within the Lidl site. The remainder of the property has now become available for development.
- 9.20 The impact on the residential amenities of adjoining property has been raised as a concern by the observer. She doesn't accept the applicant's argument that the dwelling is unlikely to be re-used for residential development.
- 9.21 The proposed development would extend the car park to the boundary of the adjoining residential property to the north, where a shed is located on the common boundary and the dwelling is located some 2½ m from the boundary. The site and dwelling are significantly higher than the level of the car park and require a reduction in ground level up to c 2½ m, including a (lesser) reduction in ground level at the inner edge of the footpath; and a 10m length of retaining wall towards the rear of the dwelling site.
- 9.22 The adjoining dwelling would be elevated and exposed to views from the road and car park. I consider that there would be significant negative impact on the residential amenity of the adjoining property and that this should be a reason to refuse permission.

9.23 Need for Additional Car Parking

- 9.24 The grounds of appeal refers to the need for the additional car parking: that in the previous application the applicant considered the associated parking provision to be adequate and anticipated that the adjacent public car park could act as an overflow. The previously planned pedestrian connection to the public car park has not materialised due to difficulties in acquiring agreement from the local authority to create the link: in terms of land title / wayleave issues. Linkages to the adjacent car park are not of a quality that would be considered to encourage trips to Lidl.
- 9.25 The car park is approaching 'operating capacity' i.e. approx. 85% of total capacity, after which point congestion arises and customers are discouraged from shopping at the store, and trading may be undermined and potential growth prevented.
- 9.26 A 'parking statement' prepared by Transport Insights assesses the current and projected parking requirements for the store, stating that strong trading in the initial months of operation indicates that the popularity of the store has exceeded the applicant's expectations.

9.27 In the previous application, notwithstanding the condition in the planning authority's decision which stated that '*the proposed pedestrian access from the car park to the side lane on the eastern side shall be omitted from the development*', (condition no. 23 of the decision), the first party (Padraig Tuffy Limited c/o The Planning Partnership) responding to third party appeals stated that the adjoining public car park will be easily accessible on foot from the proposed development. I am satisfied that the proximity of the site to the public car park and the connection between the two by means of a public footpath close to the front of the building, ensures that there is no impediment to use of the public car park, despite the lack of a direct link. I am also satisfied that greater use of the public car-park by patrons of the Lidl store would make town centre retailing and services more accessible to Lidl shoppers.

9.28 Impact on the Town Centre

9.29 The town centre with Pearse Street/O'Rahilly Street and Tolan Street/Tone Street at its heart, depends on retailing for much of its economic activity.

9.30 As identified in the Ballina & Environs Development Plan and the Mayo Retail Strategy the area located primarily between Emmett Street, Market Road, Tone/Tolan Streets and Dillon Terrace/Humbert Street, and secondly the block bounded by Tone/Tolan Street, Kevin Barry/Teeling Street and Barrett Street, are the areas where retailing is to be encouraged. Locating larger retail outlets close to and surrounding these streets is the means by which they continue to be central to activities in the town and continue to fulfil their function in providing a public realm of character and quality which contributes in a positive way to the town's identity.

9.31 It is necessary for the vitality and viability of town centres that large foodstores such as the Lidl store promote retailing and other services in the town centre. This is achieved through site location, site layout etc and is an important objective of the planning system. It is worth noting the statement in the Retail Planning Guidelines that '*enhancing the vitality and viability of town centres in all their functioning through sequential development is an overarching objective in retail planning*'.

9.32 Promoting multi-purpose trips is an objective of Smarter Travel.

9.33 To permit the car park extension would support the stand alone nature of the Lidl store and negate the contribution it should make to encouraging the use of other retail outlets and services in the town centre.

9.34 I consider that:

the proposed development, by promoting the store as a stand-alone outlet, would tend to discourage multi-purpose, multi-destination

trips, would detract from the vitality and viability of the town centre, which it is an objective of the Ballina Town Development Plan to protect; and the proposed development would therefore be contrary to the proper planning and sustainable development of the area.

and that this is a reason to refuse permission. I note that this issue did not arise for consideration during the course of the planning application. Since this is a new issue, the Board may consider that it should not form the basis of their assessment of the appeal. If the Board were to consider including this as a reason for refusal, natural justice would require that prior to such a decision, all parties should be offered an opportunity to comment.

9.35 Lighting Column Height

9.36 Condition no 2 a) of the existing permission requires that:

The proposed car park and footpath lighting shall not exceed four metres in height. Light spillage into the adjoining residential neighbourhood shall not be permitted. The developer shall submit a street lighting proposal to the planning authority for review prior to commencement of works.

9.37 The proposal to alter the permitted lighting by providing some lighting on columns of 6m height, rather than 4m height limit as required by foregoing condition must be considered separately to the issue of extending the car park. The provision of 6m high columns would allow for the use of fewer columns.

9.38 A lighting assessment was submitted to the planning authority in response to a further information request, and this assessment states that the proposed lighting scheme will be comfortably below the pre-curfew limiting levels of 10 Lux, and the likely vertical illuminance will not be in excess of post-curfew limiting levels 2 Lux. The assessment concludes that the proposed lighting scheme complies with the guidance provided in the Institute of Lighting Professionals Guidelines on Obtrusive Light and its control for both pre-curfew and post-curfew conditions.

9.39 The light columns proposed at 6m height are shown on the layout drawing no P2460-C005 submitted to the planning authority on the 11th March 2016. It can be seen that some of the existing 4m high lamp standards at the eastern end of the site are not to be altered. It can also be seen that higher columns are proposed within the extended area, currently a dwelling site, or in proximity to that site. If the Board decides to refuse the extension to the car park, the layout of the proposed lighting will need to be altered.

9.40 Condition 12 of the previous permission states:

Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of the proposed development.

Subject to the inclusion of a condition, similar to the foregoing, such as:

Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting scheme may include columns of 6m height where it has been demonstrated to the satisfaction of the planning authority that they are suitable for the location and will not impact on the amenities of the area or cause excessive glare,

I would have no objection to the erection of 6m lighting columns within the car park.

9.41 Appropriate Assessment

9.42 In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision on the proposed development. The process is known as appropriate assessment. In this regard a guidance document 'Appropriate Assessment of Plans and Projects in Ireland' was published by the DoEH&LG on the 10 December 2009.

9.43 The nearest Natura Site is the River SAC Moy (site code 002298) which is located a short distance away, within the urban area, to the south. The proposed development involves only the extension of the car park of the Lidl store recently constructed, demolition of habitable house, provision of additional car parking spaces to development previously permitted under reg ref 13/703188, as part of the development of a brownfield site with public piped surface water infrastructure available.

9.44 Having regard to the nature and scale of the proposed development and/or nature of the receiving environment and/or proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

10 RECOMMENDATION No 1

In light of the foregoing assessment I recommend that planning permission for the use of 6m high lighting columns in the car park be granted subject to the following conditions, for the following reasons and considerations.

11 REASONS AND CONSIDERATIONS

Subject to the following conditions it is considered that the erection of lighting on 6m high columns within the car park rather than on lighting columns of a maximum height of 4m high as permitted, under condition no. 2 (a) of the existing permission PL15.244269, would not unduly detract from the visual or residential amenities of the area and would otherwise be in accordance with the proper planning and sustainable development of the area.

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 on the 11th day of March 2016 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 Subject to the change affecting condition no. 2 (a), the terms and conditions of the previous permission PL15.244269, shall be complied with in full.

Reason: In the interest of clarity.

3 Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting scheme may include columns of

6m height where it has been demonstrated to the satisfaction of the planning authority that they are suitable for the location and will not impact on the amenities of the area or cause excessive glare.

Reason: In the interest of orderly development and to protect the amenities of the area.

12 RECOMMENDATION No 2

In light of the foregoing assessment I recommend that planning permission for the reconfiguration and extension of the car park be refused for the following reasons and considerations.

13 REASONS AND CONSIDERATIONS

1 The proposed development of an extension to a commercial car park in a residential zone would contravene the zoning objectives of the site, result in the loss of a habitable dwelling, and would seriously detract from the residential amenities of the area.

2 The loss of a building fronting onto the public road at Bohernasup and the widening of the car park along this frontage, together with the extent of groundworks required to reduce the level of the sloping, elevated ground to the existing car park level would seriously detract from the visual amenities of the area and be contrary to the proper planning and sustainable development of the area.

Dolores McCague

Date

Inspectorate

Appendix 1 Map and Photographs

Appendix 2 Copy extracts from Ballina & Environs Development Plan 2009-2015