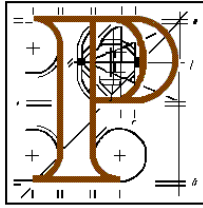


An Bord Pleanála Ref. No.: PL 88.246729

An Bord Pleanála



Inspector's Report

Proposed Development: Permission for development comprising amendments to permitted supermarket and associated site works (ABP Reg Ref. No. PL88.239840, Cork Co. Co. Planning Reg Ref. No. 10/00239) at a site of approximately 3.52ha at Newtown, Bantry, Co. Cork

Planning Application

Planning Authority: Cork County Council

Planning Authority Reg. Ref.: 16/00020

Applicant: Lidl Ireland GmbH

Type of application: Permission

Planning Authority Decision: Grant planning permission subject to conditions.

Planning Appeal

Appellants: Aiden McCarthy

Observers: None

Type of appeal: Third Party against permission

Date of Site Inspection: 23rd August, 2016

Inspector: A. Considine

1.0 THE SITE

- 1.1 The subject site for the proposed development is located on the northern side of Bantry and fronts onto the west side of the N71, Bantry – Glengarrif Road and within the 50km/ph speed limit zone. The site is located within an area which has a variety of uses including a mix of commercial / industrial businesses – including the Rowa Pharmaceuticals site, low density residential development, recreational lands – the Wolfe Tone Park GAA grounds and a large area of undeveloped land. Bantry Bay is located to the north of the site. The site is located approximately 1.1km from the town centre of Bantry.
- 1.2 The site has a stated area of 3.52ha and is currently is a greenfield site which includes mixed woodland and grass. The roadside boundary comprises large mature evergreen trees with a railing along part of the boundary. The site is generally undulating and is below the level of the public road, falling towards Bantry Bay. The context of the subject site is presented in the appendix to this report which includes, maps and a number of photographs taken on the day of my site inspection.

2.0 PROPOSED DEVELOPMENT

- 2.1 The following description of development is provided as per the public notice:

Permission for development comprising amendments to permitted supermarket and associated services and works, (An Bord Pleanala Reg Ref No.: PL88.239840, Cork County Council Planning Reg. Ref. No.: 10/00239), at a site approximately 3.52 hectares. These amendments consist of:

- Reducing the scale and extent of the permitted licenced supermarket development (Condition No. 2 of An Bord Pleanala Reg Ref No.: PL88.239840, Cork County Council Planning Reg. Ref. No.: 10/00239) comprising a reduction of 1,618sq m in Gross Floor Area (permitted 4,258 sq m) to total 2,640 sq m Gross Floor Area, a reduction of 577 sq m Net Retail Sales Area (permitted 2,082 sq m) to total 1,505 sq m Net Retail Sales Area, and a reduction of 168 no. in surface car parking spaces (permitted 277 spaces) to total 109 no. surface car parking spaces; and
- Intensifying the use by extending the permitted licenced supermarket development's hours of operation (Condition No. 13 of An Bord Pleanala Reg Ref No.: PL88.239840, Cork County Council Planning Reg. Ref. No.: 10/00239) from 0800 hours and 2200 hours Monday to Saturday, and 0900 hours and 2100 hours on Sunday.

The construction of the amended proposed licenced supermarket development with ancillary infrastructure (all totalling 2,640 sq m Gross Floor Area and ranging in height equivalent from 1 to 2 storeys) comprises of:

- A retail sales area with ancillary off-licence use (total net retail sales area of 1,505 sq m), bakery, public facilities (incl. lobby and toilets), entrance pod, storage (incl. cold storage), stairs and lift to mezzanine floor, lobby and delivery warehouse area, all at ground floor level (totalling 2,273 sq m ground floor Gross Floor Area)
- Staff welfare (incl. toilets, change rooms and staff canteen area), managers office, IT, training room, plat room, void and terrace spaces, and stairs from ground floor, all at first floor level (totalling 334 sq m first floor Gross Floor Area)
- 2 no. building mounted corporate internally illuminated sign, 1 no. free standing internally illuminated totem pole sign at entrances, 3 no. wall mounted externally illuminated poster panel display, 1 no. wall mounted externally illuminated information display board, 1no. finger post directional signs
- 1 no. trolley bay covered structure (33 sq m Gross Floor Area)
- 109 surface car parking spaces (4 no. disabled, 6 no. parent and child nad 99 no. regular)
- 27 no. bicycle parking spaces
- Primary vehicular and pedestrian access to the development will be via the permitted site entrance from the National Secondary Road N71 (An Bord Pleanala Reg Ref No.: PL88.239840, Cork County Council Planning Reg. Ref. No.: 10/00239) and
- Boundary treatments, hard and soft landscaping, services (including 1 no. below ground attenuation tank) and all other ancillary and associated site development works above and below ground level.

All at Newtown, Bantry, Co. Cork.

2.2 The planning application was accompanied by the relevant planning, architectural and engineering drawings and the following reports:

1. Planning Report
2. Noise Impact Assessment

3. Planning Engineering Report.

2.3 The Board will note that the information submitted makes reference to the previous permission, An Bord Pleanála Reg Ref No.: PL88.239840, Cork County Council Planning Reg. Ref. No.: 10/00239 refers, and advises that the reports submitted in support of the previous permitted development contain relevant information for the current proposed amendment application, and some of which formed the basis of the conditions that were imposed by the Board as part of that permission. Reports referred to include as follows:

- Landscape & Visual Impact Assessment
- Tree Survey
- Outdoor Lighting Report
- Noise & Vibration Report
- Retail Impact Statement
- Transport Assessment and Stage 2 Road Safety Audit

3.0 REPORTS ON PLANNING AUTHORITY FILE

3.1 The planning application was lodged with Cork County Council on 18th January, 2016 and it is indicated that no pre planning consultations were undertaken prior to the application being lodged.

3.2 In terms of the Planning Authority's assessment, 4 objections / submissions were noted on the planning file. The objections raised are summarised as follows:

- Concerns raised in terms of the location of the site at an out-of-town location and the potential impacts a grant of permission will have on the town centre.
- The scale of the proposed development could be accommodated within the town and there are permissions existing within the town centre.
- Retail Impact Assessment and new sequential test should be carried out given that the scale has been reduced to a level which could now be accommodated in town.

- One submission requests to be kept informed of any decision.

3.3 There are 6 no. external reports submitted to the planning file from the following prescribed bodies:

- Inland Fisheries: Notes that the proposed development proposes to dispose of septic effluent to the public sewer. There is no objection to the proposed development subject to Irish Water confirming sufficient capacity in the system. It is requested that conditions be included to ensure no interference with, bridging, draining or culverting of any watercourse, its banks or bankside vegetation to facilitate the development without prior approval of IFI.
- Irish Water: Notes no objections to the proposed development.
- TII: Notes the location of the site and advises that the Authority will rely on the PA to abide by official policy in relation to development on / affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012).
- HSE: Notes no objections to the proposed development subject to a number of requirements in relation to water supply, food hygiene and plans, cleaning store room, sanitary accommodation, refuse storage and pest control.
- An Taisce: It is submitted that the application should be considered 'de-novo'. The report considers that the smaller floor space may be accommodated within Bantry Town Centre. Only in exceptional circumstances should out-of-town sites be considered, as per the retail planning guidelines, 2012, and then only after the sequential approach has been applied. The Council should ensure that proposals for out-of-centre retail does not negatively impact on the vitality and viability of a town centre.
- DoAHG (DAU): The department notes the scale of the development and requires ground works in close proximity to a number of Recorded Monuments as follows:
 - RMP No. CO118-002(001) Bastioned Fort
 - RMP No. CO118-002(002) Country House
 - RMP No. CO118-002(003) Enclosure (Site of windmill)
 - RMP No. CO118-002(004) Settlement Cluster

- RMP No. CO118-002(005) Enclosure

An Archaeological Impact Assessment is required to be submitted by way of further information and prior to a decision. Recommended wording is provided in the report.

3.4 There are 4 no reports noted from internal departments within Cork County Council as follows:

- Fire Officer: Adequate water for fire-fighting is required for the proposed development. a condition to this effect should be attached to any decision to grant planning permission.
- Area Engineer: Notes that this is a repeat application. The report considers issues relating to roads, water, surface water and wastewater and it is recommended that permission be granted subject to conditions.
- Estates Report: This report notes the history associated with the subject site and proposed development. The report concludes that clarification is required with regard to the number of car parking spaces proposed – which is below the requisite amount for the size of the proposed development. In addition, proposals for public lighting within the development and at the proposed roundabout junction on the N71 are required to be submitted.
- Environment Section: Notes that site clearance works will entail the removal of a quantity of waste soil, stone and rock. A waste management plan is required by way of further information.

3.5 There are three reports on file from the Executive Planner, the Senior Executive Planner and Senior Planner.

- The EPs report seeks to address issues relating to Planning History, zoning and policy context including retail impact. This report provides an assessment in terms of zoning, retail impact, visual impact, design, engineering issues, roads, and water issues. The report considers the proposed development in terms of the requirements of the County Development Plan 2009, the Bantry Electoral Area Local Area Plan, 2011 and the Retail Planning Guidelines 2012. The report also deals with the issues raised in terms of the sequential test and retail impact assessment and the report concludes that further information is required to be submitted in the form of a Retail Impact Assessment, including a sequential test, car parking and public lighting.

- The SEPs report acknowledges the EPs report and agrees with the recommendation of the EP. It is recommended that further information be sought prior to a decision issuing as per the EP report as well as including a request for an archaeological assessment as required by the Department, and a waste management plan as requested by the Environment Officer.
- The SPs report considers both the EP and SEP reports on file. The report further notes the third party submissions in relation to the principle of the proposed use on the site and concludes that a full revisit of the principle of the development would fly in the face of reason given that there is an existing and live permission for a substantial retailing development on the site. The report concludes recommending that further information be sought for the five issues raised by both the EP and SEP.

The Planning Authority sought additional information in relation to the proposed development under 5 points and dealing with a variety of issues as raised in the above mentioned reports.

- 3.6 Following receipt of the response to the further information request, no further third party submissions were received by Cork County Council.
- 3.7 Following receipt of the response to the further information request, a further submission was received by Cork County Council from DoAHG (DAU) advising that a condition was to be attached to any grant of planning permission.
- 3.8 Following receipt of the response to the further information request, the following internal reports from Cork County Council departments were submitted received as follows:
- Estates Report: This report notes the response to the FI request and has no outstanding objections to the proposed development.
 - Engineering Report: Notes no objection to the proposed development.
 - Public Lighting: Notes no objection to the proposed development subject to compliance with stated conditions.
 - Environment Section: Notes the submission of the Waste Management Plan and advises that this is acceptable. Conditions recommended.

- Architects Report: Report deals with the Archaeological Assessment submitted and the comments of the DoAGH. Conditions as per the Departments requirements to be attached to any grant of permission.

3.9 Following receipt of the response to the further information request, the Executive Planner, Senior Executive Planner and the Senior Executive Planners provided reports as follows:

- The EPs report considered the response of the applicant to the further information request and the report concludes that, overall, the response is considered to be sufficient to address all of the issues that were outstanding from the initial assessment. The report concludes as follows: ‘the existing permission on the site for development of the lands for retail purposes allows for the development of the site of this retail development all be it a smaller scale development. There have been no intermediate developments which have permitted within Bantry in the timeframe from the original granting of this site to be development for retail. There is an existing live permission on the site which in effect could be implemented. The proposed new development is at a smaller scale with amended opening hours.’

The report also calculates development contributions and conditions are also provided.

- The SEPs report acknowledges the EPs report concludes recommending the granting of planning permission, subject to conditions as per the Area Planners report.
- The SP endorses the above two reports and recommends that permission be granted subject to conditions.

4.0 DECISION OF THE PLANNING AUTHORITY

4.1 The Planning Authority decided to grant planning permission for the proposed development subject to 26 conditions. The attached conditions are standard in the main.

5.0 RELEVANT PLANNING HISTORY

5.1 Subject site:

ABP Ref. PL88.232025 (PA Ref. 08/595): Permission sought for the construction of a supermarket of 4258sq m Gross Floor Area (Net FA 2776sq m) to allow for food, non-food and alcohol sales area with 370 car parking spaces, signage, external service yard and car park lighting, ancillary landscaping and boundary treatments, ESB substation, sprinkler tank, water pump, water control building, signage and pedestrian crossing on the N71, a recycling area, alterations to the junction of N71 and L-4719, the provision of a new vehicular access consisting of a roundabout on the N71 and all associated site development works. This proposal was the subject of a material contravention proposal which was not passed by the Council Members in 2008. Cork County Council refused permission. The Board, on appeal also refused permission for the following reasons:

1. The proposed retail development would be located on an out of centre site, at some remove from the commercial core of Bantry town centre. In this location, the proposed development conflicts with the objectives of the Cork County Development Plan, 2009, which seeks to direct new retail development to town centres or, where this is not possible, to the edge of town centres, in accordance with advice contained in the "Retail Planning Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in January, 2005. Having regard to the submissions made in connection with the application and appeal, the Board is not satisfied that the non-availability of suitable alternative sites within or on the edge of Bantry town centre has been demonstrated sufficiently to warrant a departure from the adopted retail planning policy contained in the current Development Plan for the area. The proposed development would, therefore, conflict with retail planning policy and would be contrary to the proper planning and sustainable development of the area.
2. The appeal site lies partially within an area zoned primarily Industry/Enterprise and partially outside the settlement boundary within the Greenbelt for Bantry Town, as established by the Cork County Development Plan, 2009 and Bantry Local Area Plan, 2005. The proposed retail development and associated car parking would materially contravene the zoning objectives of the Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

ABP ref. PL88.239840 (PA ref 10/595): Permission sought for the same development as above. Cork County Council granted planning permission for the development and this decision was upheld on appeal.

5.2 Adjacent Sites:

ABP Ref. PL88.234109 (PA Ref. 09/265): Permission was sought for the development of a mixed use commercial/retail development. Proposed development included a discount retail foodstore gross floor area 1,276 square metres, and a building with gross floor area of 5,079 square metres containing 1,980 square metres (net) convenience floorspace and 1,466 square metres (net) comparison floorspace. This application relates to Wolfe Tone Park site. The reason for refusal is as follows:

The proposed development, which contains retail floorspace of significant scale (combining comparison, convenience and discount retail uses) in relation to the existing provision of such in Bantry, would be located on an out of centre site, at some remove from the commercial core of Bantry town centre, on lands zoned in the Local Area Plan 2005 for open space, sports, recreation and amenity. In this location, the proposed development materially conflicts with the objective of the Cork County Development Plan, 2009, which seeks to direct new retail development to town centres or edge of town centres in accordance with advice contained in the 'Retail Planning Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government in January, 2005. Having regard to the submissions made in connection with the planning application and appeal, the Board is not satisfied that the non-availability of suitable alternative sites in Bantry town centre has been demonstrated sufficiently to warrant a departure from the adopted retail planning policy contained in the current Development Plan for the area. The proposed development would, therefore, detract from the viability and vitality of the existing town centre, materially contravene retail planning policy and the zoning objective for the site and would be contrary to the proper planning and sustainable development of the area.

5.3 Other Relevant Sites in Bantry:

ABP Ref. PL88.231779 (PA Ref. 07/2380): Permission was refused by Cork County Council for the demolition of an existing farmhouse and buildings, construct discount foodstore, four retail units, medical centre and pharmacy with 176 parking spaces all at Cappanaloha East, Bantry, Co. Cork.

The Board on appeal upheld the decision to refuse for the following stated reasons.

- 1 The site is located within an area identified as the Bantry Green Belt in the 2005 Bantry Local Area Plan where it is the policy of the Planning Authority to retain the identity of towns, to prevent sprawl, to ensure a distinction in character between built-up areas and the open countryside, and to reserve generally for use as agriculture, open space or recreation uses those lands that lie in the immediate surrounds of towns. The proposed development would represent an unjustified Material Contravention of the Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

- 2 Bearing in mind the Council's objective for core retail areas to form the preferred location for new retail development, and for such development outside of the core retail areas to be guided by the provisions of the Retail Planning Guidelines and the Local Area Plan, it is considered that the proposed development would be contrary to these Guidelines and the policies of the 2005 Bantry Local Area Plan. Moreover, it would be premature pending the proposed zoning of suitable lands which will be carried out in the review of the Local Area Plan. The proposed development, representing a windfall opportunity on an inherently unsustainable site, would therefore be contrary to the proper planning and sustainable development of the area.

- 3 Having regard to the level of additional traffic and turning manoeuvres that would be generated by the proposed development, and the substandard horizontal and vertical alignment of the local road at its junction with the N71 National Route, it is considered that the proposal would be likely to give rise to significant and unacceptable hazard to highway users, including pedestrians.

PA ref 13-105: This was a repeat application for "permission to demolish existing single storey workshop/office building and boundary walls and fences and to construct a new building comprising: basement storage area; supermarket at ground floor to include food, non-food and alcohol sales; ancillary offices, car parking and plant at first floor; ancillary car parking and plant at second floor; and associated external building signage" This application was withdrawn prior to a final decision issued.

PA ref 16/333: This is the third application in relation to the above two decision. Permission to demolish the existing single storey workshop/office building, boundary walls and fences and to construct a supermarket (net retail sales area of 1,672 sq/m) with ancillary off-licence, delivery area and storage at ground floor level; ancillary offices, car parking and plant at first floor level including all associated site works all at Reenrou West, Bantry, Co. Cork was permitted by Cork County Council on the 21st July, 2016. This decision relates to Supervalu, and will see the relocation of the store from the town centre, approximately 200m from the site.

ABP Ref. PL88.235175 (PA Ref. 09/946): Permission was granted for the construction of a discount foodstore (1,125 square metres net floorspace) on Bridge Street. No construction to date.

6.0 DEVELOPMENT PLAN & STATUTORY GUIDELINES

LOCAL POLICY

Cork County Development Plan 2014

- 6.1 Chapter 2 of the CDP deals with the Core Strategy identifies Bantry as a County Town in West Cork where CS 3-1 provides that it is the stated strategic aim 'to provide a better balance of development between each town and its rural hinterland and fulfil their role as economic and employment centres providing for the needs of their extensive rural hinterlands, so that they can become the location of choice for most people especially those with an urban employment focus.' In terms of retail, the objective seeks to:

Support the vitality and viability of the Larger and Smaller Towns and to ensure that such centres provide an appropriate range of retail and non retail functions to serve the needs of the community and respective catchment areas.'

Support and develop the role of Clonakilty as an important retail centre in the West of the County while ensuring the vitality and vibrancy of the other town centres are retained and enhanced.

- 6.2 Chapter 7 deals with Town Centres & Retail and provides, in relation to Bantry as follows:

Ring and Larger County Towns which generally perform important sub-county retailing functions and include some of the major retailing

chains, particularly convenience. In general, these have a population in excess of 5,000 or are designated as Ring Towns in consecutive plans.

Cautious approach to out of centre retail warehousing.

Objective TCR 4-6 is relevant and provides as follows:

Support the vitality and viability of the Ring and Larger towns and to ensure that such centres provide an appropriate range of retail and non-retail functions to serve the needs of the community and respective catchment areas.

- 6.3 As the subject site is located off the N71, Chapter 10 of the CDP is considered relevant in that it deals with Transport & Mobility.

Bantry Electoral Area Local Area Plan, 2011

- 6.4 Section 3 of the Bantry Area Local Area Plan, 2011 sets out the specific policies and objectives for the town. This LAP, at section 1.2.13 – 1.2.16 deal with retail and notes that Bantry only has one main supermarket in the town and that ‘Bantry suffers a significant shortfall in convenience floorspace demand and that at least a doubling of existing convenience floorspace could easily be accommodated within the town. It is noted that there are a number of vacant or underused properties visible within the current town centre.’ Section 1.3.16 of the LAP states ‘This Local Area Plan concludes that no sites within the town centre or edge of centre can readily satisfy the retail requirements of the town for medium to large scale convenience retailing. Therefore it is considered that subject to the sequential test the sites identified above could provide a suitable location for convenience retailing provision within the town of Bantry.’
- 6.5 Since the previous decision issued, the Board will note that the Bantry Electoral Area LAP, 2011 has been amended on the 14th December, 2015. The above mentioned sections of the LAP have been replaced with the following text:

The Cork County Development Plan, 2014 identifies Bantry as a Large County Town which generally performs important sub county retailing functions and include some major retail chains, particularly convenience. The Plan supports the vitality and viability of such larger

towns to ensure that such centres provide an appropriate range of retail and non-retail functions to serve the needs of the community and surrounding catchment area.

During the preparation of the County Development Plan, a Non-Metropolitan Retail Background Retail Paper and Town Centre Study was undertaken for 12 of the Non-Metropolitan Towns in the County, including Bantry. The study concluded that Bantry town functions as an important market town providing commercial, retail and tourist facilities to an extensive coastal and inland catchment. It also notes that the contrast between the expanse of open space to the west (Bantry Bay), its setting and the close knit Georgian and Victorian streets to the east gives the town a special character and charm. The N71 National Route which passes through the settlement has a major impact on the town while the topography dictates that much of the commercial development has traditionally been retained and concentrated on the tight knit town centre.

The study notes that the existing Supervalu is the primary convenience supermarket offer in the town located on New Street within the town centre. The other convenience stores in the town centre are Centra and Mace. There is no other significant convenience retailing located in the town, although permission was granted for a supermarket of net floor space 2,082 m² retail development (comparison and convenience) on lands north of the town on the N71 Bantry-Glengarriff Road. In addition, permission was also granted in the town centre for a discount food store just off Bridge Street (next to the town library). To date, construction has not commenced on either site.

- 6.6 It is the position of the LAP that ‘the town centre and adjoining areas continue to remain the most appropriate location for future retail development and it is important that its vitality and viability is maintained. The expanded town centre area in this plan will support this role and continue to provide opportunities to meet some of the future convenience retail needs of the town. The rationale in the expansion of the town centre zoning was that it included a choice of brownfield sites with the potential to accommodate new small to medium sized retail development. The design and scale of proposed retail developments should have regard to the size of existing town centre and edge of centre sites.’

The Plan continues to state that ‘if convenience retail development cannot be easily accommodated within the expanded town centre **and** If it can be demonstrated that no town centre or edge of town centre sites are suitable,

viable or available then consideration should be given to alternative out of centre sites. There are a number of out of centre sites which could realistically facilitate such retail development. These sites include the Wolfe Tone Park and adjoining lands to the east. The development boundary of the town has been expanded to allow for further consideration of these sites.'

- 6.7 Objective DB-04 states that it is an objective to support and promote the town centre as the primary location for the expansion of retail development in the town of Bantry. Consideration will be given to edge of town sites within the new development boundary of the town for medium to large scale convenience retail development where no suitable alternative town centre sites are shown to be available.
- 6.8 In terms of the subject site, it is zoned existing built up area, outside the designated and zoned town centre area of the town. The LAP provides that 'zoned areas in the 2005 Local Area Plan that have now been developed are now shown as part of the 'existing built up area'. This approach has been taken in order to allow a more positive and flexible response to proposals for the re-use or re-development of underused or derelict land or buildings particularly in the older parts of the main towns.'

CORK STRATEGIC RETAIL STUDY, 2008

- 6.9 The Cork Strategic Retail Study suggests that taking spending power and population projections into account, retail growth can be best balanced between different locations to ensure a sustainable pattern of development. Bantry has been identified as a small urban centre serving a larger rural hinterland that require the provision of adequate retail services. The Study notes that there is potential for expansion of retail facilities in the town, with potential for small scale redevelopment opportunities in the attractive town centre, subject to land assembly.

NATIONAL GUIDELINES

Retail Planning Guidelines for Planning Authorities, 2012

- 6.10 The Retail Planning Guidelines are Ministerial guidelines under Section 28 of the Planning and Development Act, 2000. Section 28 provides that planning authorities and An Bord Pleanála shall have regard to Ministerial guidelines in the performance of their functions. The Guidelines allow the planning system

to play a key role in supporting competitiveness in the retail sector to benefit consumers in accordance with proper planning and sustainable development. Five key policy objectives are set out in the guidelines as follows:

- Ensuring that retail development is plan-led;
- Promoting city/town centre viability through a sequential approach to development;
- Securing competitiveness in the retail sector by actively enabling good quality development proposals to come forward in suitable locations;
- Facilitating a shift towards increased access to retailing by public transport, cycling and walking in accordance with the smarter travel strategy; and
- Delivering quality urban design outcomes.

6.11 The Guidelines outline that the distinction between ‘discount stores’ and other convenience good stores which was contained in 2005 RPG will no longer apply. Proposed developments must comply with the criteria on location, suitability of use, size, scale and accessibility set out in the retail guidelines and the local policy documents, development plan / local area plan / retail strategy to ensure appropriate site selection in terms of suitability and availability for the retail type proposed. The guidelines require that a sequential approach be applied in terms of proposals which may not be consistent with the above requirements, to justify same. A Retail Impact Assessment is also required to demonstrate the suitability and appropriateness of the proposed development in terms of potential adverse impact on the viability and vitality of any existing centre. Annex 5 of the guidelines sets out the steps within the assessment of retail impact.

Retail Design Manual (A Companion Document to the Retail Planning Guidelines for Planning Authorities, April 2012)

6.12 The Retail Guidelines are accompanied by a Retail Design Manual which looks at the practical issues of design principles relating to retail development at a variety of scales and in various settings.

7.0 GROUNDS OF APPEAL

This is a third party appeal against the decision of Cork County Council to grant planning permission for the amendments to permitted supermarket, and associated services and works. The grounds of appeal are summarised as follows:

- The proposed development is contrary to the hierarchy of planning policy.
- The sequential test is inadequate.
The submission under this heading presents a number of potential alternatives which were not explored as part of the Sequential Test carried out by the applicant and it is submitted that the PA did not adequately assess the RIA submitted in response to FI. It is submitted that alternative potential sites could adequately accommodate the proposed development, all of which are located within 500m of the retail core of the town and not the 1.2km as proposed.
- The Retail Impact Assessment used inaccurate assumptions and calculations.
The RIA claims consistency with findings of other recent planning applications but on examination this is not the case. In addition, the RIA has not considered the full extent of existing convenience floor space in Bantry, relying on out of date information, and failing to include other existing convenience operators in the town. The exclusion of the figures has exaggerated the need for additional floor space. Turnover calculations used do not sum correctly and overall, the inaccuracies would suggest that there will be a need for a further site within the town centre. Finally, it is submitted that the RIA leans heavily on the concept of enhancing competition in its justification of the out of centre location, but is selective in its interpretation of the national guidelines on the issue.
- The development, if permitted, will be detrimental to the town centre and the Bantry Inner Redevelopment Area.
It is considered that if permitted, the development would not result in linked trips, being entirely car orientated. The extended opening hours would result in a competitive advantage over town centre traders, who could not compete.

The submission concludes that the application relies heavily on the fact that there is an existing permission on the site. The central question is whether or not there has been a substantial change in circumstances since the previous application. It is submitted that the application should be considered 'de novo'. It is requested that permission be refused for the proposed development.

8.0 RESPONSES

8.1 Planning Authority:

The Planning Authority has responded to this appeal advising no further comments to be made.

8.2 First Party response to 3rd party appeals:

The first party has submitted a response to the third party appeal. The submission at the outset seeks to question the motives of the third party appellant in terms of the potential for commercial interest. It is requested that clarification be sought from the appellant and that the Board consider using its powers to dismiss the appeal if such clarification is not forthcoming. The submission further considers that the development as proposed in terms of the current Board decision pertaining to the site and submits that the development will deliver competition and enhanced retail services for the residents of Bantry. The submission presents a summary of the third party appeal and identifies key points to note in response to the third party appeal. The response to the third party appeals is presented under a number of headings and is summarised as follows:

- The established principle of the development of a supermarket on the site is based on a current live permission. Therefore, the appeal should be focused solely on the proposed amendments and should not look to re-examine the established principle.
- The proposed amendments have sought a 3% reduction (45m²) in the overall net convenience retail floorspace of the permitted supermarket. This insignificant reduction will have no material impact on the character of the permitted supermarket. The proposed amendments are wholly consistent with the permitted development.
- A critical evaluation of the recent planning history of retail development in Bantry illustrates that a shortfall in retail floor space and associated retail spend leakage are consistent issues for the town.
- The Retail Assessment which has been submitted in support of the amendment planning application uses methodology in compliance with the Retail Planning Guidelines, 2012. A typographical error at Table 4.7 is acknowledged, but the error has had no bearing on the overall calculations, the findings or on the robustness of the assessment.
- The RA demonstrates that there will remain a shortfall in retail floor space in Bantry of 2,625m² of net convenience retail floor space, and 3,174m² of

net comparison retail floor space in the design year of 2020. Even allowing for an additional 1,000m² and 2,000m² for smaller convenience and comparison retailers, there remains a residual requirement for 1,625m² and 3,174m² of net convenience and comparison floor space in the design year.

- The Sequential Assessment demonstrates that the subject site is the sequentially preferred site and that no more sequentially preferable sites could be identified in compliance with the criteria set out by the Retail Planning Guidelines, 2012.
- Assessments of the sites as presented by the appellant were considered unsuitable, unavailable and unviable in terms of the sequential assessment criteria.
- The prevailing policy framework identifies town centre locations as the preferred locations for new retail development, but do not preclude retail development in other locations. The proposed development complies with Policy TCR 8-2 of the CDP which states that 'retail development which aim to reduce leakage to other centres will be encouraged.'
- The decision of the PA demonstrates that notwithstanding changes to the Bantry Electoral Local Area Plan, 2011 in December 2015, the opinion remains that the subject site is an appropriate location for a supermarket.
- It is the net retail sales area of a retail operation which determines the intensity of the use and not the operating hours. The proposed opening hours will not result in the intensification of the supermarket.
- In addressing the evident shortfall in the provision of retail floor space in Bantry and enhancing competition in the town, the proposed development will address leakage and aid in retaining retail spent, thereby contributing to the vitality, vibrancy and viability of the town.

The submission concludes that the proposed amendments to the existing permitted development does not seriously injure the amenities of the area or of property in the vicinity and would not be prejudicial to public health, and would be acceptable in terms of traffic safety and convenience. It is requested that the Board dismiss the third party appeal and uphold the decision to grant permission.

8.3 PA response to First Party response to 3rd party appeals:

The PA submitted a response advising no further comments.

8.4 Third Party response First Party Response to 3rd party appeal:

A third party appellant responded to the response to the appeal submitted by the first party. This response seeks to deal with the headline issues raised by the first party and seeks to further detail the reasons for the appeal. The conclusion remains seeking that the Board refuse permission for the proposed development.

9.0 OBSERVERS TO APPEAL

There are no observers noted in relation to this appeal.

10.0 ASSESSMENT

10.1 Having considered all of the information submitted with the planning application, together with the appeal documentation and responses, and having undertaken a site visit, I consider it appropriate to assess the proposed development application under the following headings:

1. The principle of the development and compliance with current County Development and Local Area Plans.
2. Compliance with the Retail Planning Guidelines for Planning Authorities (DoEHLG 2012) & Cork Strategic Retail Study (March 2008)
3. Sequential Test & Retail Impacts
4. Roads & Traffic Issues
5. Other Issues
6. Appropriate Assessment

Principle of development

10.2 The subject site, located within the development boundaries of Bantry on a greenfield site, outside of the established town centre area. The principle of the proposed development has been established on the site through the Boards previous decision, PL88.239840 refers, whereby planning permission was granted for a development comprising:

- Supermarket: 4,258 sq.m. gross floor area - 2,776 sq.m. net floor area sought, but the Board, by condition reduced this net floor area to 2,082m² and in a 60% / 40% split between convenience and comparison retail floor area. The reason for the reduced net retail floor area was to reduce the impact on the amenity of the existing town centre.
- 370 no. surface car parking spaces sought but the Board reduced this figure to 277 spaces by way of condition.
- Service yard and new entrance/roundabout/pedestrian crossing to N71 including alterations to junction N71/L4719.
- Bored well/mains water supply/mains foul drainage/surface water to stream, landscaping etc.

The Board, through condition 13 restricted the operational hours of the supermarket to between 0800 and 2000 Monday to Wednesday, 0800 hours to 2100 Thursday to Saturday and between 1000 and 1800 hours on Sunday. The purpose of this condition was to protect the amenities of properties in the vicinity. I note from the planning history of the site that the PA included a condition in the previous grant of permission, restricting the hours of operation due to the proximity of two residential properties. The previous first party appeal sought to amend the condition, but the Board chose not to accede to the request to extend the operational hours to protect the residential amenities of these adjacent properties.

10.3 In terms of the current proposal, permission is sought for development comprising amendments to permitted supermarket as described above, primarily consisting of:

- A reduction in the scale of the supermarket in the amount of 1,618m² GFA (permitted 4,258m² to 2,640m²) amounting to a reduction of 577m² Net Retail Sales Area (permitted 2,082m² to total 1,505m² Net). This will equate to 1,204m² net convenience retail floor space 301m² net comparison retail floor space.
- A reduction of 168 no. in surface car parking spaces (permitted 277 spaces) to total 109 no. surface car parking spaces;
- Intensifying the use by extending the permitted licenced supermarket development's hours of operation from 0800 hours and 2200 hours Monday to Saturday, and 0900 hours and 2100 hours on Sunday.

In addition, the proposed development will include permitted elements associated with the access to the site, landscaping and boundary treatments, signage, trolley bay, bicycle parking and attenuation tanks.

In the interests of clarity, the Board will note that the current proposal is for a redesigned supermarket from that permitted, and the current proposal, while utilising the full original permitted site with the boundary delineated in red, uses only approximately one third of the original 3.52ha site.

Compliance with the Cork County Development Plan 2014:

- 10.4 Chapter 2 of the CDP deals with the Core Strategy identifies Bantry as a County Town in West Cork where CS 3-1 provides that it is the stated strategic aim 'to provide a better balance of development between each town and its rural hinterland and fulfil their role as economic and employment centres providing for the needs of their extensive rural hinterlands, so that they can become the location of choice for most people especially those with an urban employment focus.' In terms of retail, the objective seeks to:

Support the vitality and viability of the Larger and Smaller Towns and to ensure that such centres provide an appropriate range of retail and non-retail functions to serve the needs of the community and respective catchment areas.'

Support and develop the role of Clonakilty as an important retail centre in the West of the County while ensuring the vitality and vibrancy of the other town centres are retained and enhanced.

- 10.5 Chapter 7 deals with Town Centres & Retail and provides, in relation to Bantry as follows:

Ring and Larger County Towns which generally perform important sub-county retailing functions and include some of the major retailing chains, particularly convenience. In general, these have a population in excess of 5,000 or are designated as Ring Towns in consecutive plans.

Cautious approach to out of centre retail warehousing.

Objective TCR 4-6 provides as follows:

Support the vitality and viability of the Ring and Larger towns and to ensure that such centres provide an appropriate range of retail and non-retail functions to serve the needs of the community and respective catchment areas.

- 10.6 Section 7.5 of the Plan deals with locating retail development and advises that in line with the Retail Planning Guidelines, the preferred location for retail development is within town centres and particularly 'primary' areas. The 'primary' areas of town centres will consist of core retail areas and appropriate contiguous opportunity sites. The Plan further notes that development proposals in other locations must demonstrate compliance with the sequential approach (as outlined in the Retail Planning Guidelines) before they can be approved.

Objective TCR 5-1 deals with the Focus for Retail Development, and provides that it is the policy of the Council to

'Promote the County's town centres as a network of compact, vibrant and attractive centres for retail and other appropriate activities. Local Area Plans will identify the 'primary' areas of town centres which will be the focus of future retail development. In addition they will be proactive in providing localised guidance for individual settlements where appropriate.

- 10.7 In light of the above, it is clear that the proposed development of a new supermarket to serve the Bantry area of Co. Cork, would generally be in line with the policy requirements of the Cork County Development Plan, in principle.

Blarney Electoral Area Local Area Plan, 2011 as amended 14th December 2015:

- 10.8 Section 3 of the Bantry Area Local Area Plan, 2011 sets out the specific policies and objectives for the town. The LAP, as amended notes that the Cork County Development Plan, 2014 identifies Bantry as a Large County Town which generally performs important sub county retailing functions and include some major retail chains, particularly convenience. The Plan supports the vitality and viability of such larger towns to ensure that such centres provide an appropriate range of retail and non-retail functions to serve the needs of the community and surrounding catchment area.

During the preparation of the County Development Plan, a Non-Metropolitan Retail Background Retail Paper and Town Centre Study was undertaken for 12 of the Non-Metropolitan Towns in the County, including Bantry. The study concluded that Bantry town functions as an important market town providing commercial, retail and tourist facilities to an extensive coastal and inland catchment. It also notes that the contrast between the expanse of open space to the west (Bantry Bay), its setting and the close knit Georgian and Victorian

streets to the east gives the town a special character and charm. The N71 National Route which passes through the settlement has a major impact on the town while the topography dictates that much of the commercial development has traditionally been retained and concentrated on the tight knit town centre.

The study notes that the existing Supervalu is the primary convenience supermarket offer in the town located on New Street within the town centre. The other convenience stores in the town centre are Centra and Mace. The LAP notes no other significant convenience retailing located in the town, and references the permitted development at the current subject site. In addition, the LAP identifies that permission was also granted in the town centre for a discount food store just off Bridge Street, although neither permission has yet been implemented.

- 10.9 It is the position of the LAP that ‘the town centre and adjoining areas continue to remain the most appropriate location for future retail development and it is important that its vitality and viability is maintained. Objective DB-04 states that it is an objective to support and promote the town centre as the primary location for the expansion of retail development in the town of Bantry. Consideration will be given to edge of town sites within the new development boundary of the town for convenience retail development where no suitable alternative town centre sites are shown to be available. In terms of the subject site, it is zoned existing built up area, outside the designated and zoned town centre area of the town. The LAP provides that ‘zoned areas in the 2005 Local Area Plan that have now been developed are now shown as part of the ‘existing built up area’. This approach has been taken in order to allow a more positive and flexible response to proposals for the re-use or re-development of underused or derelict land or buildings particularly in the older parts of the main towns.’
- 10.10 The previous decision associated with the subject site, in my opinion, has determined that the location and zoning of the site does not preclude the proposed retail development. In addition, it is clear that Bantry is significantly under provided for in terms of convenience retailing. In terms of compliance with the requirements of the Local Area Plan, I defer to the Boards previous decision and would agree, that the principle of the proposed development is acceptable and adequately accords with the requirements of the Bantry Electoral Area Local Area Plan, 2011, as amended.

Compliance with Retail Planning Guidelines and Strategies

Cork Strategic Retail Study, 2008

10.11 The Cork Strategic Retail Study suggests that taking spending power and population projections into account, retail growth can be best balanced between different locations to ensure a sustainable pattern of development. Bantry has been identified as a small urban centre serving a larger rural hinterland that require the provision of adequate retail services. The Study notes that there is potential for expansion of retail facilities in the town, with potential for small scale redevelopment opportunities in the attractive town centre, subject to land assembly. This matter has been extensively dealt with under the previous appeal on the site.

Retail Planning Guidelines for Planning Authorities, 2012:

10.12 The Retail Planning Guidelines are Ministerial guidelines under Section 28 of the Planning and Development Act, 2000. Section 28 provides that planning authorities and An Bord Pleanála shall have regard to Ministerial guidelines in the performance of their functions. The Guidelines allow the planning system to play a key role in supporting competitiveness in the retail sector to benefit consumers in accordance with proper planning and sustainable development. Five key policy objectives are set out in the guidelines as follows:

- Ensuring that retail development is plan-led;
- Promoting city/town centre viability through a sequential approach to development;
- Securing competitiveness in the retail sector by actively enabling good quality development proposals to come forward in suitable locations;
- Facilitating a shift towards increased access to retailing by public transport, cycling and walking in accordance with the smarter travel strategy; and
- Delivering quality urban design outcomes.

10.13 The Guidelines outline that the distinction between ‘discount stores’ and other convenience good stores which was contained in 2005 RPG will no longer apply. Proposed developments must comply with the criteria on location, suitability of use, size, scale and accessibility set out in the retail guidelines and the local policy documents, development plan / local area plan / retail strategy to ensure appropriate site selection in terms of suitability and

availability for the retail type proposed. The guidelines require that a sequential approach be applied in terms of new retail proposals which may not be consistent with the above requirements, to justify same. The Guidelines also provide that only where the applicant can demonstrate and the planning authority is satisfied that there are no sites or potential sites including vacant units within a city or town centre or within a designated district centre that are (a) suitable (b) available and (c) viable, can that edge-of-centre site be considered. A Retail Impact Assessment is also required to demonstrate the suitability and appropriateness of the proposed development in terms of potential adverse impact on the viability and vitality of any existing centre. Annex 5 of the guidelines sets out the steps within the assessment of retail impact.

- 10.14 The Retail Planning Guidelines 2012 implicitly recognises the difficulties of accommodating such development in town centres and it is difficult to dispute the sequential test put forward by the applicant. The guidelines recommend that the planning authority carefully address the issue of accommodating town centre development (through policies and objectives) in the development plan, identifying opportunity sites and bringing forward the amalgamation of suitable sites. However, it also indicates that there is an onus on retailers to adapt the format to sites or premises in the core area. The subject site is located on a site which might be reasonably described as being Edge of Centre as defined in the Retail Planning Guidelines 2012, as ‘a location within easy walking distance of the primary retail area of a city, town centre or district centre.’ The applicant submitted both a Sequential Test and a Retail Assessment as part of the overall planning application, both of which are discussed below.

Retail Design Manual (A Companion Document to the Retail Planning Guidelines for Planning Authorities, April 2012)

- 10.15 The Retail Planning Guidelines are accompanied by a Retail Design Manual which looks at the practical issues of design principles relating to retail development at a variety of scales and in various settings. The manual seeks to progress the fifth objective of the RPGs 2012 and sets out 10 key principles of urban design which might form the framework for policies to promote quality design in development plans and local area plans. In terms of the proposed development, the applicant submits that a high quality finish to the discount foodstore building is proposed in terms of materials and a contemporary approach to design is employed. In terms of the overall design and visual impact of the development, this matter will be discussed further later in this assessment. Overall, the proposed development provides for a

generic and standardised model for such developments. I am satisfied that the general principles of the design manual have been met.

Sequential Test & Retail Impacts

Sequential Test:

- 10.16 The sequential test was submitted in response to the PAs further information request. The first party assessed 10 potential sites in the area in terms of zoning, suitability, availability and viability and it is the applicant's position that the subject proposed site is the most suitable and viable currently available for the proposed retail development. Third party appellant disagrees and provide details of potential sites which could accommodate the proposed development. It is submitted by the third party that the sequential test is inadequate and is not sufficiently comprehensive, and that no attempt has been made to amalgamate or to vary the size or format of the supermarket and that the assessment is based upon statistical assumptions and calculations which are flawed.
- 10.17 The Planning Authority considered the 11 sites presented as part of the test, including the subject site, and accepted the reasoning provided for each site tested. Indeed, the Board will note that the previous inspector also considered each site on its merits, as have I. Notwithstanding the comments of the third party in this instance, in principle, I am satisfied that the Sequential Test as presented in response to the PAs further request, is generally in accordance with the requirements of the stated RPGs. I am further satisfied that the matter has been dealt with adequately as part of this proposed development, as well as the previous permission issued in relation to the retail development of the site. Notwithstanding the reduction in the size of the proposed supermarket, it remains of a scale which would be difficult to provide in Bantry Town Centre. That said, it is a remove from the centre which is a concern, but given the history and current live permission for a supermarket development, I am satisfied that it is acceptable.

Retail Impact

- 10.18 Planning applications for retail development proposals must comply with the criteria on location, suitability of use, size and scale and accessibility set out in the retail guidelines and development plan/joint or multi-authority retail strategy to ensure that the site chosen is the most suitable and best available site for the type of retailing proposed.

- Location of Development

The Retail Planning Guidelines, 2012, advise that retail activity must follow the settlement hierarchy for the city or town and that future development shall be in line with the county core strategy. Section 7.4 of the County Development Plan, 2014 deals with Retail Hierarchy for the county, in accordance with Table 7.1. Bantry, is designated as a Sub-Regional / Ring Town / Larger County Town at Level 5. In terms of the location of the subject site, the Board will note my comments above pertaining to the location of the site within the wider Bantry area, together with the planning history associated with the site. The site, while not zoned town centre, is zoned as Existing Built-up Area, and this zoning does not specifically preclude retail development. The Plan further identifies capacity for such retail development within the area. This matter is discussed further below. Overall, I would accept that the location of the proposed development has been considered acceptable and consistent with the provisions of the County Development Plan and the Retail Planning Guidelines, 2012.

- Retail Capacity

As part of the response to the PAs further information request, a Retail Assessment which sets out the justification for the retail capacity for the proposed development was submitted by the applicant. The submitted report carried out an assessment of the primary retail catchment together with the estimated expenditure within the catchment. It is determined that available spend of the catchment area in 2016 is €47.45m on convenience, rising to €53.41m in 2020 and comparison retail spend in 2016 is €45.01m rising to €55.89m in 2020. Overall, the RA suggests that if permitted, the store would require 27.91% convenience and 4.68% comparison of the total available spend in the base year, 2016, reducing to 24.8% convenience and 3.77% comparison in the design year, 2020 and as such, establishes that there is sufficient available capacity. I would consider that the submitted Retail Assessment has adequately demonstrated that there is sufficient capacity for the proposed retail development.

- Trade Diversion

The appeal site is currently a vacant, greenfield site and the zoning objective does not preclude a retail development. Together with the extant planning permission for a supermarket on the site, it is a wholly reasonable consideration that the proposed discount store is not developed at the

expense of existing service outlets in the Bantry area. However, Bantry is currently served by only 1 major retailer, with a couple of smaller stores. The overall market share calculations, together with the content of the Local Area Plan, would suggest that there is significant leakage from the catchment which would be diverted by the development. In this regard, and having regard to the scale of the proposed store, at 1,505m² net floor area, I am satisfied that the RA has shown that the proposed development would not cause any undue trade division.

Roads & Traffic:

- 10.19 The proposed development has not made any amendments to the previously permitted road and access layout, including the proposed roundabout at the entrance on the N71. The Board will note the requirements of Objective TM 3-1 which deals with the National Road Network. Given that the subject site is located within the 80km/p/h speed limit, and having considered the detail of the proposed development, I have no objection to the proposed development. I do not consider that the development, if permitted will result in any significant traffic hazard.
- 10.20 Appendix D of the Cork County Development Plan 2014 deals with parking and cycling standards and Table 1a requires the provision of 1 parking spaces per 20m² gross floor area, for convenience retail stores in areas outside of Cork City North and South Environs. The proposed development proposes a retail store with a stated gross floor area of 2,640m². In this regard, the Plan requires the provision of 132 car parking spaces to service the proposed store. The development originally provided for 109 car parking spaces to service the retail store. Following a request for additional information, which raised the shortfall of car parking spaces, an amended site layout plan was submitted indicating the provision of 132 car parking spaces, which was deemed acceptable by the Planning Authority. Overall, the car parking provision is acceptable. I am satisfied that the proposed development is acceptable from a roads and traffic point of view.

Other Issues:

Reduced scale of supermarket:

- 10.21 Planning permission was granted, PL88.239840 refers, and remains live, for the development of a supermarket with a gross floor area of 4,258m², comprising 2,776m² net floor area. The Board, by way of condition reduced

this net floor area to 2,082m² and stipulated a 60% / 40% split between convenience and comparison retail floor area. The reason for the reduced net retail floor area was to reduce the impact on the amenity of the existing town centre. The current proposed development seeks to further amend the permitted retail development and to reduce the scale of the supermarket in the amount of 1,618m² GFA (permitted 4,258m² to 2,640m²) amounting to a reduction of 577m² Net Retail Sales Area (permitted 2,082m² to total 1,505m² Net). This will equate to 1,204m² net convenience retail floor space 301m² net comparison retail floor space. I have no objection to this proposed reduction.

- 10.22 In terms of the proposed convenience / comparison split, the current proposal is seeking an 80%/20% split. I note the logic for the Boards stipulated split in the interests of reducing the impact on the amenity of the existing town centre, and I am satisfied that the split as proposed, will not militate against this requirement.

Hours of operation:

- 10.23 The applicant is also seeking permission to 'intensify the use by extending the permitted licenced supermarket development's hours of operation from 0800 hours and 2200 hours Monday to Saturday, and 0900 hours and 2100 hours on Sunday.' The Board, through condition 13 of PL88.239840, restricted the operational hours of the supermarket to between 0800 and 2000 Monday to Wednesday, 0800 hours to 2100 Thursday to Saturday and between 1000 and 1800 hours on Sunday. The purpose of this condition was to protect the amenities of properties in the vicinity. I note from the planning history of the site that the PA included a condition, no 36, in the previous grant of permission, restricting the hours of operation due to the proximity of two residential properties. The previous first party appeal sought to amend the condition, but the Board chose not to accede to the request to extend the operational hours to protect the residential amenities of these adjacent properties.
- 10.24 I have considered the first party submission in this regard, and also note the PAs silence on the matter. I consider that the situation has not changed in relation to the adjoining residential properties and in this regard, recommend that the restriction remain by way of condition.

Archaeological Issues:

- 10.25 The DoAHG made a submission in relation to the proposed development and recommends that a Geophysical Survey and Archaeological Testing be carried out as a condition of planning. This is due to the proximity of a number of recorded monuments and in an area of such dense archaeological activity and as such, it is considered that any groundworks may directly impact upon subsurface archaeological remains associated with the monuments. I consider that the requirements of the Department are reasonable.

Appropriate Assessment:

- 10.26 The subject site itself can be considered a greenfield site, and is located within the settlement boundary of Bantry, on zoned development land. The site is located at a distance from any Natura 200 site and currently benefits from a grant of planning permission for a similar type development as currently proposed. Given that the current proposal is for a smaller supermarket, and affecting a smaller area of the subject site, I am satisfied that 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'.

11.0 CONCLUSION & RECOMMENDATION

Conclusion:

- 11.1 Having regard to the location of the subject site within the settlement of Bantry, the specific zoning objective relating to the site and its location within the settlement, I consider that the principle of the proposed development is acceptable, will not unduly impact on the existing residential developments in the vicinity of the site and would be acceptable in terms of retail developments, subject to conditions. I further consider that the additional traffic generated by the proposed development can be accommodated within the existing road network.

The County Development Plan, Bantry Local Area Plan and Retail Strategy indicate that the quantum of retail floor space proposed is acceptable and will not have a significant negative impact on the vitality or viability of the centre of. Having regard to the above, I consider that the proposed amendments to the previously permitted supermarket development is generally acceptable and is supported by the Retail Planning Guidelines. The proposed extended

opening hours however, should be restricted by way of condition in the interests of residential amenity.

11.2 Recommendation:

I recommend that planning permission be granted for the proposed development subject to the conditions set out below under Reasons & Considerations

REASONS & CONSIDERATIONS

Having regard to:

- (a) The Bantry Electoral Area Local Area Plan, 2011, as amended 14th December, 2014, including, in particular, the inclusion of the subject site within the settlement boundary for Bantry Town and the retail policies in relation to Bantry Town contained therein and which include the identification of the subject site as suitable for convenience retail outlet;
- (b) The revised Retail Assessment and Sequential Test submitted to the planning authority on the 22nd day of April, 2016,;
- (c) Retail Planning – Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in 2005 which, while favouring town centre and edge of centre sites for retail development, also allows that out-of-centre sites can be considered subject to the sequential approach and/or in accordance with development plan retail strategies;
- (d) The Planning History pertaining to the subject site;

it is considered that, subject to compliance with the following conditions, the proposed development would 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 plans and particulars submitted to the Planning Authority on the 22nd day of April, 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. All relevant conditions attached to previous grant of planning permission, An Bord Pleanála reference PL88.239840 shall be strictly adhered to save where amended hereunder.

Reason: In the interests of clarity and the proper planning and development of the area.

3. No permission is given for the alterations to the conditioned operational hours. The hours of operation shall be between 0800 hours and 2000 hours Monday to Wednesday, 0800 hours and 2100 hours Thursday to Saturday and between 1000 hours and 1800 hours on Sundays.

Reason: To protect the amenities properties in the vicinity.

4. A solid and robust boundary structure shall be erected along the eastern side of the service yard. Details shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of the development.

Reason: To protect the amenities of the adjacent residential properties.

5. Details, including samples, of the materials, colours and textures of all the external finishes to the proposed buildings 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.

6. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to the Planning Authority for agreement prior to commencement of development.

Reason: In the interest of amenity and public safety.

7. Details of signage, shuttering (which shall be internalised) and lighting shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. No additional advertisement or advertisement structure including poster signs or flagpoles shall be erected or displayed on the building or within the curtilage of the site or along the roadside unless authorised by a further grant of planning permission.

Reason: In the interests of visual amenity and in order to allow the planning authority to assess the impact of any such advertisement or structure on the amenities of the area.

8. Final design details, including layout, drainage, surface finishes, lighting and Road Safety Audit recommendations shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of any works on the N71.

Reason: In the interest of road safety.

9. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

10. Any lighting associated with the hereby permitted advertising structures and signs for the retail premises shall be externally lit only. No internal illumination shall occur.

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

11. All service cables associated with the proposed development (such as electrical, telephone and public lighting cables) shall be run underground

within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

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

12. Water supply and drainage arrangements, including the disposal of surface water, shall be in accordance with the requirements of the Planning Authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

13. No further structures, plant or antennae shall be erected on the roofs of any of the buildings in the development without a prior grant of planning permission.

Reason: In the interest of visual and residential amenity.

14. Any over ground tanks containing liquid fuels shall be contained in a waterproof bunded area of sufficient volume to hold 110% of the value of the largest tank within the bund. All valves on the tank shall be contained within the bunded area.

Reason: To protect the environment.

15. The wheels and underside of all construction traffic leaving the site shall be cleaned, as required, to prevent soiling of public roads. A wheel-washing facility, including water jets or other approved cleansing method shall be provided close to the site exit. In the event that any public roads become soiled by construction traffic from the site, these roads shall be cleaned immediately.

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

16. Prior to the commencement of development, the developer shall submit and obtain the written agreement of the Planning Authority to a plan containing details for the management of waste (and in particular, recyclable materials) within the development, including the provision of facilities for the storage,

separation and collection of the waste and in particular, recyclable materials and for the on-going operation of these facilities.

Reason: To provide for the appropriate management of waste and in particular, recyclable materials in the interest of protecting the environment.

17. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interests of sustainable waste management.

18. Site development and building works shall only be carried out between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Noise levels emanating from the construction works when measured at noise sensitive locations shall not exceed 55 dB(A) (15 minute Leq). Deviations from these times and noise levels shall only be permitted where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

19. No display or storage of goods, produce, waste, plant, packaging or crates, machinery or equipment shall be stacked or stored on this site at any time except within such buildings or storage areas as may be agreed beforehand in writing with the Planning Authority.

Reason: In the interest of residential and visual amenity.

20. The site shall be landscaped in accordance with a comprehensive scheme of hard and soft landscaping, details of which shall be submitted and agreed with the Planning Authority before development commences. The scheme shall include a timescale for its implementation. A full plan of all trees to be retained on the boundaries of the site shall be provided, with specific measures proposed for their protection during the construction phase.

Reason: In the interest of amenity and to provide for the proper planning and sustainable development of the area.

21. During the operational phase of the proposed development, the noise level from within the premises, measured at noise sensitive locations in the vicinity, shall not exceed-
- (i) an L ArT value of 55 dB(A) during the period 0700 to 1900 hours from Monday to Saturday (inclusive), and
 - (b) an L AeqT value of 45 dB(A) at any other time.

All sound measurements shall be carried out in accordance with ISO Recommendations R 1996, "Assessment of Noise with Respect to Community Response" as amended by ISO Recommendations R 1996/1, 2 and 3, "Description and Measurement of Environmental Noise", as appropriate.

Reason: To protect the amenities of properties in the vicinity of the site. [Note: The measurement time intervals typically used are 1 hour by day and 15 minutes by night.]

22. A Noise Management System shall be put in place prior to the commencement of operations on site. A copy of this shall be made available to the planning authority on request whether requested in writing or by a member of staff of the planning authority at the site.

Reason: To protect the amenities of the

23. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

24. 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. 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 developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

A. Considine

Planning Inspector

16/09/2016