



An  
Bord  
Pleanála

## Inspector's Report

### Development

Demolition of disused hardware store and construction of a licensed discount foodstore with associated site works and alterations, and change of use of existing discount foodstore to a shop at Lidl Mart Site, Off Fitzgerald Street, Fair Green, Sleeven East, Macroom, Co. Cork.

### Planning Authority

Cork County Council

### Planning Authority Reg. Ref.

16/4687

### Applicant

Lidl Ireland Gmbh

### Type of Application

Permission

### Planning Authority Decision

Grant subject to conditions

### Appellant

Ken Leonard, Obtean Investments Ltd.

### Type of Appeal

3<sup>rd</sup> Party v. Grant

### Observer(s)

None

### Inspector

Pauline Fitzpatrick

### Date of Site Inspection

02/09/16

## 1.0 SITE LOCATION AND DESCRIPTION

- 1.1. The proposed development site is located in Macroom town centre, approximately 330m northeast of 'The Market Square', in an area known as the 'Mart Area' to the north of Main Street which has undergone considerable redevelopment in recent years. The site comprises two plots. The first is the location of the existing discount foodstore (Lidl) with the 2<sup>nd</sup> plot being that to the north which consists of a vacant building previously used as hardware store. A road providing access to the Dunnes Stores car park separates the two plots.
- 1.2. The Lidl store is bounded by a funeral home to the south-east with a three storey building providing for office over retail to the east. A stand alone Dunnes Stores is further east of same again. A three storey building comprising of office and retailing has been developed to the west with original mart buildings to the north of same.
- 1.3. Access to the site is from Main Street with a roundabout facilitating the vehicular movements between the various commercial properties within the Mart Area.

## 2.0 PROPOSED DEVELOPMENT

- 2.1. The application was lodged with the planning authority on the 29/03/16. The proposal entails:-
  - Demolition of building previously used as a hardware store with a stated gross floor area of 2801 sq.m.
  - Construction of part single, part two storey discount foodstore with a stated gross floor area of 2478 sq.m. and net retail floorspace of 1420 sq.m. Staff facilities are to be located at 1<sup>st</sup> floor level.
  - Alterations and change of use of existing discount foodstore building to use as a shop. Alterations include demolition of extension to front and installation of new window openings. The stated gross floor space is 1675 sq.m.
  - Signage

- Ancillary works

2.2. The application is accompanied by

- Planning Report
- Engineering Planning Report
- Flood Risk Assessment
- Noise Impact Assessment
- Preliminary Waste Management Plan
- Site Investigations Report
- Traffic Statement and Trip Generation

### 3.0 **PLANNING AUTHORITY DECISION**

#### 3.1. **Decision**

The Planning Authority decided to grant permission for the above described development subject to 15 conditions. In addition to standard planning, servicing and construction works requirements the following are noted:

*Condition 2:* Landscaping scheme to be submitted.

*Condition 4:* 3 no. poster panel display signage on eastern elevation of the new building to be omitted.

*Condition 6:* Use of proposed 'shop' to be as per Article 5(1) of the Planning and Development Regulations. It shall be used as one unit and shall not be subdivided into smaller units without permission.

*Condition 10:* Details of location of an uncontrolled courtesy crossing point between the existing and proposed stores to be agreed and shall comply with DMURS.

*Condition 12:* Hours of operation for both shops to be agreed prior to commencement of development.

*Condition 13:* Boundary treatment details to be agreed

## 3.2. Planning Authority Reports

3.2.1. The **Executive Planner's** report notes that the area feels a bit disjointed. It was previously a mart site with the area made up of new buildings which have a more retail warehouse rather than town centre feel. The upgrading of the public car parks has improved the appearance of the area south of the existing Lidl store. The approach taken for the relocation and change of use is not clear. The new Lidl building is of a higher architectural quality than the existing building on the site and should add to the overall character of the area. A good landscaping plan should be put in place. The visual impact is only on the immediate vicinity and will not impact on the town centre. No details have been submitted as to the possible occupiers of the vacated Lidl store. The change of use is acceptable. The signage on the new Lidl site is considered excessive and the omission of a number of signs on the eastern elevation is recommended. There is some uncertainty in terms of the long term use of the service access to the new building should the Macroom By-Pass go ahead. Any change to the service access route may have planning implications in the future. It is important that some landscaping be provided along the western site boundary as the elevation may be much more visible if the By-Pass is constructed. The proposal will result in the overall reduction in the convenience goods floor space from that as permitted. It is noted that retail impact assessments (RIAs) have previously been carried out on this site under ref. 12/54012. It is considered that having regard to the nature of the overall proposal and its scale and, in particular the zoning objectives, a RIA is not necessary. It is considered that the proposed 'shop' use (existing Lidl) could potentially have some impact depending on the type of businesses that might occupy the building. The use would be restricted to 'shop' use as per the regulations. The new building is smaller than the existing so no development charges should be levied. A grant of permission subject to conditions is recommended.

3.2.2. The **Senior Executive Planner's** report concurs with the Executive Planner's report and recommendation.

### 3.3. **Other Technical Reports**

3.3.1. **Environment Section** has no objection subject to conditions.

3.3.2. The **Area Engineer** notes that the site is well served by existing road infrastructure which has been further enhanced and improved by recent works to the adjacent car park. The recently announced Macroom By-Pass includes a link to the existing private road at the western end of the site. Whilst the proposal will not interfere with same the western elevation of the new building will be more visible from passing traffic when the link is completed. Alterations to encourage pedestrian traffic between the new store and surrounding stores such as dishing of footpaths and provision of an informal crossing point are recommended. The increase in anticipated traffic is acceptable and will not cause any difficulty in the area. The assertion that as development charges were previously levied on the larger '4 Homes' development it would be contrary to the Council's own development plan to levy further charges is accepted. There is no objection to the proposal subject to conditions.

3.3.3. The **Environmental Health Officer** details certain requirements including ventilation, staff facilities etc.

3.3.4. **Irish Water** has no objection subject to conditions.

### 3.4. **Third Party Observations**

An objection was received from Obtean Investment Ltd. The issues raised are comparable to those set out in the grounds of appeal summarised in section 6 below.

## 4.0 PLANNING HISTORY

- 4.1. *PL04.241495 (12/54012)* – permission granted for change of use and subdivision of store to provide for 911 sq.m. net convenience retail (1598 sq.m. gross) with remainder to be used as hardware with a stated gross floor area of 860 sq.m.
- 4.2. *10/54016* – permission granted for 115 sq.m. extension to discount food store
- 4.3. *06/54020* – permission granted for ancillary use of previously approved discount food store as off licence.
- 4.4. *05/54003*. - permission granted on 17th May 2005 for alterations, renovations and extensions to the existing mart building - Block A, to construct a retail DIY hardware store - Block B, with a gross floor area 2,646sqm, and construct a discount foodstore - Block C, with a gross floor area 1,740sqm.

## 5.0 POLICY CONTEXT

### 5.1. **Cork County Development Plan 2015-2021**

Macroom is identified as a Ring Town .

Objective TCR 4-6 – seek to 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.

Objective TCR 8-1 – Convenience Retail outside the Defined Metropolitan Area. To ensure retail development proposals take the following into account:

- Primarily town centre location
- Seek to retain and enhance the vitality and vibrancy of town centre.
- Market led provision is acceptable provided it contains an assessment of the demonstrable and planned population growth, takes account of the existing

quantum of development provided within each centre, an appropriate catchment area and takes account of extant permissions.

- Aim to provide market choice based on catchment of the main towns.
- Scale should be appropriate to town population and its catchment and avoid significant impacts on similarly sized centres.
- Retail developments which aim to reduce leakage to other centres will be encouraged.

## 5.2. **Macroom Town Development Plan 2009-2015**

The site is within an area zoned Town Centre in which convenience retail is permitted in principle.

**Note:** Regard is had to the Retail Planning Guidelines 2012.

## 6.0 **THE APPEAL**

### 6.1. **Grounds of Appeal**

The 3<sup>rd</sup> Party appeal can be summarised as follows:

- There will be a 47.8% increase in gross floor space with an 11% increase in net floor space.
- Any increase in the size of discount foodstores only assists in applying more pressure to already challenged retail units in the town. Units have closed with no new tenants found whilst another has downsized and rezoned part of its premises.
- The building to be demolished had a convenience retail area that has been empty for a number of years.
- The unit to be demolished already has some of the 'shop' uses which it is proposed to locate into the existing Lidl building.
- As discount foodstores run twice weekly promotions selling items from sports to garden products they are already in direct competition with smaller

traditional retailers in the town and will probably also compete with any user of the existing unit.

- There is nothing to stop the applicant from continuing to use these premises for the retail sale of promotional goods giving them an even greater presence in the retail market.

## 6.2. **Planning Authority Response**

No response received

## 6.3. **Applicant's Response**

The submission by The Planning Partnership on behalf of the applicant can be summarised as follows:

- The grounds of appeal are predominantly related to competition. The appellant should be invited to clarify its bona fides interest and reasoning. If not provided the Board is requested to dismiss the appeal.
- The applicant has begun a substantial upgrade programme across its store network following a new design. The specific operational requirements cannot be met by the existing structure.
- Evidence from an earlier appeal PL69.241495 (12/54012) demonstrates that neither the County Council nor the Board had concerns with respect to retail capacity.
- There is 2200 sq.m. of net convenience retail floorspace currently permitted on the site. The current proposal would reduce this to 1420 sq.m. Therefore there will be a reduction of the overall quantum of net convenience floorspace of 780 sq.m. on the site and within Macroom. The change of use of the existing Lidl foodstore will yield a flexible retail unit providing an additional 1675 sq.m. gross floor area within a prominent location in the town centre.
- In terms of the new building the rationale for the proposed increase in the gross floor area is to enhance the quality of the 'back of house' facilities which



are provided within the store. The proposed 132 sq.m. (11%) increase in net retail sales area is considered to be negligible and is reflective of the enhanced service level which will be provided to the residents of Macroom and its catchment area.

- The proposal will not have an adverse impact on existing traders but rather will facilitate the enhancement of available retail offer thereby contributing to the vitality and viability.
- The Retail Planning Guidelines actively support the enhancement of retail competition and competitiveness.
- The continuing vacancy of the existing 4 Home building indicates that it cannot meet the retail needs of Macroom primarily on the basis that the prevailing planning permissions which apply to the structure as well as the design of the structure itself, restricts its reuse. The proposed change of use of the Lidl building will facilitate its reuse by a wider range of retail operators than can be accommodated within the existing 4 Home Store and will allow it to remain a contributor to the retail offer of the town whilst assisting in reducing vacancy and contributing to the vitality and viability of the town.
- It is not the applicant's policy to retain ownership of substantial retail floorspace for the purposes of promotional sales.

#### 6.4. **Observations**

None

#### 6.5. **Further Responses**

The applicant's response to the grounds of appeal was circulated to the other parties for comment. A response was received from Ken Leonard, Obtean Investments Ltd. In addition to reiterating a number of points made in its original appeal submission the following are noted:

- The appellant has a right to lodge the appeal and has supplied the necessary information and details as required.
- The gross and net floorspace of the proposed Lidl building will increase by 47.8% and 11% respectively over that existing. The figures given in the planning submission do not reflect same.
- The fact that 'discount' is no longer referenced in the Retail Planning Guidelines means that they are considered in the same light as conventional supermarkets and an acceptance that they can trade off a higher turnover than would have previously been attributed to them by retail studies.
- Since the previous application and appeal on the site under ref. 12/54012 in 2012 there has been further retail outlet closures in the town.
- Lidl could operate its twice weekly promotional sales from the existing unit for which change of use is being sought.
- The Board is requested to consider further restrictions on the use of the existing unit to specifically exclude convenience retail sales and promotional goods sales.

## 7.0 ASSESSMENT

I consider the issues arising in this appeal are as follows:

- Principle of Development
- Impact on the town centre
- Visual Amenities
- Other Issues
- AA- Screening

### 7.1. Principle of Development

- 7.1.1. Since the adjudication of the previous application under ref. PL29.241495 the Cork County Development Plan has been reviewed and a new plan adopted in 2014. In same Macroom retains the designation as a ring town outside the Cork City metropolitan area. Objective TCR 4-6 of the plan seeks to support the vitality and viability of the ring 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.
- 7.1.2. As yet the Macroom Town Development Plan 2009-2015 has not been reviewed but I consider that it provides an appropriate steer in terms of suitable development in the area. The site is located with an area zoned TC – town centre, and is identified as being within the town centre core area. In such a zone retailing, including a supermarket with a floor area in excess of 1500 sq.m., is permitted in principle. I also note that the site is located within The Mart Town Centre Character Area. The concept map for same in the plan delineates the area as being for large format retailing.
- 7.1.3. Taken in conjunction with the Retail Planning Guidelines which advocate the promotion of the vitality of town centre by employing the sequential approach to

development, I submit that the proposed development, which will provide for alterations to the existing and permitted retail provision at this centre location is acceptable in principle and would accord with the policies and objectives of both the County and Town Development Plans.

## **7.2. Impact on Town Centre**

- 7.2.1. The proposed development essentially proposes to re-assign and redistribute the retail floorspace on the enlarged site encompassing what are referred to as Blocks B and C. It entails the demolition of the vacant 4 Home building (Block B) and its replacement with a convenience foodstore and the change of use and alterations to the existing convenience foodstore (Block C) to use as a shop as defined in Article 5 of the Planning and Development Regulations 2001, as amended. The relocation of the convenience foodstore is stated to be dictated by the requirements arising from the upgrade programme with operational specifications which cannot be met by the existing structure.
- 7.2.2. I consider that the proposal needs to be assessed in the context of the existing permission granted under ref. PL69.241495 which allows for the change of use and subdivision of Block B (4 Home building) for use as a convenience store with a stated gross floor area of 1598 sq.m. (net floor area of 911 sq.m.) with the remainder of the building to continue to operate as a hardware store with a gross floor area of 860 sq.m. As noted on day of inspection the building is vacant and unoccupied.
- 7.2.3. A comparison of the existing and permitted convenience floorspace on the overall site against that as proposed in the current application is as follows:

	Existing/Permitted (sq.m)		Proposed ( sq.m.)	
	Gross	Net	Gross	Net
Lidl Building	1650	1290	2478	1420
Block C	1598	911	-	-
<b>Total</b>	<b>3248</b>	<b>2201</b>	<b>2478</b>	<b>1420</b>

Thus whilst the relocated Lidl building will have a 130 sq.m. greater net floor space than the existing building the net convenience floorspace would be reduced by 730 sq.m.

7.2.4. As the convenience retailing floorspace is to be reduced on the overall site and therefore in the town as a whole I submit that the Retail Impact Assessment that accompanied the previous application can reasonably be seen to assess the impact and that a new impact assessment is not required in this instance.

7.2.5. In terms of the other retail floorspace the change of use of the existing building occupied by Lidl will provide for a gross floor area of 1675 sq.m. Whilst a prospective occupant has not been identified for same it is to come within the parameters of 'shop' as defined in the Planning and Development Regulations, 2001, as amended. I note that the subdivision of Block B as previously permitted provided for retail floorspace over and above the convenience allocation of of 860 sq.m. (to be used as a hardware store).

7.2.6. The proposed use as a shop as defined in Article 5 of the said regulations, is as follows:

A structure used for any or all of the following purposes, where the sale, display or service is principally to visiting members of the public

- (a) for the retail sale of goods,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,

(d) for the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use and “wine” is defined as any intoxicating liquor which may be sold under a wine retailer's off-licence (within the meaning of the Finance (1909-1910) Act, 1910) 10 Edw. 7. & 1 Geo. 5, c.8,

(e) for hairdressing,

(f) for the display of goods for sale,

(g) for the hiring out of domestic or personal goods or articles,

(h) as a launderette or dry cleaners,

(i) for the reception of goods to be washed cleaned or repaired,

but does not include any use associated with the provision of funeral services or as a funeral home, or as a hotel, a restaurant or a public house, or for the sale of hot food or intoxicating liquor for consumption off the premises except under paragraph (d), or any use to which class 2 or 3 of Part 4 of Schedule 2 applies;”.

It is my reading of this Article that such a shop could provide for convenience including a foodstore.

7.2.7. In terms of the additional retail floorspace to be provided I note that the RPGs make the point that Retail Impact Statements (RIS) are not ends in themselves but tools of assessment and are required to demonstrate that proposed retail developments comply with regional and local retail strategies. The RPGs (paragraph 4.4) make the point that where a proposed retail development complies with the policies and objectives of a development plan and retail strategy no further retail impact statements would be required.

7.2.8. Taking into consideration the location of the site within the designated town centre core as identified in the town development plan, the fact that the proposal is consistent with the policies and objectives of the said plan and the retail policies and objectives of the County Development Plan as set out in objectives TCR 8-1 and TCR 8-2 (relating to both convenience and comparison) and that the overall preferred location for new retail development is within such areas, I consider that the proposal complies with the sequential approach and that additional retail impact

studies would not be required. I therefore consider the proposed change of use to be acceptable. I would also submit that the appellant's request to the Board to preclude the use of the additional retail floorspace in the converted Lidl building for convenience or promotional sales would run counter to such guidance. I would also note that the RPGs and advise against actions which would adversely affect competition in the retail market, preserve existing commercial interests or prevent innovation.

### **7.3. Visual Amenities**

- 7.3.1. The Retail Design Manual which accompanies the RPGs stresses the fact that high quality retail design contributes to making places that are attractive, inclusive, durable and adaptable places to live, work, shop and visit.
- 7.3.2. The development of the lands to date consequent to its previous mart use in allowing for large format retailing has resulted in a somewhat disjointed streetscape dominated by car parking although the works carried out to the south have assisted in its visual improvement, providing for a more co-ordinated appearance.
- 7.3.3. The building to be demolished is generic in execution and its replacement with the new foodstore entailing a more sympathetic design than has heretofore been used by the company, represents a more appropriate development in urban design terms. I would concur with the area planner that the signage proposed is excessive and its rationalisation is recommended.
- 7.3.4. The change of use and alterations to the existing foodstore will also assist in improving the development in design terms which will be of benefit to the area. Thus taking into consideration the existing streetscape I consider that the design approach is acceptable subject to appropriate finishes and landscaping.

#### 7.4. Other Issues

- 7.4.1. The application is accompanied by a Traffic Statement and whilst the proposed development will result in an increase in traffic generation the site is well served by existing road infrastructure which has been further enhanced and improved by recent works to the adjacent car park. I note that the Area Engineer had no objection to the proposal on traffic grounds. The increase in anticipated traffic is acceptable and will not cause any difficulty in the area. I would concur with his recommendation that provisions should be made to further encourage pedestrian traffic between the new store and surrounding stores and the provision of an informal crossing point between the two stores.
- 7.4.2. I note that both the Area Engineer and the Executive Planner consider that as a development contribution was levied on the subdivision and change of use of the previous Block B (4 Homes) which is larger than the building replacing it, the application of a financial contribution requirement is not considered appropriate. This is considered reasonable. I also note that the current Cork County Development Contribution Scheme allows for an exemption where in the case of a change of use the intended use does not constitute a substantial intensification of use or is unlikely to increase demands on services. I submit that such a scenario can reasonably be seen to arise in terms of the existing foodstore to be converted. Therefore I accept that no financial contribution requirement applies in this instance.

#### 7.5. AA -Screening

The nearest designated site is Gearagh SAC (site code 000108) which is located c. 1.5 km to the south of the site. The Sullane River which is adjacent to the northern site boundary flows into the Coolcower Reservoir, approx. 3km south east of the site at a point 2km downstream of the SAC. Having regard to the location of the fully serviced infill site in Macroom Town centre, to the existing development on the site surrounded by other commercial uses, 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.

## **8.0 RECOMMENDATION**

Having regard to the documentation on file, the grounds of appeal, the responses therefore, a site inspection and the assessment above I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

### **REASONS AND CONSIDERATIONS**

Having regard to the existing and permitted uses on the site and the nature and scale of the proposed development, the planning history and the zoning of the site together with the existing pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the objectives of the Cork County Development Plan and the zoning provisions for the site as set out in the Macroom Town Development Plan, would be in accordance with the provisions of the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in April 2012, and would not adversely impact upon the vitality and viability of the town centre or on existing retail centre development in the area. The proposed development would, therefore, 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, 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. Prior to commencement of development, details of the materials, colours and textures of all external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority. Where it is considered necessary, the developer shall erect on-site samples for agreement with the planning authority

**Reason:** In the interest of visual amenity and urban design

- 3 No subdivision of any unit shall take place without a prior grant of planning permission.

**Reason:** To control the layout and scale of the development in the interest of protecting the vitality and viability of the town centre.

4. The proposed signage shall be in accordance with the following requirements:

(a) Sign No.3 proposed on the eastern elevation of the proposed new

convenience foodstore as delineated on drawing no. D1506-04-P06 shall be omitted,

(b) No additional signage or other awnings or canopies other than that shown on the submitted drawings shall be erected on site without a prior grant of planning permission.

(c) Details of any illuminated lighting to be attached to the elevation of the buildings shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

(d) No external security shutters shall be erected on any of the commercial premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development..

(e) No adhesive material shall be affixed to the windows or the shopfronts

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

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services

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

6. The proposed hours of operation of the two units shall be agreed in writing with the planning authority prior to occupation of the units.

**Reason:** To protect the amenities of the area

7. Details of an uncontrolled courtesy crossing point between the existing and proposed stores shall be submitted to the planning authority for written agreement prior to commencement of development.

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

8. The proposed bicycle stand shall be covered and shall comply with the recommendations of the NTA National Cycle Manual.

**Reason:** In the interest of cyclist safety and convenience.

9. 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 interest of sustainable waste management.

10. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The scheme shall include the following:

- (a) details of all proposed hard surface finishes including samples of the proposed paving/slabs materials for footpaths, kerbing and road

surfaces within the development;

- (b) proposed locations of trees and other landscape planting in the development including details of the proposed species and setting;
- (c) details of proposed street furniture including bollards, lighting, fixtures and seating; and
- (d) details of proposed boundary treatment at the perimeter of the site including heights, materials and finishes.

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

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

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**Pauline Fitzpatrick**

**Inspectorate**

**September, 2016**

**Attachments**

1. Photographs
2. Extracts from the Cork County Development Plan, 2014