



An  
Bord  
Pleanála

## Inspector's Report PL06S.247331.

---

<b>Development</b>	Demolition of public house & multi deck car park; construction of licenced food store, vehicular entrance, signage, car parking, new plaza and retail/café building.
<b>Location</b>	The Belgard Inn, Old Belgard Road/Cookstown Road, Tallaght, D24.
<b>Planning Authority</b>	South Dublin County Council.
<b>Planning Authority Reg. Ref.</b>	SD16A/0096.
<b>Applicant</b>	Lidl Ireland GmbH.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant subject to conditions.
<b>Type of Appeal</b>	Third Party vs. Grant.
<b>Appellant</b>	<ol style="list-style-type: none"><li>1. Brid Ni Meachair.</li><li>2. Stephen Walker and Kevin Leydon.</li></ol>
<b>Observer</b>	None.
<b>Date of Site Inspection</b>	13/12/16 & 04/01/17.
<b>Inspector</b>	Ciara Kellett.

## 1.0 Site Location and Description

- 1.1. The appeal site is located at the junction of the Old Belgard Road and the Cookstown Road. It is c.400m north-west of the Belgard LUAS stop. Open countryside, the Newlands Golf Club and a quarry are located to the north of the site. Residential housing estates, Belgard Heights and Kingswood Heights, are located to the south.
- 1.2. The L-shaped site of 1.4Ha comprises the Belgard Inn public house, a night club and an off-licence as well as a surface car park to the east of the public house. An underground four-storey car park is located to the west of the public house and a covered reservoir is located to the south, outside of the applicant's lands. There are a number of mature trees around the surface car park as well as a line of Leylandii trees located along the western boundary with house no.183 The Avenue, Cookstown Road. There is a void area within the site alongside the western boundary/ multi-storey car park which is related to the former quarry use of the site. Vehicular access to the site is from the Old Belgard Road and the Cookstown Road. A separate entrance off Cookstown Road serves the multi-storey car park.
- 1.3. Appendix A includes maps and photos of the site.

## 2.0 Proposed Development

- 2.1. The proposed development is for the demolition of the existing structures, including the underground multi-storey car park, and for the development of a new mono pitched, licenced, discount foodstore including the creation of a single vehicular entrance off the Cookstown Road and an improved vehicular entrance on the Old Belgard Road, free standing and building mounted signage, air conditioning equipment, car and bicycle parking, trolley bay, landscaping and other ancillary and associated site development works.
- 2.2. In addition, the development includes a new plaza and retail/café building at the junction of the Cookstown and Old Belgard Roads, as well as improved footpaths and additional crossing points on the Old Belgard Road. A portion of land to the south-east of the site is not included within the red line and is noted for future development or "phase 2".

2.3. A Planning Report, a Roads and Traffic Report, and an Engineering Services Report accompany the application which provide an overview and rationale for the proposal.

### 3.0 Planning Authority Decision

#### 3.1. Decision

The Planning Authority decided to grant permission subject to 22 standard conditions including conditions to omit the totem sign, protection of the Clondalkin Tanks and maintain vehicular access to the tanks as indicated on the drawings, as well as submission of a revised Landscape Plan. Condition 10 specifically refers to the external retail/café unit.

Condition 10 states:

*The retail/café unit at the corner of Cookstown Road and Old Belgard Road shall be completed and available for occupation prior to the opening and operation of the Discount Foodstore for business.*

**Reason:** *In the interest of clarity and orderly development.*

#### 3.2. Planning Authority Reports

3.2.1. The **Planner's Report** is the basis for the Planning Authority decision. It includes:

- Notes zoning objective of the area is Local Centre (LC) – To protect, provide for and/or improve Local Centre Facilities. Proposal is considered to represent a compatible use at this location and in compliance with the zoning of the site.
- Notes that the principle of a Discount Foodstore has already been approved by a previous permission on the site.
- Considers that the proposed development would not adversely impact on the vitality or viability of the existing retail centres in the wider area.
- Considers that the location of the off-licence sales area should be located away from the main entrance, and should not be externally visible.
- Notes that while the loss of a public house may be regrettable, it is not within the scope of the Planning Authority to dictate the types and forms of services

situated on LC zoned lands, other than through the zoning matrix of the written statement.

- With respect to Visual Impact, raises some concerns with the north-western portion of the site and considers FI should be requested.
- Considers that the scale and design of the store and the kiosk (retail/café unit) will be a positive feature from a visual amenity perspective. Notes that the main activity areas onto the Old Belgard Road and the open elevations of the kiosk onto Cookstown Road will create a certain amount of activity along the site boundaries. Notes the landscaping will assist in the integration of the overall development. Considers location of ESB substation should be altered. Totem pole sign is not detailed and should be subject to FI.
- Notes the Roads Section request for FI with respect to the zebra crossing, the level differences between it and house no.183, and railings.
- Notes the request from the Environmental Services Department regarding the Historic Unlicensed Disposal Site – requests that the applicant carry out borehole trials in the bottom of the multi-storey car park to establish the depth and composition of any waste in the old landfill.
- Additional information was requested on a number of topics including: drawings to clarify boundary treatment and level changes on the north-west corner of the site; revised location for the ESB substation; provide details of the totem pole sign; provide noise reduction measures to the west side of the boundary; detail off-licence area; increase surface water attenuation storage by at least 50%; submit additional information on the watermain layout. In addition, the applicant was asked to submit FI regarding the large level difference between the site and house no.183 showing a geotechnically acceptable solution and revised location for zebra crossing and realigned footpath. Trial holes on the bottom of the multi-storey car park are to be carried out due to the known presence of an historical landfill.
- During the FI stage, the new South Dublin Development Plan was adopted and the planner's report considered the FI response and the proposal for compliance with it.

- Following the response to FI, the Planner considered the proposed development acceptable and recommended granting permission subject to conditions.
- The decision was in accordance with the Planner's recommendations.

### 3.2.2. Other Technical Reports

The application was referred to:

- **Public Realm Designer** – no response
- **Roads Department** – no objection subject to conditions
- **Waste Management (Enforcement and Licencing Division)** – no objection subject to conditions
- **Water Services Section** - no objection subject to conditions
- **Environmental Health Officer** - no objection subject to conditions.

### 3.3. Prescribed Bodies

The application was referred to:

- **Irish Water** – no objections subject to conditions.

### 3.4. Third Party Observations

A number of submissions were made by Kevin Leydon on behalf of the Belgard Residents Association, Brid Ni Meachair, Matthew & Florence McCullagh, and Stephen Walker.

In summary, their concerns relate to:

- Traffic and Parking
- Pedestrian footpaths along Old Belgard Road
- Loss of social amenity/landmark pub/kiosk to be built first
- Impact on existing businesses
- Noise

- Particular concerns with the boundary between the proposal and house no.183 The Avenue
- Concern expressed with what is proposed for the remainder of the site.

## 4.0 Planning History

The site has an extensive planning history - the planning applications of relevance are:

- **Reg. Ref. SD15A/0023, ABP Ref.PL06S.245002** – Permission granted in October 2015 for a Lidl store with an overall gross floor area of 1500sq.m and 2 plaza retail kiosk units of 139sq.m each, 84 car parking spaces, pedestrian accesses and ancillary works. The design of this proposal did not include the demolition of the public house and included a condition requiring that the two no. kiosks were to be completed and available for occupation prior to opening and operation of the discount foodstore.
- **Reg. Ref. SD13A/0211, ABP Ref. PL06S. 243169** – Discount Foodstore refused permission in July 2014. The Board refused permission for the following reasons and considerations:

*It is considered that the proposed development by reason of its standardised design approach fails to provide a satisfactory level of urban street presence which would allow for passive surveillance and enliven the streetscape at this prominent junction. Furthermore, the proposed development, by reason of its location on site at a remove from the junction of the Belgard and Cookstown Roads and with a wide expanse of visually prominent surface car parking area facing the public realm, represents a poor quality of urban design at this designated local centre which requires a more robust and defined built form. Accordingly, it is considered that the proposed development would fail to comply with policies and objectives of the South Dublin County Development Plan 2010 – 2016 in relation to urban design, would seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.*

- **Reg. Ref. SD05A/0859, ABP Ref. PL06S.218902** (Section 48 Appeal) – Mixed use development comprising two no. 3 storey blocks including a 334sq.m neighbourhood shop, 1 no. 863sq.m discount food store, retail units, betting office, lounge, 78 apartments and crèche granted in February 2007.
  - **Reg. Ref. SD07A/0274** – variation to development above to include an extension to the public house at ground floor level and addition of a basement area, permitted July 2007.
  - **Reg. Ref. SD07A/0311** – variation consisting of new courtyard level over footprint of multi-storey car park, construction of 22 apartments above car park. Granted permission in February 2008.
- There have been a number of other permissions granted on the site for the underground multi-storey car park and for use of the car park as a car auction facility.

## 5.0 Policy Context

### 5.1. Development Plan

The site is subject to the policies and objectives of the South Dublin County Development Plan 2016 - 2022. The site is zoned Local Centre (LC).

Chapter 5 of the Plan refers to Urban Centres & Retailing, Chapter 7 refers to Infrastructure & Environmental Quality and Chapter 11 refers to Implementation.

Chapter 5 notes with respect to Urban Centres:

***UC1 Objective 1: To direct retail, commercial, leisure, entertainment, civic, community and cultural uses into town, village, district and local centres and to achieve a critical mass of development and a mix of uses that is appropriate to each level in the urban hierarchy.***

The Plan states that Local Centres are commercial centres that provide day to day services and facilities to cater for a local catchment. The scale and function of local centres vary. Policy 5 Local Centres states:

*It is the policy of the Council to encourage the provision of an appropriate mix, range and type of uses in Local Centres, including retail, community, recreational, medical*

*and childcare uses, at a scale that caters predominantly for a local level catchment, subject to the protection of the residential amenities of the surrounding area.*

Objectives for Local Centres:

***UC5 Objective 1:*** *To support the improvement of local centres, and encourage the use of upper floors, with due cognisance to the quality of urban design, integration, linkage, accessibility and protection of residential amenity.*

***UC5 Objective 2:*** *To support and facilitate the location of small scale community facilities within accessible local centres and as part of large scale commercial development where a deficiency in community space is demonstrated, subject to adaptable design for a variety of uses.*

***UC5 Objective 3:*** *To improve walking and cycling infrastructure within the local catchment of centres.*

Section 5.2 refers to Retailing. Local Centres are considered Level 4 and the Plan states that these centres usually contain one supermarket ranging in size from 1,000-2,500 sq.m. with a limited range of supporting shops and retail services and possibly other services such as post offices, community centres or health clinics grouped together to create a focus for the local population. These centres meet the local day-to-day needs of surrounding residents.

Section 5.6.6 refers to Local Centres and notes that Retail (R) Policy 8 states that it is the policy of the Council to maintain and enhance the retailing function of Local Centres.

***R8 Objective 1:*** *To support the development of Local Centres as sustainable, multifaceted, retail led mixed use centres.*

***R8 Objective 2:*** *To ensure that the scale and type of retail offer in Local Centres is sufficient to serve a local catchment, without adversely impacting on or drawing trade from higher order retail centres.*

Table 11.9 of Chapter 11 sets out use classes acceptable in the LC zoning. Shop-Local and Shop-Neighbourhood are permitted in principle as well as restaurant/café uses.



Section 11.3.6 refers to Retail Development and retail criteria is provided. Section 11.3.6 (i) notes that:

*Applications for new retail development shall accord with the requirements outlined in Chapter 5 Urban Centres and Retail and in Section 11.2, in addition to the following criteria:*

- *Retail development should be in accordance with the role and function of the retail centre and accord with the scale and type of retailing identified for that location.*
- *Retail development should be in accordance with the fundamental objective to support the vitality and viability of the retail centre and must demonstrate compliance with the sequential approach. Proposals to amalgamate retail units will be carefully considered.*
- *Major retail proposals (exceeding 1,000 sq.metres) are required to provide a detailed Retail Impact Assessment (RIA) and a Transport Impact Assessment (TIA).*

Section 11.4.0 provides guidance on transport and mobility. Bicycle parking is required 1 per 5 staff. It is noted that for car parking the subject site can be considered to be in Zone 2 – within 800m of a LUAS station. Zone 2 parking requires 1 space per 25sq.m of convenience retail and 1 per 35sq.m of comparison retail and 1 per 20sq.m of café floor area.

## **5.2. Retail Planning Guidelines**

The Retail Planning Guidelines 2012 were published by the Department of Environment, Community and Local Government and provide the framework to guide the development of retail. The Guidelines set out a retail hierarchy.

The Guidelines state in Section 4.4 that:

*Where the location of a proposed retail development submitted on a planning application has demonstrated to the satisfaction of the planning authority that it complies with the policies and objectives of a development plan and/or relevant retail strategy to support city and town centre, additional supporting background studies such as a demonstration of compliance with the*

*sequential approach, below, or additional retail impact studies are not required.*

### 5.3. **Natural Heritage Designations**

The site is located approximately 5km north of the Glenasmole Valley SAC (Site Code 001209).

## 6.0 **The Appeal**

The application is subject to two third party appeals from; 1) Ms. Brid Ní Meachair and, 2) Mr. Stephen Walker and Mr. Kevin Leydon.

### 6.1. **Grounds of Third Party Appeal**

Ms. Brid Ní Meachair appeal in summary states:

- Dangerous Boundary Wall between her house (no.183 The Avenue) and the proposed development. Engineering Report accompanies the appeal.
- Void between no.183 and the site – dangerous/safety issues.
- There is no arborist report with the Planning Application – there is an inadequate Tree Report.
- This is not a neighbourhood centre proposal – reduction of kiosks from 2 to 1. The previously permitted 2 no. kiosks are required so that Local Centre status can be achieved and a condition requiring that they be built first (similar to most recent permission) should be appended.

Mr. Stephen Walker and Mr. Kevin Leydon state:

- Issues with construction traffic and concerns that children may not be allowed to play on green area in the event of an increase in traffic. Concerns about noise.
- There will be insufficient parking at peak times of the year.
- The existing footpath along the Old Belgard road is in a poor state of repair which poses a significant risk to pedestrians.

- Loss of social amenity/landmark pub. The Belgard Inn has served the community for over 40 years and is the focal point for most social gatherings. The loss of the pub comes on the back of other pub closures.
- Concerns about the use of the other portion of the land not included within the red line. It is an eyesore at the moment and has become an illegal dumping ground.
- Impact on existing businesses e.g. local shops etc.

## 6.2. Applicant Response to Third Party Appeals

- Notes that Shop-neighbourhood with a net sales retail area of 1,000 – 2,500 sq,m is a permitted use on LC zoned lands in the new Plan.
- The response includes a concept masterplan for the lands to the south within the blue line, but not within the red line.
- With respect to the loss of the public house, it is noted that the Belgard Heights Residents Association made a submission to the Council (not a party to the appeal), and did not raise a concern over the loss of the public house. Considers that during pre-planning, the loss of the public house was not considered a substantive issue by the Council. The public house is not viable – the present operation exists only because it is paying a nominal peppercorn rent, so it's future is highly doubtful with or without this application. Notes that there is a community facility in the vicinity which could provide a community service.
- A Landscape Plan accompanies the response. The drawing indicates an interim landscape plan for the residual lands within the blue line, which the applicant invites the Board to condition as an interim solution. Notes that residents requested CCTV and security gates to be installed and invites the Board to condition these items.
- As part of pre-planning it was agreed that given the previous permission on the site, the findings of that TIA would be more than sufficient to prove that the current application would be acceptable. However, fresh traffic counts have been conducted on foot of the appeal, and it finds that there are no adverse impacts arising above and beyond those previously predicted.

- Parking spaces are addressed. The applicant accepts that there may be peak periods of activity but they do not expect these to exceed the parking proposed. Planning policy would dictate that parking is not dictated on the “worst case” events.
- Improvements to the footpath are included in the proposed development.
- Original intention of applicant was to retain trees along the boundary with no.183 The Avenue as a visual buffer. Applicant is happy to remove trees and replace with an alternative form of planting. Repairs to the party boundary wall are outside the Board’s control at this time. Discussions are ongoing between owner of house no.183 and applicant.

### 6.3. **Planning Authority Response to Third Party Appeal**

The Planning Authority responded stating that it confirms its decision and considers that the issues raised in the appeal have been covered in the planner’s report.

### 6.4. **Other responses**

The two third parties and the planning authority were invited to comment on the applicant’s response to the appeal.

The two third parties responded. Mr. Kevin Leydon and Mr. Stephen Walker:

- Notes existing shopping facilities and considers that the argument that local residents don’t have to travel outside their area is baseless.
- Query how the Council considered that the loss of the Belgard Inn was not a substantial issue and query what has changed since last application as there were plans to upgrade it by the applicant. Consider it unfair and unreasonable to compare the community centre to the local public house.
- Parking – state that Aldi with approx.160 spaces can just about cope with the level of traffic.
- Concerns about traffic and tailbacks with the LUAS. Query whether traffic consultants factored in rezoning by SDCC of Cookstown Industrial Estate to a mixed use zoning.

- Consider it misleading that phase 2 of the plan for the site gives the impression that Lidl plan to develop this portion. A supermarket and café cannot be considered to provide a Local Centre – Lidl should apply for the full development of the entire site.

Ms. Brid Ní Meachair – a further Engineering Report accompanies this response:

- Requests that a condition is included that trees at boundary are removed.
- Requests that the two kiosks in the previous permission are included.
- Fence proposed on the western boundary will create a “no man’s strip” and requests a similar boundary treatment, as shown on section D:D of the revised Landscape Plan which indicates a retaining wall, is conditioned in the event of a grant.
- Considers that this matter cannot be dismissed as a “party boundary issue”. Proposed development is located at a zoning transition from a commercial use to a residential zone. Refutes applicant’s assertion that negotiations are ongoing.
- States that when the multi-storey car park is demolished the empty quarry will accept waste materials from other developments, and it is unclear how long this infill period will last.
- States that the first party response should have only been in response to the third party appeals and not refer to Belgard Heights Residents association who are not a party to the appeal. The request for conditions on lands in the blue line cannot be considered as they are outside the red line.

## 7.0 **Assessment**

7.1. I consider the key issues in determining this appeal are as follows:

- Local Centre zoning.
- Construction phase issues.
- Landscaping and Boundary Treatment.

- Car parking and Traffic (operational phase).
- Appropriate Assessment.

## 7.2. Local Centre zoning

The principle of a supermarket on this site has been determined previously. The Board granted permission for a Lidl Store on this site in 2015 (ABP ref PL06S.245002). The site is zoned LC – Local Centre ‘To protect, provide for and/or improve Local Centre Facilities’. The proposed store is in compliance with the size of supermarket envisaged by the planning authority for LC zoning – 1,000 – 2,500 sq.m net sales area.

The appellants refer to the changes to the 2015 permission which included two no. kiosks (standalone retail/café units) and retained the Belgard Inn. Both appellants refer to the concept of a Local Centre in the subject appeal, in terms of providing a mix of uses appropriate for this zoning.

The 2013 application was refused by the Board for a number of reasons including the wide expanse of visually prominent surface parking facing the public realm, and the poor quality of urban design at this designated local centre which was considered to require a more robust and defined built form. The 2015 proposal addressed this issue by proposing (inter alia) 2 no. kiosks facing the Cookstown Road with landscaping and a plaza in between. Car parking was reduced and increased attention was paid to the public realm and to permeability and interface with the adjoining areas as well as providing an opportunity for a mix of uses.

In the current application, the applicant has not satisfactorily explained why the kiosks have been reduced from 2 to 1, considering they are proposing to demolish the public house as well. I accept that the applicant has prepared a concept plan for the area which is within the blue line and indeed, this may provide an opportunity for other uses that would be acceptable within the zoning in time. However, phase 2 or the “concept plan” is not part of this application and therefore cannot be considered at this time.

I consider, with the current proposal, that parking would be visually dominant along the Cookstown Road. A second kiosk would provide for a stronger public realm and

an improved urban edge as well as increased passive surveillance for the area, which was noted as a concern of the Belgard Heights Residents Association.

I consider that a single kiosk and the store do not provide for a mix of services or provide opportunities to replace the social function provided by the Belgard Inn and accordingly do not comply with the policy of the Council for Local Centres – to provide *an appropriate mix, range and type of uses*.

### 7.3. Construction Phase issues

The drawings indicate that the underground multi-storey car park lowest level is +95.10m and the Cookstown Road is at +106.00m. The proposed finished floor level of the store is shown as +102.8m. There is no information provided by the applicant with respect to the details of the construction phase of the development. It is stated that the car park is to be demolished, so it is assumed that the void will be infilled. Taking the multi-storey car park area alone, and not including any infill required for the Belgard Inn itself, a very high level calculation indicates approximately 20,000m<sup>3</sup> of infill is required. No details have been provided by the applicant with respect to the potential impact on residential amenities, noise, traffic or dust emissions which may occur during construction as a result of this activity, nor is there any information provided as to what material is to be used or where this infill will be sourced. The Noise Report which was submitted as part of the Request for Further Information relates only to operational activities.

In the absence of construction phase details, I am not satisfied that the proposed development will not impact negatively on residential amenities, both of houses in the immediate vicinity and in the wider area, due to potential traffic, noise, and dust emissions.

I draw the Board's attention to the fact that the issue of the infill of the site, following the demolition of the car park and public house, is a new issue which was raised during circulation of the appeal. I am recommending refusal for other reasons but if the Board consider granting the proposal, it may wish to seek input on this matter from the parties concerned.

#### **7.4. Landscaping and Boundary Treatment**

The third party appellant who lives adjacent to the site raises concerns about the stability of the western boundary wall, and the void/dangerous drop which will remain after the construction of the store.

The store is proposed to be built at finished floor level of +102.80m. The western boundary neighbour's house no.183 The Avenue is at +106.80m – a 4m drop will exist between both sites. The applicant has provided details of how they propose to address the rock face of the boundary using secure netting to Engineer's detail. A 1.1m high paladin fence is proposed at the top, as well as removing the Leylandii trees and replanting the "strip" with native trees. The appellant in house no.183 requests that the shared boundary wall is addressed as well as the removal of the trees. The applicant has advised that the party wall will be addressed outside of this planning application. I am of the opinion that the boundary wall adjacent to a 4m drop should be secured and the safety of all parties should be addressed within the application.

#### **7.5. Car parking and Traffic**

With respect to parking, the current proposal seeks to provide 141 spaces. According to the applicant, the Development Plan would require 117 spaces. The appellants express concern that this number is insufficient, however, it is in excess of the Plan requirements and in fact, includes spaces for the potential future development of the remainder of the land. Therefore, I consider that parking is acceptable in this instance.

The appellant's express concerns with traffic, particularly during construction. The applicants carried out a fresh traffic count and Appendix 4 of their response to the appeal included a Traffic Impact Assessment. This is in addition to their initial assessment as part of the original planning application documents.

The initial assessment compared the previously granted 2015 permission with the increase in cars expected due to the development of a larger store.

The traffic assessment provided only considered the store during operation. It failed to address the significant change in the two applications – namely the demolition phase of works and the infill activities associated with this latest proposal and as considered in Section 7.3 above. In the absence of information relating to the



construction activities on the site there is a potential that a significant impact could result during the construction phase.

In conclusion, with respect to traffic, I am not satisfied that the traffic, as a result of construction activities, will have an acceptable impact in the vicinity.

#### **7.6. Appropriate Assessment**

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, 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**

I recommend that planning permission should be refused, for the reasons and considerations as set out below.

### **9.0 Reasons and Considerations**

- 1) Having regard to the policies and objectives of the South Dublin County Council Development Plan 2016 – 2022 in relation to the development of Local Centres, it is considered that the proposed development would not provide an appropriate mix, range and type of uses to serve the requirements of the local catchment population. The proposed development, therefore, would seriously injure the residential amenities of the area and be contrary to proper planning and sustainable development.
- 2) Having regard to the absence of detail in relation to the construction of the development, and, in particular, the considerable volume of fill material likely to be required as a consequence of the demolition of the multi-storey car park and the Belgard Inn, and the construction of the retail store at a higher level, the Board is not satisfied that the construction phase of the development through the generation of traffic, noise and dust, would not seriously injure the residential amenities of the area. To grant permission, therefore, for the

proposed development would be contrary to the proper planning and sustainable development of the area.

---

Ciara Kellett  
Inspectorate

4<sup>th</sup> January 2017