



An
Bord
Pleanála

Inspector's Report PL06F.248271

Development

Proposal to amend operating hours from that previously granted permission under PL06F.238054 which would also allow for the use of air handling units previously granted under PL06F.242163.

Location

Lidl, Rathbeale Road, Swords, Co. Dublin.

Planning Authority

Fingal County Council.

Planning Authority Reg. Ref.

F17A/0007

Applicant(s)

Lidl Ireland GmbH.

Type of Application

Permission.

Planning Authority Decision

Grant.

Type of Appeal

Third Party

Appellant(s)

Michael Savage.

Observer(s)

None.

Inspector

Karen Kenny.

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1.0 Site Location and Description

The site fronts the northern side of the Rathbeale Road west of Swords Town Centre. There is an existing Lidl supermarket and associated car parking on the site. The site is bound to the west by the Swords Shopping Centre which contains a Dunnes Stores (clothing store), JC's supermarket (food) and a public library. The wider area is residential in character and the site is bounded to the north and east by residential properties.

2.0 Proposed Development

2.1.1. The application seeks permission to extend the operational trading hours of the existing Lidl store:

- From 0800 - 2100 hours Monday to Saturday and 1030 - 1900 hours on Sunday.
- To 0800 – 2200 hours Monday to Saturday and 0900 – 2100 hours on Sunday.

2.1.2. Permission is also sought to extend the operating hours of air handling units permitted under PL 06F.242163 / F13A/0129 during the extended trading hours.

3.0 Planning Authority Decision

3.1. Decision

Decision to Grant Permission subject to 8 no. conditions. The grant of permission restricts noise levels and the hours for deliveries and refuse collection.

3.2. Planning Authority Reports

The Planning Officers Report reflects the decision to grant permission.

3.3. Other Technical Reports

Transport Section: No objection.

3.4. **Prescribed Bodies**

Environmental Health Officer: No objection.

3.5. **Third Party Observations**

5 no. submissions were received. Issues that are additional to those raised in the grounds of appeal set out below are as follows:

- Impact of light spillage, glare, litter and disturbance on residential properties.
- Disturbance associated with outdoor activities (maintenance / deliveries) taking place outside of trading hours.

4.0 **Planning History**

PL06F.238054 / F10A/0088

Permission granted on the appeal site to construct a licenced discount food store on the site of an existing petrol station and convenience store. The decision was appealed by first and third parties. The planning authority's decision was upheld on appeal subject to conditions that included restrictions on trading and delivery hours and noise restrictions.

PL06F.240075 / F11A/0388

Permission granted to extend the licenced discount food store permitted on the appeal site under PL06F.238054. The decision was appealed by third parties. The planning authority's decision was upheld on appeal subject to conditions.

PL06F.242163 / F13A/0129

Permission granted for retention of 7 no. air conditioning units on the exterior of the existing discount food store, subject to a condition that limited operation of the conditioning units to the opening hours of the retail unit.

5.0 Policy Context

5.1. Development Plan

The Fingal County Development Plan 2017-2023 is the relevant statutory plan. The decision dated 6th March 2017 was made under the previous Fingal County Development Plan 2011-2017. A number of Development Plan objectives are relevant:

- The appeal site is zoned LC (Local Centre) with an objective to “protect, provide for and / or improve local centre facilities”. Retail supermarkets with a net floor area of ≤ 2,500 square meters are acceptable in principle in this zone.
- Lands to the east, north and south are zoned RS (Residential) with an objective to “provide for residential development and protect and improve residential amenity”.
- Rathbeale Local Centre is identified as a Level 4 retail centre. Objective ED47 is to ensure that Level 4 Centres have a retail offer that is sufficient in terms of scale, type and range without adversely impacting on or diverting trade from the higher order retailing locations.

5.2. Natural Heritage Designations

None.

6.0 The Appeal

There is one third party appeal by Michael Savage, Swords Shopping Centre, Rathbeale Road, Swords, Co. Dublin. The principal grounds of appeal are summarised as follows:

6.1. Grounds of Appeal

- The proposal will result in an increase in traffic and traffic movements over longer periods of the day.

- The site is in close proximity to residential dwellings and the development will seriously injure the residential amenity of neighbouring properties by virtue of increased traffic and traffic movements.
- The proposal is in contravention of the zoning objective. There is reference in the appeal submission to a wide catchment associated with discount retail stores and the car based nature of the development.

6.2. Applicant Response

- The report of the Roads Section of the Council indicates no objection. The report notes that the extended hours will spread the traffic load across a longer time period.
- The Environmental Health Officers report indicates no objection. AWN Consulting Ltd were engaged to assess noise levels. The assessment found the store to be operating inside the noise parameters set out by condition no. 16 of the parent permission and that the noise levels associated with the extended opening hours would also comply with condition no. 16.
- Condition no. 16 of the parent permission restricts noise levels to LAeq (30 minutes) value of 55 dB(A) during the period 0800-2200 hours seven days a week. It is not proposed to open the store outside of these hours.
- Deliveries would not take place during the extended evening hours.
- No justification or evidence to support impact on residential amenity.
- Reference to contravention of zoning is obscure.
- New discount stores in the wider area will reduce the trading burden on the appeal store, and reduce traffic volumes in the area.
- The parent permission reflects operating times at that time. The company has since changed its normal operating hours. Other stores in Swords operate to 10pm within residential areas and the entire portfolio of Lidl stores currently operate to or are seeking to operate to 10pm.
- The conditions of the parent permission are currently being complied with.

6.3. **Planning Authority Response**

- The site is located within the Local Centre zoning.
- Lidl is an established use on this site and is appropriately located on lands zoned Local Centre. The revised hours are considered to be appropriate having regard to the location of the site, the type of adjacent development and the opening hours of similar developments in the area.
- Impact on residential amenity was considered during the assessment and conditions 2 to 5 of the permission contain measures that seek to protect the residential amenities of the area.
- Issues in relation to traffic do not arise.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

I consider that the main issues in this case are as follows:

- Principle of Development
- Impact on Residential Amenity
- Traffic Impact

7.1. **Principle of Development**

- 7.1.1. The appeal site is zoned LC “protect, provide for and / or improve local centre facilities”. The proposal to extend the operational hours of the existing discount food store is considered to be acceptable in principal having regard to the zoning objective, the established retail use of the site and the pattern of existing development in the area.

7.2. Impact on Residential Amenity

- 7.2.1. The grounds of appeal state that the proposal will seriously injure the residential amenity of neighbouring properties by virtue of increased traffic and traffic movements.
- 7.2.2. The site is bounded to the north and west by residential properties. The retail store maintains a separation distance of c. 30 metres from the closest dwelling to the north and a separation of c. 10 metres from the closest dwelling to the west. The northern site boundary incorporates significant screen planting and an acoustic boundary wall, while the eastern boundary incorporates a high block wall with interspersed planting.
- 7.2.3. I note that condition no. 4 of the parent permission (PL06F.238054 / F10A/0088) restricts trading hours and deliveries and condition no. 16 restricts noise levels during day and night-time periods.
- 7.2.4. It is considered that the potential impact of increased noise levels and disturbance during the extended trading is a key consideration. There is potential for noise and disruption arising from traffic, deliveries and from the operation of the air conditioning units on the northern elevation of the building.
- 7.2.5. The application is accompanied by a Noise Assessment. Surveys were undertaken at two locations within the appeal site (adjacent to the northern elevation and western elevations) to assess noise levels from the existing store during trading hours and after trading hours.
- 7.2.6. The assessment concludes that the development would operate within the noise limits set by condition no. 16 of the parent permission during the extended trading hours. Some exceedances were observed at a survey location adjacent to the northern elevation of the building and the loading bay. While the assessment indicates that it is likely that the exceedances were associated with deliveries it is not conclusive in this regard. The assessment concludes that the exceedances were minor in nature (maximum of 60db(A)) and that any such exceedance would be attenuated to a level that is below the acceptable level (of 55 db(A)) by distance, at the nearest noise sensitive locations. It is noted that significant screen planting and an acoustic wall along the northern boundary provide additional protection.

- 7.2.7. Having regard to the information on the file, the level of screening between the development and residential properties and to the overall noise environment in the area, it is considered that extended trading hours would not impact unduly on the amenities of properties in the vicinity. The parent permission restricts deliveries to trading hours. I am not satisfied that the information on file adequately details the noise impacts associated with deliveries and given the proximity of the loading bay to dwellings in the vicinity it is therefore recommended that the timeframe for deliveries is not extended.
- 7.2.8. Restrictions on noise levels during daytime and night-time hours are addressed through condition no. 16 of the parent permission. This condition will continue to apply to the overall development.
- 7.2.9. There is no reference in the development description to public holidays. It is recommended that the Sunday trading hours would apply on public holidays. This can be addressed by condition.

7.3. Traffic Impacts

- 7.3.1. The impact of the development on the wider road network was considered and accepted under the parent permission reference PL06F.238054 / F10A/0088. It is considered that the proposal to extend the trading hours would not have a significant impact on traffic generation.

7.4. Appropriate Assessment Screening

Having regard to the minor nature of the development and its location in a serviced urban area, 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

- 8.1. Grant permission with conditions.

9.0 Reasons and Considerations

Having regard to the 'Local Centre' zoning of the site, the current use of the site and the pattern of existing development in the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The hours of trading shall be between 0800 hours and 2200 hours on Mondays to Saturdays inclusive (excluding public holidays), and between 0900 hours and 2100 hours on Sundays and public holidays. No deliveries shall be taken at or dispatched from the premises outside the hours of 0800 and 2100, Mondays to Saturdays (excluding public holidays) and 1030 hours and 1900 hours on Sundays and public holidays.

Reason: To protect the residential amenities of the area.

Karen Kenny
Inspectorate
19 June 2017