



An
Bord
Pleanála

Inspector's Report ABP-300803-18.

Development

The construction of a new replacement mono-pitched Licensed Discount Foodstore with ancillary infrastructure & Change of Use of existing Lidl Licensed Foodstore building into two number Leisure Centre Units (Unit A 1,458 sq. m & Unit B 474.5 sq. m)

Location

Dublin Road, Newcastle, Castletroy, Limerick.

Planning Authority

Limerick City and County Council.

Planning Authority Reg. Ref.

17/997

Applicant(s)

Lidl Ireland GmbH.

Type of Application

Permission.

Planning Authority Decision

Refuse Permission.

Type of Appeal

First Party

Appellant(s)

Lidl Ireland GmbH

Observer(s)

None.

Date of Site Inspection

14th June 2018.

Inspector

Fiona Fair.

1.0 Site Location and Description

- 1.1. The appeal site (of stated area 1.785ha) is located on the northern side of the regional route R445 (former N7 Dublin - Limerick Road) in Castletroy, County Limerick. The site is located approx. 5 Km to the east of Limerick City Centre. There is an existing licensed discount Lidl foodstore on the site. The surrounding land-use is characterised by a mixture of commercial type developments fronting onto the R445 and suburban residential development located to the west and south of the R445.
- 1.2. The existing Lidl store has 1,065 sq. m net retail sales area and 1,460 sq. m GFA with 126 car parking spaces on the south and west side of the building, with a delivery dock on the north side. It is accessed from a roadway extending northwards from the R445 Dublin Road, with the Lidl car park access 52 m from the R445 and the Road extending on for a further 25m to service the undeveloped rear lands (currently it is blocked off to the north side of the Lidl car park access).
- 1.3. There is a footpath on both sides of the R445, connecting the site to the Kilmurry roundabout, located c. 150 m to the west of the access cul de sac and extending eastwards towards the Annacoty roundabout located some c. 971 m distant. There is street lighting along both sides of the road and there are zebra crossing facilities on the Kilmurry roundabout.
- 1.4. A Texaco filling station with associated car wash, centra shop, butchers and two other small shop units are located on the opposite side of the R445, accessed directly opposite the cul de sac access road to the existing Lidl foodstore. The Castletroy Town Centre which encompasses a cinema, a superValu and additional comparison retail units and services is located some 230 m south from the Kilmurry Roundabout. The Kilmurry Lodge Hotel is located, adjoining, to the west of the appeal site on the same side of the R445 Regional Road. A small halting site is located to the east also on the same side of the R445 Regional Road.

2.0 Proposed Development

2.1. The proposed development comprises:

(1) The construction of a new replacement mono-pitched Licenced Discount Foodstore with ancillary infrastructure (all totalling 2,563 sq.m Gross Floor Area and ranging in height equivalent from 1 to 2 storeys) at a location to the rear of the current Lidl Foodstore, comprising:

- A retail sales area with ancillary off-license use and bakery (total Net Retail Sales Area of 1,421 sqm),
- entrance pod, public facilities (incl. lobby and toilets),
- staff facilities (incl. Lobby, office, meeting room, canteen, showers and toilets), storage (incl. cold storage), plant room and delivery area (all totalling 2,521 sqm Gross floor area);
- Corporate signage consisting of:
 - 2 no. building mounted corporate internally illuminated signs,
 - 1 no. free standing internally totem pole sign at entrance,
 - 3 no. wall mounted externally illuminated poster panel display boards,
 - 1 no. wall mounted externally illuminated information display board; and
 - 1 no. Trolley bay covered structure (42 sqm gross floor area).

(2) The change of use of the existing Lidl Foodstore building from a Licensed Discount Foodstore to a Leisure Centre, the subdivision of the building into 2 no. Leisure centre units (Unit A 1,458 sqm and Unit B of 474.5 sqm) and the provision of new glazed entrances and associated signage to both Leisure Centre Unit A and Unit B.

- Extension of the ground floor of the existing Lidl Licensed Discount Foodstore into the existing trolley bay area and construction of a new first-floor mezzanine with internal stairs connecting from ground floor (increasing the overall gross floor area of the building from 1,460 sqm to 1,933 sqm),
- provision of additional glazing along the south elevation (existing trolley bay area),

- provision of 3 no. additional fire exits with the existing eastern elevation.
- Primary vehicular and pedestrian access is to be maintained via the existing enhanced Dublin Road access, while an additional dedicated pedestrian access is to be provided from the Dublin Road.
- A revised car parking layout to serve the overall development is proposed totalling 271 no. surface car parking spaces (comprising of 14 no. disabled, 6 no. parent and child and 251 no. regular), 14 no. motorcycle and 75 no. bicycle parking spaces,
- Associated boundary treatments, hard and soft landscaping, services (incl. 1 no. below ground attenuation tank) and all other ancillary and associated site development works above and below ground level.

2.2. The following drawings and reports, of note, accompany the application:

- Planning Report (which includes a Retail Assessment and Screening for Appropriate Assessment (AA))
- Traffic Assessment
- Road Safety Audit (RSA)
- Noise and vibration Impact Assessment
- Preliminary Mobility Management Plan

3.0 Planning Authority Decision

3.1. Decision

Limerick City and County Council (LCCC) Refused planning permission for two number reasons, stated as:

1. The proposed development would involve the creation of additional vehicular movements onto a heavily trafficked regional road. It is considered that the proposed development would endanger public safety by reason of traffic hazard, because the extra traffic movements into and out of the site likely to be generated by the proposed development would interfere with safety and

free flow of traffic on the public road and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development would lead to an intensification of uses on site and a substantial increase in the retail floor area and would materially contravene the Retail Strategy for the Mid-West Region, the Limerick County Development Plan and the Limerick City Development plan. The proposal is therefore considered to be contrary to the Guidelines for Planning Authorities Retail Planning, April 2012 issued by the Department of the Environment, Community and Local Government, and would seriously impact on the Limerick Metropolitan Area and the existing District Centres.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- **Planners Report:** The report sets out that the p.a. have serious concerns regarding intensification of uses on the site and the lack of information regarding the future occupiers and associated uses and having regard to the pattern of existing and permitted commercial provision in Limerick Metropolitan Area, it is considered that the proposed development by reason of its location, detached from the City centre or any designated District Shopping Centre would contravene the Mid-West Retail Strategy and County Development Plan and would seriously impact on Limerick City Centre and existing District Centres. The report also considers that the proposed development would involve the creation of additional vehicular movements onto a heavily trafficked regional road. It is considered that the proposed development would endanger public safety by reason of traffic hazard, because the extra traffic movements into and out of the site likely to be generated by the proposed development would interfere with the safety and free flow of traffic on the public road and would therefore be contrary to the proper planning and sustainable development of the area.
- **Roads Office:** Report recommends that permission be refused by reason of increase in terms of traffic on the R445 and impact on road safety.
 - Proposed development will increase traffic entering and existing the site onto the R445 which has capacity constraints during the AM and PM peak periods

- Increase in turning movements on a section of the R445 impacting on road safety
- The proposed median will cause road safety concerns if installed in isolation as shown on the proposed development plans.
- A.I. is required in respect of surface water disposal.
- A lighting design layout is required and shall be designed by a competent Lighting Design Engineer and proposals sent to Operations and Maintenance Services, Central Services for approval.
- Fire Authority: Requests Additional Information (A.I.)
- County Archaeologist: No objection subject to condition.
- Environmental Services: No objection subject to condition.

3.2.2. Other Technical Reports

- Irish Water (IW): No objection

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None.

4.0 Planning History

- 4.1.1. **Reg. Ref. 17/447** Permission Granted (Aug 2017) to modernise the current Castletroy Lidl licenced food store by increasing the overall building gross floor area to 1,891 sq. m through the construction of a first floor mezzanine for staff and storage facilities, and extending the net retail sales area to 1,224 sq. m at ground floor, all contained within the building footprint (1,460 sq. m). The proposed development consists of: the construction of a first floor mezzanine of 403 sq. m to include new staff welfare (incl. toilets, changing rooms and canteen), office, meeting room, IT room, storage area and stairs from ground floor, Internal configuration of

the existing ground floor to facilitate an increase of (159 sq m) in Net Retail Sales Area to total 1,224 sq. m by removing internal walls reducing the storage area (230 sq m) to 83 sq m, and the removal of the office, staff area and plant room facilities (totalling 61 sq m) and all associated site works.

- 4.1.2. **Reg. Ref. P10/1036** Permission Granted (Dec 2010) for construction of a single storey, flat roofed extension to the front of the existing licensed discount food store. All materials and finishes will be consistent with the existing store. The proposed development also comprises an enclosed plant area adjoining the proposed extension, internal modifications/connections to the existing store and all associated works, amendments to car parking layout, connection to existing services and all associated site works
- 4.1.3. **DC-439-09** Non-Compliance. Case resolved.
- 4.1.4. **Reg. Ref. P08/1120** Permission Granted (Sept 2008) for external signage to include 2 no. free standing double sided internally illuminated flagpoles signs, 1 no. poster display, and 2 no. building mounted internally illuminated signs for planning application ref. no. 07/1330

5.0 Policy Context

5.1. Retail Planning Guidelines, April 2012

S. 4.9 Retail Impact Assessment, as set out in Chapter 3

As set out in Chapter 3, the development plan will set out the most appropriate locations for the level of retailing appropriate to any particular city or town and in some cases will include the quantum of floorspace required.

However, where a planning authority considers an application for planning permission to develop a new retail development to be particularly large in scale compared to the existing city/town/district centre, or where a retail strategy or development plan has allocated a specific type and quantum of retail floorspace to a particular settlement and a proposed development absorbs on one site the bulk of that potential retail floorspace, the planning authority may request the applicant, by way of a Retail Impact Assessment (RIA) as set out in Annex 5, to demonstrate

compliance with the development plan and that there will not be a material and unacceptable adverse impact on the vitality and viability of any existing centre. This is a matter for careful technical assessment and professional judgement.

The threshold at which an RIA will be required will be determined in the context of the development plan policies and objectives for retailing or may be raised by the planning authority in pre-application discussions or in the course of determining the planning application. Through the RIA, the applicant must address the following criteria and demonstrate whether or not the proposal would:

support the long-term strategy for city/town centres as established in the --retail strategy/development plan, and not materially diminish the prospect of attracting private sector investment into one or more such centres;

- have the potential to Increase employment opportunities and promote economic -
-regeneration;
- have the potential to increase competition within the area and thereby attract --
further consumers to the area;
- respond to consumer demand for its retail offering and not diminish the range of -
-activities and services that an urban centre can support;
- cause an adverse impact on one or more city/town centres, either singly or
cumulatively with recent developments or other outstanding planning permissions
(which have a realistic prospect of implementation) sufficient to undermine the
quality of the centre or its wider function in the promotion and encouragement of
the arts, culture, leisure, public realm function of the town centre critical to the
economic and social life of the community;
- cause an increase in the number of vacant properties in the primary retail area --
that is likely to persist in the long term;
- ensure a high standard of access both by public transport, foot and private car so
--that the proposal is easily accessible by all sections of society; and/or
- link effectively with an existing city/town centre so that there is likely to be --
commercial synergy.

Planning applications should be formulated in accordance with the framework of the specified criteria outlined above to enable the planning authority make a thorough and balanced assessment of the development proposal.

Where a development proposal fails to satisfy the sequential approach or is likely to have a significant adverse impact as demonstrated by an assessment of the above criteria, planning permission should be refused.

Mid-West Regional Planning Guidelines 2010 – 2022

Chapter 4 Economic Development

4.3.1 Retailing Background

It is the policy of the Mid-West Regional Authority that all citizens of the Region have equal access to all retailing within their environs.

The recent assessment of retailing indicates that the Region as a whole is already overprovided with shopping facilities, fuelled by a doubling of retail floor space supply over the past 7 years and exacerbated by the severe economic downturn of the past 12 months, which has badly hit retailer demand. All categories of goods are estimated to be currently under-trading across the Region as a whole. The amount of retail development that has been approved but not yet constructed is substantial and, combined with the existing retail facilities, there is no need for any additional retail floor space in the Mid-West Region as a whole through to 2016 (the end date of the current Retail Strategy, which, it should be noted, does not include North Tipperary). The only exception is with respect to non-bulky and bulky comparison goods floor space at 2022, for which there is a modest level of need.

Clearly the economic difficulties currently being experienced may impact on the extent to which approved retail developments are implemented and some or many schemes may not proceed at all. If this were to occur, then the scale of need for new retail floor-space will increase (or, more realistically, the amount of surplus stock will reduce) but, in practice, it is unlikely that new schemes will come forward seeking

planning permission when existing schemes (with full planning permission) are not being implemented.

4.3.2 Conclusions

....The review of retail need has demonstrated that this potential was over estimated for a number of reasons. Since 2003, there has been a very significant growth in retail floor space, a level of growth which has even outstripped the level of capacity identified in the 2003 Retail Strategy. Whilst there has been growth across the Region, the bulk of new floor space has been provided in the Limerick Metropolitan Area. However there has been relatively little growth in the City Centre itself. As a consequence the relative importance of the City Centre has declined. The Mid-West Region is now at a crossroads where, if further uncontrolled/unrestricted retail development is allowed, there will be a detrimental impact to Limerick City Centre. Whilst Limerick City is at the top of the retail hierarchy, it has suffered most from competition from other suburban and out of centre comparison shopping destinations. Retail developments over the last few years have shown that new retail development in one location unsupported by a corresponding growth in expenditure will divert trade from an existing location elsewhere, with a consequent disinvestment and loss of jobs there. Future retail development other than in North Tipperary should have regard to the proposed Mid-West Retail Strategy. This Strategy coordinates the provision of new retail development across the Region to create a balanced pattern of shopping in accordance with the broad objectives of the NDP 2007-2013, in particular sustainable national economic and employment growth and the promotion of social inclusion. Those centres in the Metropolitan Area (outside the city centre) meeting the day to day needs of a local catchment population through the provision of main food shopping outlets should be supported and reinvigorated where necessary. However, their role should not be allowed to expand to encompass a materially broader range of comparison goods as this could lead to further competition with the City Centre. These retail centres and retail parks should not be expanded beyond a scale appropriate for a suburban shopping location in Limerick.

Therefore, notwithstanding the general lack of retail need identified up to 2016 and beyond, the proposed Retail Strategy does not seek to prohibit new development. Instead it promotes development in Limerick City Centre in order to secure its future vitality and viability by recapturing trade from suburban and out of centre retail destinations.

Retail Strategy for the Mid-West 2010 – 2016

As per table 6.2 The Retail Strategy for the Limerick Metropolitan area – The site is located in Castletroy which is designated as a Tier 1 – Level 2 retail.

Table 6.2 The Retail Hierarchy for the Limerick Metropolitan Area

Limerick Metropolitan Area		
Tier 1	Limerick City Centre	
Tier 2	Level 1	Dooradoyle (Crescent Shopping Centre)
	Level 2	Caherdavin Castletroy Parkway Roxboro Moyross

6.11 Those centres in the Metropolitan Area meeting the day to day needs of a local catchment population through the provision of main food shopping outlets should be supported and reinvigorated where necessary. However, their role should not be allowed to expand to encompass a materially broader range of comparison goods as this could lead to further competition with the City Centre. There should be no new permissions granted for additional out of centre retailing, including the extension of any existing store or retail park, and the broadening of the range of goods sold to encompass any categories other than bulky goods. Similarly, these centres and retail

parks should not be expanded beyond a scale appropriate for a suburban shopping location in Limerick. Consequently, there should not be any expansion of these shopping facilities in order to allow the City Centre to foster investment and improve its trading position.

6.13 Therefore, notwithstanding the general lack of retail need identified up to 2016 and beyond, the proposed Retail Strategy does not seek to prohibit new development. Instead it promotes development in Limerick City Centre in order to secure its future vitality and viability by recapturing trade from suburban and out of centre retail destinations. Elsewhere the Retail Strategy seeks to match the scale and function of retail development with the scale and function of the centre, combined with a restriction on new development in out of centre locations. In the smaller rural centres of County Clare a positive approach to promoting new small scale development should be pursued to ensure local people have access to shopping facilities which will meet their day to day needs.

5.2. Development Plan

The Limerick Development Plan 2016 – 2022 is the statutory Plan.

Objective ED O15: sequential Test

It is the objective of the Council to stringently apply the sequential test to the assessment of all retail proposals, other than those intended to serve a local population.

The amount of information necessary to demonstrate compliance with the sequential test should be proportionate to the scale of the development proposed. Whilst all retail applications apart from small shops and neighbourhood centres should be supported by a sequential test assessment, the Retail Strategy for the Mid-West region recommends that development in excess of generally 2,000 sq. m (gross) in the Metropolitan Area and generally 1,000 sq. m (gross) in the remaining area located on the edge or outside of identified town centre locations, should provide a more detailed retail impact assessment.

Objective ED O16: Detailed Retail Impact Assessment

It is the objective of the Council to require a detailed retail impact assessment for development on the edge of or outside of identified town centre locations:

- a) developments generally in excess of 2,000 sq.m (gross) in the Metropolitan Area;
- and
- b) developments generally in excess of 1,000 sq.m.(gross) in all other part of county Limerick.

Castletroy Local Area Plan 2009 – 2015. (On the 20th June 2014 Limerick City and County Council extended the duration of the Castletroy Local Area Plan 2009-2015 a further five years, until June 2019).

S3.8 Retail

The County Limerick Retail Strategy, 2003, guides the supply of retail land in Castletroy. For the purposes of retail planning the Retail Strategy divides County Limerick into two broad geographic areas, the Metropolitan Area and the Hinterland. These areas are then subdivided into different Tiers, with Castletroy defined as a Tier 3 District centre within the Metropolitan area, the purpose of which is to serve the immediate convenience needs of the district, the surrounding Limerick environs and rural hinterland. The areas retail floorspace is largely concentrated on the two Tier 3 District Centres of Castletroy Shopping Centre and Parkway as defined in the Retail Strategy. A lower order level of retail facilities is available in the form of Tier 4 which are neighbourhood centres which are smaller scale retail facilities to serve local populations in the vicinity of these centres.

S5.5 Retailing

Policy LE2: Retail Development

It is the policy of the Council to support & assist the consolidation and expansion of the Parkway District Centre.

It is the policy of the Council to promote & encourage major enhancement of retail

& other town centre land uses in & adjacent to the Castletroy District Centre

5.3. **Natural Heritage Designations**

The site is not within a Natura 2000 site the closest Natura site is The Lower River Shannon SAC (site-002165) located 1.1 Km north of the appeal site. It is proposed to connect to existing public foul and surface water connection services.

The River Shannon / The Lower River Shannon SAC site, is one of the largest in the Country and comprises the Shannon Estuary and it's tributaries. In this portion of the site nearing the sea the Shannon and it's tributaries form the largest estuarine complex in Ireland. This comprises an important habitat not just for fish and invertebrate species within the river but this complex also supports the largest numbers of wintering waterfowl in Ireland.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A first party appeal has been lodged by The Planning Partnership on behalf of Lidl Ireland GmbH. The grounds of the appeal are summarised as follows:

Zoning and opportunity Site Designations

- Having regard to the exceptional circumstances established within Section 37(2)(b)(iii) of the Planning and Development Act 2000 – 2017, the Board is permitted to grant planning permission noting the guidance provided by S.4.3.2 of the Mid-West Regional Planning Guidelines 2010 – 2022 which clearly supports the reinvigoration of retail centres which serve a local catchment area.
- The MWRPG 2010 – 2011 clearly indicates the recognition of the Mid West Regional Authority that the role of the retail Strategy for the Mid-West Region 2010 – 2016, as adopted, was not to inhibit the regeneration of existing retail centre and retail enterprises, but rather to ensure that growth in retail floorspace within Limerick was focused first and foremost on the regeneration or reinvigoration of these existing retail centres and retail enterprises, which should be supported.

- The proposal does not materially contravene the Retail Strategy for the Mid-West Region 2010-2016, the Limerick County Development Plan 2010-2016, or the Limerick City Development Plan 2010 - 2016.
- The p.a. has acknowledged that the principle of retail development has been established and is acceptable on the site.
- There is a conflict between the zoning and opportunity site designations which have been applied to the site, which facilitate both retail (described as generally permitted) and the non-retail Leisure Centre use (described as Open for Consideration) and the interpretation of the Retail Strategy and Development Plan as applied by the p.a.
- LCCC has not updated the Castletroy District LAP 2009 – 2015 to reflect the amended Castletroy District Centre area as imposed by the Retail Strategy for the Mid-West Region 2010-2016. The subject site does not form part of the designated District Centre, it remains subject to the part of the Retail/Commercial/Community land use zoning designation.
- The Retail/Commercial/Community land use zoning designation imposes no cap on the permissible net retail sales area.
- The planners report does not justify the materiality of the supposed material contravention
- The Increase in net retail sales area (197 sq. m) associated with the proposed development is modest in nature and is not substantial.
- The p.a.'s assessment does not examine the proposal to increase the net retail sales area other than to state that planning permission for a 15% increase (NRA) has already been granted and no additional net retail sales area will be permitted.
- No justification for the arbitrary 15% figure
- No justification for a material contravention, as stated within draft refusal reason no. 2
- The prevailing Retail/Commercial/Community land use zoning designation places no cap or upper limit on the net retail sales area of retail units proposed on lands that are subject to this zoning.

- The submitted Retail Assessment demonstrates that there will be a significant convenience retail spend capacity in the catchment area in the design year.
- The proposed leisure centre use is an appropriate and sustainable reuse for the Lidl store. Consistent with the zoning and with the consumer and leisure focused character of Castletroy.
- Proposed development of this brownfield underutilised site would enhance the character and amenity of the area.

Traffic

- The proposed kerbed median along the centre line of the R445 will physically impede motorists to make right turn movements into and out of the site, enhancing public safety.
- Atkins, authors of the RSA, have confirmed that the proposed kerbed median would make a positive contribution to road safety.
- While it is acknowledged that the proposed development would result in additional traffic, the capacity analysis demonstrates that the road and associated Kilmurry and Annacotty roundabouts would not be adversely affected.
- It is understood that proposals for upgrading the R445 by Limerick CCC will include a central median.
- Drg SRC-138-100 Proposed road markings and signage for traffic layout with R445 Median at Access (which accompanies this Appeal document) demonstrates how the proposed central median can integrate with upgrade works
- Should the Board be mindful to grant planning permission then it is suggested a condition be attached with respect to a written agreement between the developer and the p.a. for a proposed central median along the centreline of the R445 Dublin Road, to include surface water drainage gullies, bollards, signage, road markings and an off-side overrun hard strip.
- An Additional Traffic Assessment of the Capacity of the R445 Dublin Road and the associated junction was carried out by Stephen Reid Consulting. It accompanies the appeal.

- The traffic assessment concludes that notwithstanding any additional traffic which is generated by the proposed development, the Kilmurry roundabout will not be adversely affected and that the roundabout will continue to operate well within acceptable parameters for peak period conditions.
- The report notes that any impact on the Annacotty roundabout will be minor.
- The report concludes that the proposed development will not have a detrimental impact on the public road and the median and other proposed measures at the access junction will have a positive safety impact on the R445 in this location, by removing conflicting right turning movements and waiting right turners.

Carparking

- A minimum of 259 car parking spaces are required to comply with the provisions of the Development Plan.
- The proposed 271 no. car parking spaces are appropriate having regard to the minimum parking requirements as set out in the Limerick County Development Plan 2010-2016. (251 no. regular car parking spaces, 14 no. disabled car parking spaces and 6 no. parent and child car parking spaces).
- It is suggested that the Board condition the requirement for 78 no. bicycle parking spaces to serve the leisure centre.

Pedestrian Linkages

- Pedestrian linkages within and surrounding the site have been selected to facilitate ease of access were assessed as part of the RSA
- A total of 78 bicycle parking spaces are proposed at the leisure centre units.
- The proposed trolley bay is situated adjacent to the primary pedestrian route through the car park and is served by delineated pedestrian crossing points.

Landscaping

- Landscaping proposals can be agreed with the planning authority subject to condition.

Surface Water

- Revised details of an appropriately designed surface water management system has been submitted with the appeal.
- An alternative proposal is presented, and can be conditioned, to allow for a single integrated system across both the existing and new site elements.
 - Drawing 160981003 Proposed Site Layout showing existing and proposed site services – Option 1
 - Drawing 160981004 Proposed Site Layout Showing Existing and Proposed Site Services – Option 2, and
 - Drawing 9151-3104 Existing Services Layout Plan (as Built Drawing)
- Should the Board be mindful to grant planning permission water supply and drainage arrangement can be dealt with by way of condition.

Lighting

- A comprehensive site lighting design along with a Light Impact Assessment accompanies the appeal and demonstrates how site lighting can be provided in compliance with standards.
- This matter can be dealt with by way of condition.

Other Comparable Cases

- Redevelopment of the existing Lidl store at Banteer Road, Kanturk under PL04.248281. ABP Inspector concluded that an increase of 299 sq. m was not significant in nature within the context of the existing store, stating that ‘...the additional net retail sales space and potential increase in business is relatively insignificant.’
- Lidl store at Edenderry, Co. Offaly where ABP determined that a similar level of increase was ‘modest’ in nature (PL19.247229)

Retail Capacity

- The RIA submitted demonstrates there will be an available un-catered for convenience retail spend of €46.31 m in 2021. This equates to a requirement for

4,210 sq. m in additional net convenience retail sales area within the catchment area by 2011.

- The proposed development only proposes 197 sq. m additional net retail sales area an increase of just 16 %
- Insignificant increase in the net retail sales area
- The proposed development would not detract from the vitality and viability of the adjacent Castletroy District Centre or any other District Centres within Metropolitan Limerick.
- The Retail Strategy for the Mid-West Region 2010-2016 is very much of its time, providing a pessimistic outlook for retail development through the Mid-West Region. The base line figures upon which the strategy has been formulated were collected in March 2009.
- The return of the economic growth in recent years has resulted in growth in retail spending.

The appeal is accompanied with:

- Engineering Report (County Councils) dated 14th Dec 2017, 15th December 2017 and 18th December 2017,
- The p.a. Planning report dated 19th December 2017
- Road Safety Audit Recommendations (Atkins) dated 18th January 2018
- Drawing No. 368601-SK-0100-0001 P04 R445 Kilmurry Road Improvement 'Draft for Discussion'
- Traffic Submission for First Party Appeal, report by Stephen Reid, Jan 2018.
- Services Design Report, Jan 2018
- Lighting Impact Assessment Report, 18th January 2018.

6.2. Planning Authority Response

None

6.3. **Observations**

None

6.4. **Further Responses**

None

7.0 **ASSESSMENT**

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

- **Principle of the Proposed Development and Compliance with County Development Plan Policy**
- **Traffic Safety & Car Parking**
- **Other Matters**
- **Appropriate Assessment**

7.1. **Principle of the Proposed Development and Compliance with County Development Plan Policy**

- 7.1.1. The proposed development provides for change of use of the existing Lidl Foodstore building from a Licensed Discount Food store to a Leisure Centre and the subdivision of the building into two Leisure Centre units (Unit A 1,458 sq. m and Unit B of 474.5 sq. m). It also proposes construction of a new replacement Licensed Discount Food store. A detailed description of the proposed development is set out in section 2.0 of this report above. It is noteworthy that there is a, to date non-enacted, grant of planning permission on foot of Reg. Ref. 17/447 permitting the modernisation of the existing Castletroy Lidl by increasing the GFA to 1,891 sq. m through the construction of a mezzanine for staff and storage facilities and extending the net retail sales area to 1,224 sq. m at ground floor.

Table 7.1

Existing GFA sq. m	Permitted GFA sq. m	Proposed GFA sq. m
1,460	1,891	2,563
Existing NRFA	Permitted NRFA	Proposed NRFA
1,065	1,224	1,421

*NRFA - net retail floor area

- 7.1.2. Castletroy is described in the Limerick County Development Plan 2010 – 2016 as being within the environs of Limerick city, it is covered by a Local Area Plan. The Castletroy Local Area Plan 2009 – 2015 (extended (on 11//06/14) until 2019) is the relevant statutory Plan. Land Use Zoning Map 1 (attached as Appendix to this report) illustrates that the subject appeal site is zoned with the objective ‘Retail / Commercial / Community’ and designated ‘Area O4’ a ‘Mixed-Use’ Opportunity Site. The Plan sets out that: ‘A Masterplan shall be prepared for this area by the developers. The Masterplan shall include a detailed Urban Design Framework which includes proposals for civic amenity, land uses, public streets and spaces and landscaping. Piecemeal redevelopment will be resisted in favour of a comprehensive masterplan approach’. A detailed list of criteria for consideration is set out in pages 83 – 85 of the LAP, a copy of which is attached as appendix to this report.
- 7.1.3. Cognisance is also had to the ‘Retail Strategy for the Mid – West Region 2010 – 2016’, which was adopted subsequent to the adoption of the Castletroy Local Area Plan 2009 – 2015 (albeit extended). In this Plan, the appeal site, is located outside of the designated boundary, of the identified ‘Core Shopping Centre Boundary’, for Castletroy. As per table 6.2 The Retail Hierarchy for the Limerick Metropolitan Area Castletroy is identified as Tier 1 - Level 2 retail centre. As detailed above, in section 5.0 ‘Policy Context’ of this report, both the Mid-West Regional Planning Guidelines 2010 – 2022 and the Retail Strategy for the Mid -West 2010 – 2016 advocate the importance for retail growth within Limerick city centre. It is considered that if further uncontrolled / unrestricted retail development is allowed in the Metropolitan Area, there will be a detrimental impact to Limerick city centre.

- 7.1.4. The planning authority refused planning permission for two number reasons set out above in section 3.1 of this report. The second reason for refusal considered that the intensification of uses on site and a substantial increase in the retail floor area would 'materially contravene' the Retail Strategy for the Mid-West Region, the Limerick County Development Plan and the Limerick City Development Plan. In such circumstances, section 37 (2)(b) of the 2000 Act states that the Board may only grant permission where it is considered that:
- i. The proposed development is of strategic or national importance,
 - ii. There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
 - iii. Permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
 - iv. Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.
- 7.1.5. The lands the subject of the appeal is zoned with the objective 'Retail / Commercial / Community' and designated 'Area O4' a 'Mixed-Use' Opportunity Site in the Castletroy LAP 2009 - 2015, however this conflicts with the Retail Strategy for the Mid-West Region 2010 – 2016 and the Mid-West Regional Planning Guidelines 2010 – 2022, wherein the lands are outside of the designated 'core shopping centre boundary' for Castletroy. I agree with the first party that given the somewhat conflicting zoning policy of the site, that the Board could grant planning permission, having regard to exceptional circumstances established within Section 37(2)(b)(ii) and Section 37(2)(b)(iii).
- 7.1.6. This being said, while, I consider there is a valid argument that the proposal does not represent a 'material contravention' I consider it would be premature, piecemeal and contrary to policy.
- 7.1.7. I note the planning authority's opinion that the proposed works are significant and of a standalone nature with no regard to development of the 'Opportunity Site' as a whole, as set out in the LAP. Furthermore, the planning authority has concerns with

regard to the use of the leisure units and consider that knowledge of future occupiers is required in order to adequately assess the impact.

- 7.1.8. The Castletroy LAP 2009 – 2016, sets out that the appeal site is a ‘mixed use opportunity site’ and that its development would be subject to a masterplan. The subject site is located to the north of the R445, removed from the existing Castletroy Town Centre (which includes amongst its retail stores, a SuperValu, a post office, an Odeon Cinema, clothing stores, food outlets, hair and beauty services, fitness and hobbies etc). The existing Castletroy Town Centre is access some 230m, south, from the Kilmurry roundabout.
- 7.1.9. The Castletroy LAP 2009 – 2016 clearly states: ‘A masterplan shall be prepared for this area by the developers. The masterplan shall include a detailed Urban Design Framework which includes proposals for civic amenity, land-uses, public streets and spaces and landscaping. Piecemeal redevelopment will be resisted in favour of a comprehensive masterplan approach.’
- 7.1.10. Given the policy in place, in particular, the Retail Planning Guidelines (April 2012), the Retail Strategy for the Mid-West Region 2010 – 2016, the Mid-West Regional Planning Guidelines 2010 – 2022, which considers that retails centres and retail parks should not be expanded beyond a scale appropriate for a suburban shopping location, also, given there is no masterplan in place, I am of the opinion that the development would give rise to piecemeal development which would be contrary to policy which seeks to ensure future development of this area is carefully considered in terms of the uses, access, car parking and building height, mass and location to ensure its success as a commercial focus for Castletroy and in its impact on the Dublin Road, particularly in terms of appearance, (Section 3.13 of the Castletroy LAP). Any new development / redevelopment on this site needs to positively contribute to the character and identity of the area. It is not considered that the development as proposed would achieve a good quality urban environment with a hierarchy of streets, a distinct identity and sense of place.
- 7.1.11. With respect to retail capacity and impact upon the Limerick Metropolitan area and the existing district centre, the submitted RIA is noted. It demonstrates that there will be an un-catered for convenience retail spend of €46.31 m in 2021. This equates to a requirement for 4,210 sq. m in additional net convenience retail sales area within

the catchment area by 2011. While it is argued that the proposed development equates to an insignificant increase in the net retail sales area, it is contrary to the Retail Planning Guidelines 2012 in terms of sequential approach.

7.1.12. The Retail Planning Guidelines states: 'where a development proposal fails to satisfy the sequential approach or is likely to have a significant adverse impact as demonstrated by an assessment of the above criteria, planning permission should be refused'. (Criteria set out in detail in section 5.1 of this report). It is highlighted once again that the Mid-West Retail Strategy 2010 -2016 which forms part of the County Development Plan 2016 and which was adopted subsequent to the Castletroy LAP 2009 – 2016 excludes the site from the Castletroy District Centre core shopping centre area.

7.1.13. Section 4.3.1 Retailing Background of the Mid-West Regional Planning Guidelines 2010 – 2022 is also of relevance. It states 'Those centres in the Metropolitan Area (outside the city centre) meeting the day to day needs of a local catchment population through the provision of main food shopping outlets should be supported and reinvigorated where necessary. However, their role should not be allowed to expand to encompass a materially broader range of comparison goods as this could lead to further competition with the City Centre. These retail centres and retail parks should not be expanded beyond a scale appropriate for a suburban shopping location in Limerick'. It is considered that the scale of the permitted convenience shopping on the appeal site is more than adequate to meet the day to day needs of the local catchment population. I would share the concern of the planning authority with respect to location of the appeal site outside and detached from the Castletroy Town Centre, in particular, in the absence of a masterplan for the area.

7.2. Traffic Safety, Car Parking

7.2.1. The first reason of refusal by the planning authority considers that the proposed development would endanger public safety by reason of a traffic hazard because it would involve the creation of additional vehicular movements onto a heavily trafficked regional road. The planning authority's roads office report recommends that permission be refused by reason of increase in terms of traffic on the R445 and impact on road safety. It is states that:

- ‘Proposed development will increase traffic entering and existing the site onto the R445 which has capacity constraints during the AM and PM peak periods
- Increase in turning movements on a section of the R445 impacting on road safety
- The proposed median will cause road safety concerns if installed in isolation as shown on the proposed development plans.

7.2.2. An additional Traffic Assessment of the capacity of the R445 Dublin Road and the associated junctions was carried out by Stephen Reid Consulting and Stage 1 Road Safety Audit (RSA) recommendations accompany the appeal.

7.2.3. The traffic assessment acknowledges that the proposed development would result in additional traffic, however, it concludes that notwithstanding any additional traffic which is generated by the proposed development, the Kilmurry roundabout will not be adversely affected and that the roundabout will continue to operate well within acceptable parameters for peak period conditions. The report notes that any impact on the Annacotty roundabout would be minor. The report concludes that the proposed development will not have a detrimental impact on the public road and the median and other proposed measures at the access junction will have a positive safety impact on the R445 in this location, by removing conflicting right turning movements and waiting right turners.

7.2.4. Cognisance is had to the first party’s argument that proposals for upgrading the R445 by Limerick CCC will include a central median, this is however unconfirmed.

7.2.5. Drg. SRC-138-100 Proposed road markings and signage for traffic layout with R445 Median at Access (which accompanies this Appeal document) demonstrates how the proposed central median can integrate with upgrade works.

7.2.6. Should the Board be mindful to grant planning permission then it is suggested, by the first party, that the following condition be attached:

‘The details of the proposed kerbed central median along the centreline of the R445 Dublin Road, to include surface water drainage gullies, bollards, signage, road markings and an off-side overrun hard strip, shall be submitted to, and agreed in writing with, the planning authority prior to the

commencement of development. The agreed works to give effect to the proposed kerbed central median shall be carried out and completed to the written satisfaction of the p.a. prior to the opening of the development to the public.'

- 7.2.7. During my site visit I witnessed the heavy traffic volumes on the R445 and signage denoting 'no right turn'. Vehicles travelling from Dublin Road / from the east, are directed to travel around the Kilmurry roundabout and come back on themselves to enter the site. Cognisance being had to the traffic management proposals put forward by the first party, I am of the opinion, that the proposal is premature. I do not consider that the proposals put forward by the first party go far enough to alleviate road safety concerns.
- 7.2.8. The site, identified as an 'Opportunity Site' in the Castletroy LAP has frontage onto the main Dublin Road which has direct links to Limerick city centre. In the absence of a masterplan for the area, setting out a network and hierarchy of streets and urban spaces within the site I have concerns that additional traffic turning movement into and out of the site would interfere with the free flow of traffic on the public road and would endanger public safety. I see no reason to overturn the decision of the planning authority, in this regard.

Car parking

- 7.2.9. A minimum of 259 car parking spaces are required to comply with the provisions of the Development Plan. The proposed development proposes 271 number car parking spaces.
- 7.2.10. Cognisance being had to development plan standards I would have concern with respect to the level of surface car parking spaces proposed upon this designated 'mixed use opportunity site', again in the absence of a masterplan for the area.
- 7.2.11. Castletroy District Centre has been identified as an 'opportunity site' which is underutilised having regard to its strategic location centrally within the plan lands on the Dublin road which is served by a quality public transport route which provides a dedicated bus lane towards Limerick city centre and also due to its designated function as a district centre.

7.3. Other Matters

- 7.3.1. Issues were raised by the planning authority with respect to landscaping, pedestrian linkages and lighting. I agree with the first party that issues arising in respect of the foregoing could be resolved by way of conditions, requiring the developer to agree details with the planning authority prior to commencement of development, should the board be mindful to grant planning permission.

7.4. Appropriate Assessment

- 7.4.1. The site is not within a Natura 2000 site the closest Natura site is The Lower River Shannon SAC (site-002165) located 1.1 Km north of the appeal site. It is proposed to connect to existing public foul and surface water connection services.
- 7.4.2. A Stage 1 screening report was carried out, by the first party, the report submitted with the planning application concludes that there would be no significant effect upon any Natura 2000 site features.
- 7.4.3. The planning report on file concludes that appropriate assessment is not required.
- 7.4.4. Having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 site The Lower River Shannon SAC (site-002165). No Appropriate Assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 CONCLUSION / RECOMMENDATION

I recommend that planning permission be Refused subject to the reasons and considerations set out below.

9.0 REASONS AND CONSIDERATIONS

1. Having regard to the nature and scale of the development proposed, including the quantum of car parking, to the location of the site outside of the designated 'core shopping centre boundary', for Castletroy, as designated in the Mid -West Retail Strategy 2010 – 2016, which forms part of the Limerick County Development Plan 2016 and to the retail hierarchy, as set out, in the current Development Plan for the area and to the Retail Planning Guidelines for Planning Authorities, issued by the Department of the Environment, Heritage and Local Government, in 2012, it is considered that the development as proposed would be premature in the absence of a masterplan for the area and contrary to the retail policies, as set out, in the Castletroy Local Area Plan 2009 – 2016 and taken in conjunction with the adjoining permitted development, would negatively impact upon the vitality and viability of retail development in the city centre of Limerick and within the Castletroy Town Centre and would consequently be contrary to the Retail Planning Guidelines. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development, which would result in the intensification of use of an access onto the R445 Regional Road, which has capacity constraints during AM and PM peak periods, would be premature pending the determination by the planning authority of a road layout for the area. An increase in vehicular turning movements into and out of the site would interfere with the safety and free flow of traffic on the public road and thereby endanger public safety by reason of traffic hazard.

Fiona Fair
Planning Inspector
14.08.2018