



An
Bord
Pleanála

Inspector's Report ABP-306262-19.

Development

Permission for the retention of additions to the existing unit including air conditioning and condenser units and noise abatement screens. The application also seeks Permission to amend Condition 9a of the planning application Ref. 17/237.

Location

The Range, Carton Retail Park, Dublin Road, Maynooth, Co. Kildare.

Planning Authority

Kildare County Council.

Planning Authority Reg. Ref.

18/1471.

Applicant(s)

CDS Superstores (International) Ltd.

Type of Application

Retention and Permission.

Planning Authority Decision

Refuse.

Type of Appeal

First Party

Appellant(s)

CDS Superstores (International) Ltd.

Observer(s)

Leinster Park Residents Association.

Date of Site Inspection

16th March 2020.

Inspector

A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located within the Carton Park Retail Campus which is located to the south of the Dublin Road and to the east of the town centre of Maynooth. The Campus comprises a number of retail providers and is anchored by Tesco, which operates on a 24 hour basis. The site includes an extensive area of surface car parking and has two access points off the R148.
- 1.2. The Range occupies a large unit which is located in the south western area of the Campus and which bounds the rear gardens of a number of houses in Leinster Park. The Range has an overall floor area of 5,578m² and rises to approximately 8m in height. The site has a stated area of 0.56ha and comprises the retail floor area and stores. To the rear of the store, there is a large loading area. The air conditioning and condensers units and noise abatement screens have been installed on the site, to the rear of the store.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the retention of additions to the existing unit including air conditioning and condenser units and noise abatement screens. All other associated works. The application also seeks Permission to amend Condition 9a of the planning application Ref. 17/237 to allow for the following: Noise from the development shall not give rise to sound pressure levels at noise sensitive locations in excess of the following commonly used limits: 55dB(A) between the hours of 0700 and 1900; 50dB(A) between 1900 and 2300 and 45dB(A) between 2300 and 0700 Daily. The purpose of the proposed revision is to bring the noise limiting levels (and hours) in-line with those used by the Irish Environmental Protection Agencies Office of Environmental Enforcement (OEE), all at The Range, Carton Retail Park, Dublin Road, Maynooth, Co. Kildare.
- 2.2. The application included a number of supporting documents including as follows;
 - Plans, particulars and completed planning application form
 - Cover Letter
 - Noise Assessment

- Letter of consent from Tesco

2.3. Following a request for further information, the applicant submitted a critical review of the Enfonic Report submitted by third parties. The PA sought clarification on the basis that the applicant had not responded to a number of issues raised. Following the request for clarification, the applicant noted that further measurements were taken and submitted. Issues in relation to the collecting of data were also noted.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the proposed development for the following stated reasons:

1. Having regard to the location of the development site and the noise generated by the air conditioning units, which has a strong tonal component, it is considered, notwithstanding the mitigation measures included, that the development would seriously injure the amenities of properties in the vicinity by reason of noise and vibration and would be prejudicial to public health. The development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development would contravene materially Condition No. 9 of permission reg. ref. 17/237, which requires 'no clearly audible tonal component or impulsive component in the noise emission from the development at any *noise sensitive location'. The proposed development, if permitted would allow for audible tonal component from noise sensitive locations and would conflict with the provisions of the previous permission and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The initial Planning Report concludes that further information is required in relation to the development in terms of a detailed noise assessment, issues with the noise guidelines cited and issues raised by third parties.

Following the submission of a response to the FI and clarification requests, the final planning report concludes that proposed development is not acceptable. Planning Officer recommends that permission be refused for the proposed development, for reasons relating to impact on residential amenities by reason of noise and vibration and material contravention of Condition 9 of permission reg. ref. 17/237.

This Planning Report formed the basis of the Planning Authority's decision to refuse planning permission.

3.2.2. Other Technical Reports

Compliance/Unauthorised Development Section: No report.

Water Services: No objection.

Maynooth Municipal District Engineer: Notes specific complaints from residents in Leinster Park in relation to sound pollution from the units. In this situation, it is hard to justify a request to relax the existing sound limits.

Environment Section: The report notes that a retail unit is not an EPA scheduled activity and therefore the guidelines cited by the applicant are not applicable. Further information required in relation to the Noise Assessment submitted noting that it did not include LAeq 15 min results and it was carried out in unsuitable weather. Planning conditions specify that there shall be no clearly audible tonal component or impulsive component in the

noise emission from the development. During a site inspection, a strong tonal component to the noise from the air conditioning units was observed as well as a distinct vibration impact, supporting the claims of the residents.

Further information is required in terms of a detailed Noise Assessment

Following the submission of a response to the FI request, the Environment Section advise that clarification was required. Following receipt of this, the Environment Section concluded that the proposed development was not acceptable on the basis of insufficient noise abatement measures to reduce the noise generated by the air conditioning units and that noise monitoring data shows that noise levels exceeded the 55dB(A), LAeq (15mins) on 21 occasions on the 20/07/2018 between 0915 hrs to 1445hrs. Refusal is recommended.

Chief Fire Officer: No objection.

3.2.3. Prescribed Bodies

None

3.2.4. Elected Members

Cllr. Tim Durkan: Wishes to support the concerns and objections of the residents of Leinster Park Residents Association.

Bernard Durkan TD: Wishes to support the concerns and objections of the residents of Leinster Park Residents Association.

3.2.5. Third Party Submissions

There is 1 no. third party objection noted on the planning authority file, from the Leinster Park Residents Association and with multiple signatories. The issues raised are summarised as follows:

- The works associated with the application were built without planning permission and breach planning conditions. The development is subject to an enforcement notice and noise complaint.

- Since the units were installed the residents sought to address the matter but the issue has not been addressed. It is requested that all air-conditioning units are properly sound insulated and relocated as far away from residents as possible.
- The noise disturbance is significant and an independently verified noise impact assessment demonstrates that the facility breach the prescribed planning conditions Ref: 17/237, in terms of both noise level and tonality.
- The manufacturers specification provides that the standard operating level of noise is 65dB and the units have the capacity to turn themselves on and off depending on weather conditions. The fence that was erected did not reduce the noise.
- Clarification required in relation to what constitutes 'all other associated works' as there was a previous application 18/1121 which sought retention permission for additions to the existing unit including sprinkler tanks, bases and associated pump house; inclusion of plinths', which is also an ongoing concern to residents.
- Questions details of the application form and notes that the site boundary as submitted is incorrect.
- There is no copy of the Newspaper notice provided online
- Issues raised with the comments in the cover letter which are inaccurate.
- Issues raised in relation tot eh Noise Assessment which relate to the calibration of instruments, discrepancies in time of measurements between location A and B, absence of positive controls from tonal assessments and the omission of the residents' report.

The submission concludes advising that efforts to resolve the situation have been made by the residents, who are concerned for their health, safety and wellbeing. It is believed that there is an engineering solution to the noise disturbance problem. The submission includes a number of enclosures which includes a Noise Impact Assessment and photographs.

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

PA ref. 18/1121: Retention permission was sought for additions to the existing unit including sprinkler tanks, bases and associated pump house; inclusion of plinths and air conditioning units and noise abatement screens. All other associated works. The application also seeks permission to amend Condition no. 9a of the planning application ref: 17/237 to allow for the following: Noise from the development shall not give rise to sound pressure levels at noise sensitive locations in excess of the following commonly used limits: 55dB (A) between the hours of 0700 and 1900; 50dB (A) between 1900 and 2300 and 45 dB (A) between 2300 and 0700 daily. The purpose of the proposed revision is to bring the noise limiting levels (and hours) in – line with those used by the Irish Environmental Protection Agencies Office of Environmental Enforcement (OEE), at The Range, Carton Retail Park, Dublin Road, Maynooth, Co. Kildare.

The Board will note that this application was deemed invalid.

The current appeal before the Board (ABP-306262-19) excludes permission for retention of additions to the existing unit including sprinkler tanks, bases and associated pump house; inclusion of plinths.

UD: 7109: A Warning Letter of enforcement issued to the applicant in relation to the following:

- Construction of a concrete plinth and the installation of air-conditioning units
- The proposed construction of water tanks and noise abatement screens
- The possible non-compliance with Condition 9(c) of planning permission reference 17/237.

In response to the UD notice, the applicant submitted a Noise Report prepared by Ican Acoustics. The PA acknowledged the submission of the report but advised that the EPA Guidance Note for Noise used relates to Agency Scheduled activities only. A retail unit is not an EPA scheduled activity and therefore these guidelines are not applicable. The PA also highlighted that the report did not include LAeq, 15 min results and it was carried out in unsuitable weather, i.e. heavy rain fall.

PA ref. 17/237: Permission was granted, on the 4th day of October, 2017, for the use of the existing, vacant, former Tesco supermarket for the display and sale of primarily comparison goods and an ancillary in-store café. The application includes all advertising signage associated with the proposed use and all associated site development works As revised by Significant Further Information consisting of: Correspondence regarding the community use in the overall Carton Retail Park campus; additional plans and a revised description of development as follows: Permission is sought for a period of 5 years for alterations to the previously approved development under Planning Register Reference 05/2371 which will involve the following (a) maintaining the former Tesco supermarket building (previously proposed to be demolished under planning reference No. 05/2371 with an extension of duration permitted under Planning Reg. Ref. 11/1077) and; (b) the use of the building for the display and sale of primarily comparison goods and an ancillary in store café. The application includes all advertising signage associated with the proposed use and all associated site development works at Carton Retail Park, Dublin Road, Maynooth, Co. Kildare.

Condition 2 of the above decision states as follows:

The use of the building (former Tesco building) shall cease following a period of 5 years from the date of this permission. The building shall be used for comparison retail and ancillary café, in accordance with the details and drawings submitted on the 06/03/17 and on the 01/08/17.

Reason: In order to facilitate the temporary use of the existing building and to ensure compliance with the requirements of planning register no. 05/2371.

In light of the above condition, permission for the use of the building expires on the 03rd day of October 2022.

Condition 3 requires that the existing building shall be demolished and removed from the site unless before that date a further permission is obtained to retain the development. The reason for Condition 3 is to ensure compliance with 05/2371.

Condition 9 of the above decision relates to Noise Control and states as follows:

- (a) Noise from the development shall not give rise to sound pressure levels (Leq 15 minutes) measured at *noise sensitive locations which exceed the following limits:

55 dB(A) between the hours of 0800 and 1800 Monday to Friday inclusive (excluding bank holidays)

45 dB(A) at any other time.

- (b) There shall be no clearly audible tonal component or impulsive component in the noise emission from the development at any *noise sensitive location.

Note: *noise sensitive location:

Any dwelling house, hotel or hostel, health building, educational establishment, place of worship or entertainment, or any other facility or area of high amenity which for its proper enjoyment requires the absence of noise at nuisance levels.

- (c) A detailed Noise Study, with recommendations, shall be carried out by a competent noise/environmental consultant within three months of the development being in full operation and at any other time as may be specified by Kildare County Council. The Noise Study shall be submitted for the written consent of the Planning Authority.

Reason: In the interest of public health, to avoid pollution and to ensure proper development.

PA ref. 05/2371: Permission granted for the demolition of the existing foodstore and the construction of a replacement foodstore located to the east of the site with a gross floor area of 11,177sq.m including alcohol sales area, over surface car parking with cafe (Unit 30) etc, all at Dublin Road, Maynooth, Co. Kildare.

The Board will note that Condition 2 of this permission stated as follows:

2. Prior to the commencement of any development, revised proposals shall be submitted and have obtained the written agreement of the Planning Authority providing for the following:

- (a) Ensure that all services to the buildings eg. Cooling devices, extractor fans etc (wall mounted & roof mounted) are contained within the

buildings or service areas, no external services shall be permitted which are visible from the public areas or adjoining sites

(b)

(c)

(d)

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

Condition 26 of that permission of this permission is the same as that included at Condition 9 in PA ref. 17/237 detailed above.

PA ref. 11/1077: Permission granted to extend the validity of the permission, PA ref. 05/2371.

5.0 Policy and Context

5.1. Development Plan

5.1.1. The Kildare County Development Plan is the relevant policy document pertaining to the subject site. Section 7.6 of the Plan deals with Environmental Services and Section 7.6.4 deals with Pollution Control – Water, Air and Noise and advises that ‘The Kildare Noise Action Plan (2013) seeks to avoid, prevent and reduce where necessary the harmful effects of long-term exposure to environmental noise. All proposed development will be in accordance with the EU Ambient Air Quality and Cleaner Air for Europe (CAFE) Directive (2008/50/EC).

5.1.2. Section 7.6.5 details the policies of the Council in relation to waste management, including noise as follows:

- **WM 2:** Have regard to European Union, National and Regional policy relating to air quality, light pollution and noise pollution and to seek to take appropriate steps to reduce the effects of air, noise and light pollution on environmental quality and residential amenity.

5.1.3. Section 7.6.7 details the policies of the Council in relation to pollution control – water, air and noise, including as follows:

- **PC 1:** Implement the provisions of EU and National legislation on air, light and noise control and other relevant legislative requirements, as appropriate, in conjunction with all relevant stakeholders.
- **PC 6:** Enforce, where applicable, the provisions of the Environmental Noise Regulations (2006).
- **PC 7:** Ensure that noise levels caused by new and existing developments throughout the county do not exceed normally accepted standards and that new developments shall incorporate measures to ensure compliance with the Environmental Noise Regulations 2006 and any subsequent revision of these Regulations.
- **PC 8:** Regulate and control activities likely to give rise to excessive noise (other than those activities which require regulation by the Environmental Protection Agency).
- **PC 9:** Require activities likely to give rise to excessive noise to install noise mitigation measures and monitors.
- **PC 10:** Ensure that all future development is in accordance with the EU Ambient Air Quality and Cleaner Air for Europe (CAFE) Directive (2008/50/EC).

5.1.4. In addition to the above, the subject site was covered by the Maynooth Local Area Plan, 2013-2019. The site is zoned A2 Town Centre with the stated objective 'To promote mixed use development as an extension of the town centre'. The lands to the south and the west of the subject site are zoned B: Existing Residential and Infill.

5.2. **Natural Heritage Designations**

The site is not located within any designated site. The closest Natura 2000 site is the Rye Water Valley / Carton SAC (& pNHA) (Site Code: 001398) which is located within 1.2 km to the north east of the site.

The Royal Canal pNHA, Site Code 002103, lies approximately 80m to the south of the subject development site.

5.3. **EIA Screening**

Having regard to nature and scale of the development, together with the brownfield nature of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

This is a first-party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The issues raised are summarised as follows:

- The applicant consists of two main elements.
- The grounds of appeal are contained in the appended documents with the appeal – which include the submissions to the PA in the course of the PAs assessment of the proposed development.
- It is requested that the Board review the planning file and determine whether based on the information lodged with the application and its own observations, the reasons for refusal are reasonable.

There are a number of enclosures with the appeal and the applicant requests that permission be granted.

6.2. **Planning Authority Response**

The Planning Authority submitted a response to the first party appeal advising as follows:

- AWN Consulting Ltd was appointed by the Planning Enforcement Department of Kildare Co. Co to undertake a noise impact assessment of operations at The Range outlet – a Copy of same can be made available if required¹.

¹ A copy of this report was requested by the Inspector

- An extended noise survey was completed at two nearby properties and analysis of the data confirmed that while overall noise levels attributable to plant operation at the site fall within the prescribed noise limit, the noise emissions contain a tonal quality that presence a breach of the stipulated planning condition.
- The use of the EPA Guidance Notes for Noise: Licence Applications, Survey and Assessments in Relation to Scheduled Activities (NG4) relates to Agency Scheduled activities only and are not applicable in this case.
- There is not sufficient noise abatement measures in place to reduce the noise generated by the air conditioning units and noise levels exceeded the 55dB(A), LAeq (15 mins) on 21 occasions on the 20/07/2020 between 0915 hrs and 1445 hrs.
- The impact on the residential amenities of adjoining properties remains a concern in relation to tone and vibration. Notwithstanding the mitigation measures proposed, the development would seriously injure the amenities of properties in the vicinity by reason of noise and vibration and would be prejudicial to public health and would contravene condition 9 of the previous grant of planning permission.

It is requested that permission be refused.

6.3. Observations

The Leinster Park Residents Association submitted an observation in relation to the first party appeal. The submission is summarised as follows:

- The residents of Leinster Park are being exposed to continuous loud noise that contains clearly audible components which are vibrational, tonal and impulsive. The noise is in very close proximity to gardens and homes and residents include young children, retired individuals and individuals who work from home.
- The noise has greatly disrupted play, work and sleeping environments and residents have lost the amenity of gardens when the air conditioning units are operational.

- The extent of the noise disturbance is prolonged and the units can be operational anytime from 7am until 8pm including Saturdays, Sundays and Bank Holidays, regardless of trading hours.
- The residents do not wish to stop any commercial activity on the site and simply wish to live in peace and quiet.

The observation includes a number of enclosures.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Planning History & Residential Amenity Issues
2. Appropriate Assessment

7.1. Planning History & Residential Amenities

7.1.1. The Board will note that the subject appeal relates to a development comprising two distinct parts. Permission is sought for:

- (1) the retention of additions to the existing unit including air conditioning and condenser units and noise abatement screens. All other associated works.
And
- (2) Permission to amend Condition 9a of the planning application Ref. 17/237 to allow for the following: Noise from the development shall not give rise to sound pressure levels at noise sensitive locations in excess of the following commonly used limits: 55dB(A) between the hours of 0700 and 1900; 50dB(A) between 1900 and 2300 and 45dB(A) between 2300 and 0700 Daily. The purpose of the proposed revision is to bring the noise limiting levels (and hours) in-line with those used by the Irish Environmental Protection Agencies Office of Environmental Enforcement (OEE).

- 7.1.2. Planning permission was granted for the change of use of the existing, vacant, former Tesco supermarket under PA ref. 17/237, and subject to 13 conditions. I have detailed a number of the conditions attached to this permission above in section 4 of this report. The permission granted is for a temporary period of 5 years, up to the 03rd day of October 2022. After this date, Condition 3 of the grant of permission requires the demolition of the building unless before that date a further permission is obtained to retain the development to ensure compliance with 05/2371. In addition, I refer the Board to the detail of Condition 9 of that planning permission, which was not appealed by the then, and current, applicant. This condition related to noise control and gave specific limits the current appeal seeks to amend.
- 7.1.3. The condition 9 of permission 17/237, reflects exactly, condition 26 of the parent permission for the wider development of the retail campus, PA ref. 05/2371. In addition, I note that condition 2 of PA ref. 05/2371 explicitly requires that ‘all services to the buildings eg. Cooling devices, extractor fans etc (wall mounted & roof mounted) are contained within the buildings or service areas, no external services shall be permitted which are visible from the public areas or adjoining sites’, in the interests of proper planning and sustainable development.
- 7.1.4. In terms of the above, I consider that the proposed retention of the air conditioning and condenser units and noise abatement screens, would materially contravene conditions attached to previous grants of permission associated with the wider development of the retail campus.
- 7.1.5. In terms of residential amenity, I have read in full all of the documentation submitted in support of the proposed development. I have also read all submissions raising concerns in terms of the impact on the amenity of adjacent residential properties since the installation of the air conditioning and condenser units and noise abatement screens in their current locations. I also note that the issue of noise pollution can have significant impacts on the residential amenity of homes and their private open spaces. Clearly, the observers to this appeal are, and have been, affected to a significant degree due to noise arising from the site and the air conditioning and condenser units installed on the site. I note the submission of the log of noise disturbance by the observers to the Board which relates to the full year of 2019. I also note that the information presented by the applicant indicates that there have been exceedances of the specified limits on a number of occasions.

- 7.1.6. I accept the bone fides of the applicants noise consultant, and indeed the frustrations around the carrying out of surveys in order to gather the raw data which would be deemed collectively acceptable. Essentially, there are two Noise Impact Assessments before the Board which appear to conflict.
- 7.1.7. The applicant does not consider that the air conditioning and condenser units require to be relocated from their current location, and does not consider that the assessment submitted by the third party to be a competent assessment of the noise from air conditioning units at the Range store and the noise climate at noise sensitive premises in the locality of the store. With regard to the issue of tonality, the applicant submits that during the attended measurements, they observed the ACUs at full load to be audible but not noticeable to a casual observer. In addition, the applicant does not accept that the tonal analysis carried out by the third-party consultant is a competent assessment.
- 7.1.8. The applicant / appellant is seeking to amend the requirements of condition 9(a) of the planning application Ref. 17/237 as follows:

Condition 9(a) – PA ref 17/237	Condition amendment sought
<p>Noise from the development shall not give rise to sound pressure levels (Leq 15 minutes) measured at *noise sensitive locations which exceed the following limits:</p> <ul style="list-style-type: none"> • 55 dB(A) between the hours of 0800 and 1800 Monday to Friday inclusive (excluding bank holidays) • 45 dB(A) at any other time. 	<p>Noise from the development shall not give rise to sound pressure levels at noise sensitive locations in excess of the following commonly used limits:</p> <ul style="list-style-type: none"> • 55dB(A) between the hours of 0700 and 1900; • 50dB(A) between 1900 and 2300 and • 45dB(A) between 2300 and 0700 Daily. <p>The purpose of the proposed revision is to bring the noise limiting levels (and hours) in-line with those used by the Irish Environmental Protection Agencies Office of Environmental Enforcement (OEE).</p>

Essentially, the change seeks to extend the hours where the 55dB(A) limit is applicable, and to include a third limit of 50dB(A) between the hours of 1900 and 2300, thereby reducing the lower limit level from 14 hours to 8 hours in length.

- 7.1.9. While I acknowledge the findings of both consultants, I would say that noise is a very personal sense and can affect individuals differently. While the applicants consultant did not observe the noise from the ACUs at full load to be audible to a casual observer during their attended measurements, clearly they would have an impact to a resident if operating in the quiet of the night time hours.
- 7.1.10. The Board will note that Planning Enforcement Department of Kildare Co. Co advise that they appointed AWN Consulting Ltd to undertake a noise impact assessment of operations at The Range outlet. Analysis of the measured data confirmed that while overall noise levels attributed to the plant operation at the site fall within the prescribed noise limits, the noise emissions from the site contains a tonal quality that presents a breach of the stipulated planning condition. A copy of the assessment was not provided but was sought by the Inspector. However, I do not consider it essential to the consideration of this appeal.
- 7.1.11. I also note that officers from Kildare County Council Environment Section, on inspection of the site, observed a strong tonal component to the noise from the air conditioning units, as well as vibration. This would support the submission of the residents and as such, it is difficult not to conclude that the impact of the air conditioning and condenser units is significant in terms of residential amenity. I refer again, to the fact that there have been incidents of non-compliance with the requirements of condition 9 and the set limits for noise.
- 7.1.12. As such and having regard to my comments above in relation to compliance with conditions of previous grants of planning permission associated with the subject site, I do not consider it appropriate to amend condition 9(a) as requested by the applicant.

7.2. **Appropriate Assessment**

The site is not located within any designated site. The closest Natura 2000 site is the Rye Water Valley / Carton SAC (& pNHA) (Site Code: 001398) which is located

within 1.2 km to the north east of the site. The Royal Canal pNHA, Site Code 002103, lies approximately 80m to the south of the subject development site.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also 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 Recommendation

I recommend that planning permission be refused for the proposed development for the following stated reasons.

9.0 Reasons and Considerations

1. The proposed development would contravene materially Condition No. 9 of permission reg. ref. 17/237 (and Condition 26 of PA ref. 05/2371, parent permission for the wider retail campus), which requires 'no clearly audible tonal component or impulsive component in the noise emission from the development at any *noise sensitive location'.

In addition, the development, if permitted would materially contravene Condition 2 of PA ref 05/2371, which requires that 'all services to the buildings eg. Cooling devices, extractor fans etc (wall mounted & roof mounted) are contained within the buildings or service areas, no external services shall be permitted which are visible from the public areas or adjoining sites'.

As such a grant of permission in this instance would conflict with the provisions of the previous permission and would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the location of the development site in proximity to residential properties and the noise generated by the air conditioning units, it is considered, notwithstanding the mitigation measures included, that the development would seriously injure the amenities of properties in the vicinity by reason of noise and vibration and would be prejudicial to public health. The development would, therefore, be contrary to the proper planning and sustainable development of the area.

A. Considine

Planning Inspector

1st April 2020