



An
Bord
Pleanála

Inspector's Report

ABP-314953-22

Development

Demolition of existing discount foodstore, construction of new discount foodstore and town car park. Natura Impact Statement submitted with Application.

Location

Carrigaline Lidl Foodstore & Council Yard/Circus Field, Kilnaglery, R612, Crosshaven Road and Roundabout, Carrigaline, Co. Cork.

Planning Authority

Cork County Council.

Planning Authority Reg. Ref.

215966.

Applicant(s)

Lidl Ireland GMBH.

Type of Application

Permission.

Planning Authority Decision

Grant Permission subject to conditions.

Type of Appeal

First party versus condition(s) and Third Party versus decision.

Appellant(s)

Lidl Ireland GMBH.

Helen and Mary O'Regan and Leo Keohane.

Observer(s)

Cllr Marcia D'Alton.

June Long.

Date of Site Inspection

21 February 2024.

Inspector

Stephen Rhys Thomas.

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1.0 Site Location and Description

- 1.1. The appeal site is located at the edge of Carrigaline town centre adjacent to the Owenabue River. The site takes a vehicular entrance off the roundabout at the junction of Bóthar Guidel, Strand Road and the Crosshaven Road. A secondary, but closed off entrance adjoins the Strand Road at the north western portion of the site beside the fire station entrance.
- 1.2. The overall site extends to 2.766 Hectares and includes the existing Lidl foodstore and associated car parking area. A large parcel of land is also included, known as the circus field together with public roads including the roundabout junction and a long stretch of the Crosshaven Road and associated footpath and cycle path. The western boundary of the site abuts the Fire Station and a housing estate of two storey terraced houses known as Mount Rivers.
- 1.3. The existing Lidl store site sits higher than the public road and forms a very slightly domed expanse of car parking with a service area to the south and rear of the store. The empty site to the south is set below the public road and the level of the existing car parking area. The southern portion of the site dips down to meet the existing garden level of housing at Mount Rivers and comprises a large expanse of hardcore/gravel with a variety of spoil heaps comprising soil, gravel, and concrete fragments. A large berm has recently been constructed between the site and a large area of wetland and scrub to the east of the site and separated by a slow moving watercourse. Finally, the site also includes areas of the public road, including the entry arms of Strand Road and Bóthar Guidel with the roundabout junction, and 200 metres of the Crosshaven Road and its associated footpath and cycle way.
- 1.4. The character of the area is defined by housing, community services (fire station and library) with parklands to the north across the Owenabue River. The area to the east of the site along the Crosshaven Road is defined by low lying land with areas of standing water, with defined drainage channels and mature vegetation in a semi wild state.

2.0 Proposed Development

- 2.1. It is proposed to construct a new foodstore, make changes to the local road network, and new car park, on a site of 2.766 Hectares, comprising:

Demolition/Removal

- The demolition of the existing Lidl Licenced Discount Foodstore (1,768 sqm gross floor space with 1,334 sqm net retail sales area),
- Removal and closure of the existing entrance to the Lidl Foodstore at the R612 Crosshaven Road Roundabout,
- Removal of the existing entrance at R612 Crosshaven Road to council yard/circus field.

New Development

- A new mono-pitched Licenced Discount Foodstore (2,475 sq m Gross Floor Space) to comprise the following: a retail sales area with ancillary off-licence use and bakery (total net sales area of 1,670 sq m), plant deck, delivery area and external plant compound; rooftop photovoltaic solar panel array totalling 800 sq m, corporate signage consisting of 2 building mounted corporate internally illuminated sign, 1 free standing internally illuminated flag pole sign at new access road from the R612 Crosshaven Road, 3 wall mounted externally illuminated poster panel display boards and 1 free standing external illuminated poster display board, covered trolley bay and 10 bicycle parking spaces area
- The construction of a public town car park facility to comprise 212 surface car parking spaces (8 disabled inclusive) and 20 bicycle parking spaces; in place of the existing foodstore. This car park will be transferred to Cork County Council.
- Site lighting and new electricity substation (32.71 sqm);

New Road Layout

- The primary vehicular and pedestrian access to the site and proposed public car park will be via a new access from the R612 Strand Road.

- Access to the proposed public car park will also be via a controlled road access link between the former foodstore location and replacement Foodstore; plus a dedicated pedestrian access from the R612 Crosshaven Road Roundabout.
- To construct, upgrade and widen approximately 200 metre section of the R612 Crosshaven Road and Roundabout to comprise the southern side of the existing R612 Crosshaven Road carriage way to include a new dedicated pedestrian footpath; upgrading of R612 Crosshaven Road Roundabout; and public road lighting along both sides of the upgraded/widened section of the R612 Crosshaven Road.

2.2. After a request for further information, the development was amended as follows:

- The position of the new foodstore was moved northward approx. 15 metres.
- Two new units (restaurant/delicatessen of 107 sqm and a café 100sqm) were added close to the R612 Crosshaven Road,
- New landscaping, footpath and cycleway details are proposed along the margin of the site and the R612 and roundabout interface.
- A reduction in store car parking of 21 spaces (down from 139 to 118) and 24 additional cycle spaces.
- A staggered pedestrian crossing at the western end of the Crosshaven Road, close to the roundabout.

2.3. Revised documentation includes:

- Revised Traffic Impact Report
- RSA Stage 1
- Response – Flood Risk Assessment
- Preliminary CEMP

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to grant permission subject to 64 conditions. Most conditions are of a standard or technical nature and some relate to development bonds/contributions. Noteworthy conditions include:

Condition 2 – detailed design of public car park to be submitted for approval.

Condition 3 – phasing of public car park to be submitted for approval.

Conditions 4, 24, 37 and 39 – surface water management proposals.

Condition 5 – sequence of units available for use.

Condition 6 – boundary treatment.

Condition 7 – use of units permitted.

Conditions 11 and 12 – NIS mitigation measures to be implemented in full and works carried to be carried out within a specified period.

Conditions 47, 50 and 52 – detailed design of works along R612, and access/egress arrangements to be agreed.

Condition 49 – design of bike spaces.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The basis of the planning authority decision includes:

First Report

- Retail use at this location acceptable, but notion of car parking to the quantum proposed at odds with the Carrigaline Transportation and Public Realm Enhancement Plan. Overall layout and design does not contribute to the town centre. Car parking is not in line with development plan standards, and contrary to modal shift. The proposed development underutilises the site.

- Site is located in flood zone A, proposal is to raise finished floor levels. Off site flooding and climate change have not been considered. Justification test required.
- Design and layout (ABP 242960 is referenced) is not acceptable for a town centre location and does not respond well to adjacent residences.

To address the issues above further information was recommended, approved by the Senior Planner and duly sought.

Second Report

Area Planner

- Two new retail units are welcomed.
- 'Town' car park proposal is to remain, this is unacceptable.
- Car parking proposed for the Lidl store, at 122 spaces, now acceptable.
- Cycle parking broadly acceptable.
- The design of the 'Town' car park and road improvements remain outstanding and clarity is required.
- Entrance to the Lidl store is to be amended by plastic bollards to prevent right turning movements when exiting, this is acceptable.
- The requirements of the DAU regarding Bat Assessments and mitigation can be conditioned.

Senior Planner Report

- There is no Parking Management Strategy or Park and Walk initiative for Carrigaline, the 'Town' car park is therefore premature.
- The café and deli development does not meet the town centre zoning objective and does not meet the justification test regarding flood risk.
- The site remains underutilised in the format proposed.
- Such a large amount of car parking would undermine the Carrigaline TPREP.
- Better examples to match land use and transportation can be seen at Aldi to the west, off the inner relief road, PA ref 21/7464 refers.

- Flood risk – the proposal to provide 20% increase in storage capacity is not adequate given the features of the site and flood occurrence. Additional attenuation capacity (30% climate change factor) should be provided.

Recommendation to grant permission, subject to conditions that refer to flood risk, retail unit phasing, omit town car park and revised landscape plan.

Divisional Manager South Report

- The Carrigaline TPREP seeks to improve traffic and transport in Carrigaline and the proposed 'Town' car park will provide spaces for those displaced from the town centre. Remove condition that omits town car park.

Senior Executive Planner Report

- Grant permission

Flor O'Sullivan Report – Remove condition that omits town car park.

3.2.2. Other Technical Reports

Area Engineer – further information, no issues listed. no objection.

Environment Department (waste) – no objections.

Environment Department – FI flood risk assessment.

Traffic and Transport – FI layout, traffic assessment and modelling.

Ecology – FI flood risk assessment, CEMP and landscape.

Public Lighting – no objection.

3.2.3. Technical Reports Post FI

Engineering Report - no objection

Traffic and Transport – no objection.

Environment Department (waste) – no objections.

Environment Department – no objections.

3.3. **Prescribed Bodies**

Uisce Éireann – no objections.

Irish Aviation Authority – no observations.

HSE – FI required.

DAU – Nature Conservation, the development will most likely result in the loss of bat foraging areas and trees to be felled have the potential to provide bat roosting sites. A bat survey should be prepared, mitigation measures proposed and increased dark areas set out.

3.4. **Third Party Observations**

12 submissions – issues include those issues highlighted by the appellant and observers to the appeal.

4.0 **Planning History**

4.1. **Site:**

PA ref 156926 – Retention of changes to site layout, pedestrian access and eight car parking spaces.

5.0 **Policy Context**

5.1. **Development Plan**

5.2. **Cork County Development Plan 2022-2028**

- 5.2.1. The Cork County Development Plan 2022-2028 came into effect on 6th June 2022. The plan sets out the overall planning and sustainable development strategy for the County. While it is noted that a Ministerial Direction has issued (under section 31 of the Planning and Development Act, 2000, as amended) in respect of the Plan, I am satisfied that the issues raised in the Direction do not relate to the nature or type of proposed development or the site the subject of this application. In my opinion, the Direction has no material bearing on the proposed development.

- 5.2.2. The appeal site is subject to zoning objective Town Centre/Neighbourhood Centre, retail and car park are both an appropriate use in this land use zoning.

Objective ZU 18-17: Town Centres/ Neighbourhood Centres

a) Promote the development of town centres and neighbourhood centres as the primary locations for retail and other uses that provide goods or services principally to visiting members of the public. The primary retail areas will form the main focus and preferred location for new retail development, appropriate to the scale and function of each centre and in accordance with the Retail Strategy. Residential development will also be encouraged particularly in mixed use developments while the use of upper floors of retail and commercial premises in town centres for residential use will in particular be encouraged.

b) Recognise that where it is not possible to provide the form and scale of development that is required on a site within the core area, consideration can be given to sites on the edge of the core area based on sequential approach.

- 5.2.3. Relevant sections of the development plan include:

Chapter 3 Settlements and Placemaking

Chapter 9 Town Centres and Retail

Chapter 11 Water Management.

- 5.2.4. Relevant Objectives include:

County Development Plan Objective WM 11-7: Climate Change

County Development Plan Objective WM 11-10: Surface Water, SuDS and Water Sensitive Urban Design

County Development Plan Objective WM 11-12: Surface Water Management

County Development Plan Objective WM 11-13: Flood plains and Wetlands

a) Protect the County's floodplains, wetlands and coastal areas subject to flooding as vital green infrastructure which provides space for storage and conveyance of floodwater, enabling flood risk to be more effectively managed and reducing the need to provide flood defences in the future.

b) Ensure that development does not impact on wetland sites within river / stream catchments and seek the restoration of degraded wetlands.

County Development Plan Objective WM 11-15: Flood Risk Assessments

To require flood risk assessments to be undertaken for all new developments within the County in accordance with The Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009) and the requirements of DECLG Circular P12/2014 and the EU Floods Directive.

- For sites within Flood Zone A or B, a site specific Flood Risk Assessment will be required.
- For sites within Flood Zone C, an examination of all potential sources of flooding, and consideration of climate change (flood risk screening assessment), will be required. In limited circumstances where the 'Flood Risk Screening assessment' identifies potential sources of flood risk, a site specific flood risk assessment may also be required.
- All proposed development must consider the impact of surface water flood risks on drainage design through a Drainage Impact Assessment. The drainage design should ensure no increase in flood risk to the site, or the downstream catchment.

County Development Plan Objective WM 11-16: Flood Risks – Overall Approach

Take the following approach in order to reduce the risk of new development being affected by possible future flooding:

- Avoid development in areas at risk of flooding; and
- Apply the sequential approach to flood risk management based on avoidance, substitution, justification and mitigation of risk.
- Where development in floodplains cannot be avoided, applications for development must meet the definition of Minor Development or have passed the Justification Test for Development Plans in the updated SFRA and can pass the Justification Test for Development Management to the satisfaction of the planning authority.
- Consider the impacts of climate change on the development.

In areas where the Justification Test for Development Plans has not been applied, or has been failed, the sequential approach should be applied as follows:

- In areas where there is a high probability of flooding - 'Flood Zone A' - avoid highly and less vulnerable development as described in Section 3 of 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' issued in November 2009 by DoEHLG.
- In areas where there is a moderate probability of flooding - 'Flood Zone B' - avoid 'highly vulnerable development' described in section 3 of 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' issued in November 2009 by DoEHLG.
- In areas where there is low probability of flooding – 'Flood Zone C' all uses may be considered subject to a full consideration of all flood risks.

County Development Plan Objective WM 11-17: Development in Flood Risk Areas

When considering proposals for development, which may be vulnerable to flooding, and that would generally be inappropriate as set out in Table 3.2 of the Guidelines, the following criteria must be satisfied:

1. The subject lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of these Guidelines.
2. The proposal has been subject to an appropriate flood risk assessment that demonstrates:
 - a. The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk;
 - b. The development proposal includes measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible;
 - c. The development proposed includes measures to ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any future flood risk management measures and provisions for emergency services access; and
 - d. The development proposed addresses the above in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes.

The acceptability or otherwise of levels of residual risk should be made with consideration of the type and predicted future use of the development and the local development context.

The development is assessed not to have the potential to give rise to negative or adverse impacts on the integrity of Natura 2000 sites or Natural Heritage Areas or proposed Natural Heritage Areas.

5.2.5. Car and Cycle Parking

County Development Plan Objective TM 12-9: Parking

Secure the appropriate delivery of car parking and bicycle spaces and facilities in line with the Standards set out in Section 12.24 of this document:

a) All non-residential development proposals will be subject to maximum parking standards as a limitation to restrict parking provision to achieve greater modal shift.

c) Cycle parking will be appropriately designed into the urban realm and new developments at an early stage to ensure that adequate cycle parking facilities are located and designed in accordance with cycle parking design guidelines; The National Cycle Manual (NTA, 2011), and the Standards for Cycle Parking and Associated Cycling Facilities for New Developments document (Dun Laoghaire Rathdown County Council, 2018).

e) Connectivity and accessibility between key car parking areas and primary town centre streets is to be safe and convenient.

f) A high standard of design, layout and landscaping, including application of sustainable urban drainage systems where appropriate, is to accompany any proposal for surface car parking. Planning permission will be granted only where all the following criteria are met:

- Respects the character of the streetscape/landscape;
- Will not adversely affect visual amenity, and
- Makes provision for security, and the direct and safe access and movement of pedestrians and cyclists within the site.

g) Car parking provision is to comply with Sustainable Urban Drainage practices and other climate change adaptation and mitigation measures are to be considered,

including considering the potential for landscaping to provide shade, shelter and enhancement of biodiversity.

Table 12.6: Car Parking Requirements for New Developments

Table 12.7: Dimensions of Parking Bays

Table 12.9: Cycle Parking for Non-Residential Development (Minimum)

5.2.6. The following active travel objectives are relevant:

- TM12-2-5: New paths and cycleways/ greenways and upgrades to existing paths and cycleways/greenways will be sensitively designed having regard to environmental, nature conservation, landscape and other heritage considerations, and committing, in particular to providing appropriate set-backs from water courses where new paths and cycleways/greenways are proposed along rivers, streams, lakes or other sensitive areas...

Table 17.2: Climate Action Strategy

Revision of car parking standards to apply maximum car parking standards to all non-residential developments and to residential developments within Metropolitan Cork.

Cork Harbour Greenway, page 267 of the current plan.

5.2.7. Volume Four of the County Development Plan relates to South Cork and includes objectives for the Carrigaline Municipal District Area, section 1.4 refers to Carrigaline. The following objectives are relevant:

Flooding

1.4.73 - Carrigaline has been subject to recurring flood events due to the low-lying nature of the town centre and the tidal influences on the Owenboy River. A large section of the town centre is at risk of flooding as illustrated on the settlement maps. The need for flood relief works in Carrigaline was identified by the CFRAM programme and are to be progressed in the future and will be funded under the Office of Public Works' flood relief capital works programme. Until the flood relief scheme is completed, significant new development in Flood Zones A and B is considered premature. Development in built up areas should be limited to minor

development as defined by Section 5.28 of the Guidelines for Planning Authorities 'The Planning System and flood Risk Management'.

CL-GO-07 - Flood Risk

All proposals for development within the areas identified as being at risk of flooding will need to comply, as appropriate, and with the provisions of the Ministerial Guidelines – 'The Planning System and Flood Risk Management'.

Objective CL-GO-05: ...Support and implement the provisions of the Carrigaline Transportation and Public Realm Enhancement Plan. TPREP

CL-GO-08 - Walking and Cycling Connectivity

Further expand the network of designated walking and cycling routes to provide safe, convenient and pleasant routes between the town's main residential areas, schools and the town centre.

With respect to the Carrigaline Transport and Public Realm Enhancement Plan (TPREP) the plan notes that an application for the proposed pedestrian and cycle bridge over the Owenabue River was recently submitted to An Bord Pleanála. This will link the cycle facilities along Bóthar Guidel with the Crosshaven pedestrian and cycle route and is a key intervention on the wider Passage West/Glenbrook/Monkstown to Crosshaven network.

CL-GR-12 Open Space for informal public recreation including the provision of pedestrian walks. Parts of this site are at risk of flooding. *

CL-GR-03 Open space for informal public recreation including the provision of pedestrian walks, playing pitches and, indoor and outdoor courts and buildings for community based organisations. Any development on this site will need to take account of the biodiversity sensitivities of the site and area and must be of an appropriate scale so as to not result in a substantial loss of open space. Parts of this site are at risk of flooding. *

5.3. Carrigaline Transportation and Public Realm Enhancement Plan (TPREP) July 2021

- 5.3.1. The Carrigaline Transportation and Public Realm Enhancement Plan (TPREP), July 2021, is a framework devised by Cork County Council to address the transportation

infrastructural issues and enhance the public realm required to support sustainable development of the town.

- 5.3.2. The Carrigaline population is highly dependent on cars for travel. The latest CSO Census data shows that the town has unusually high car ownership compared to other towns in County Cork with less than 20% of trips carried out by walking, cycling or public transport.
- 5.3.3. The TPREP notes that the enhanced pedestrian and cycle network will include a short section of the Carrigaline to Passage West Cycleway over the Owenabue River to provide improved access to the local schools on Bóthar Guidel. This route is identified as a strategic cycle route network. The TPREP notes that river crossing will provide improved access to the local schools on Bóthar Guidel. The site is in an 'active travel priority zone'.
- 5.3.4. Section 4 of the TPREP indicates that the roundabout on the R612 south of the proposed development site is to become a signalised junction.

5.4. Cork Metropolitan Area Transport Strategy 2040 (CMATS)

- 5.4.1. The CMATS, published in 2020, is a coordinated land use and transport strategy for the Cork Metropolitan Area and was developed by the National Transport Authority (NTA) in collaboration with Transport Infrastructure Ireland (TII), Cork City Council and Cork County Council. It sets out a framework for the planning and delivery of transport infrastructure and services to support the envisaged growth. A guiding principle is to prioritise sustainable and active travel and reduce car dependency.

5.5. Natural Heritage Designations

- 5.5.1. The proposal is located close to the following designated site:
 - Cork Harbour SPA, site code 004030.

The applicant submitted an NIS with the application.

5.6. EIA Screening

- 5.6.1. The scale of the proposed development is well under the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part

2(10) dealing with urban developments (500 dwelling units; 400 space carpark; 2 hectares extent), and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required, see Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. This is a first party appeal against conditions and a third party appeal against the decision.

First Party Appeal

- 6.1.2. The applicant explains that the appeal is made under section 37(2) and section 139 of the Planning and Development Act 2000 as amended, the appeal refers to 15 conditions no other issues are raised, the grounds of appeal can be summarised as follows:
- Conditions 2, 3, 47, 57 and 60 should all be amended to omit the burden of costs. The Cork County Council Traffic and Transportation Engineer received all information with regard to improvements and provision of car parking for the town, to meet objectives of the Carrigaline Transportation and Public Realm Enhancement Plan 2022. It is not clear if each department within the council is aware of each other's commitments. The applicant is willing to meet all other aspects of conditions 2, 3, 47, 57 and 60, but costs to do with design and construction will not.
 - Conditions 5 and 6 require the delivery of elements of the scheme that are beyond their control, completion of units 1 and 2, and boundary treatments along the road. Conditions 5 and 6 should be omitted entirely.
 - Conditions 16 and 43 duplicate others and should be omitted. Condition 16 duplicates compliance requirements of condition 38, the provision of covered skips, condition 16 should be omitted in its entirety.

- Condition 43 to do with construction and demolition works that shall be carried out in accordance with a site specific CEMP, duplicates compliance requirements set out in condition 30, condition 43 should be omitted in its entirety.
- Condition 35 refers to demolition and construction noise, amend and replace requirements that are more relevant to construction noise, not ongoing operational noise.
- Condition 50 limits the operational capacity of the site by restricting traffic movements. Condition 50 does not acknowledge the future plans to alter the current roundabout to a fully signalised junction after the Lidl site has been developed nor proposals to access the Lidl site (option 12).
- Condition 63 should be amended to allow the Lidl signage as proposed, details regarding the other units can be agreed at a later date.
- Condition 49 that provides for cargo bikes should be omitted altogether because it is contrary to the current development plan with reference to cargo bikes and road freight and ports, section 12.17 and 12.19 of the plan refer. No justification for the requirement to provided cargo bike parking has been made in the planning reports. The proposed development provides for 34 spaces that exceeds development plan requirements and this is sufficient.
- Condition 61 that asks for a canopy over bike parking spaces should be omitted. Eight spaces will already be covered near the trolley bay. A covered bike parking area at the retail units would be unsightly and attract antisocial behaviour. There was no requirement to provide covered bike spaces at the town car park either.
- Condition 62 requires a bond to be submitted and used as security to ensure tree and shrub planting, in accordance with conditions 6 and 14. As conditions 6 and 14 refer to lands that will be impacted upon by Cork County Council roads work, this is unreasonable for the developer. Omit condition 62.

Third Party Appeal

6.1.3. A third party, has lodged an appeal against the decision of the planning authority to grant permission, the third party refers back to submissions made during the application process, the grounds of appeal can be summarised as follows:

- Background is provided in relation to the site, its current uses, issues of flooding and a general lack of any consultation.
- Sustainability – with reference to flood risk assessment, and the attachment of condition 4, the appellant is concerned that the exclusion of their involvement in any plans with regard to flood risk is wrong. This demonstrates that the initial FRA was inadequate and permission should be refused.

Fluvial flooding has not been addressed.

Given that the site is located in fluvial flood risk zone A (the highest level of flood risk), flood risk on site and off site has not been addressed.

The requirement to incorporate future flood volume within the site, would need major changes to the whole site layout, and could impact flooding elsewhere.

Compliance with condition 4, negates all other environmental assessments and screening for AA.

- Changing Matters – the LAP is mentioned by the applicant, but they have ignored issues to do with managing downstream flood impacts. The application takes no account of IPCC report on climate change, EPA reports, Met Eireann and the Marine Institute. Development on flood plains should not occur. The FRA submitted by the applicant fails to take account of climate change.
- Contrary to LAP and County Development Plan – The LAP remains in force and all matters to with flood risk assessment should be taken into account, they have not. The applicant has ignored the appellant's homes in their assessment of flood risk and downstream impacts in particular. The appeal site is not an opportunity site identified in the current development plan (Carrigaline area volume 4) and should be treated any differently. Sections of the development plan to do with blue infrastructure have been ignored, condition 4 compounds this. Mitigation to address tidal flooding by raising

ground levels, is not carried through to other drawings and not clearly understood by the applicant.

Hydrological pathways for hydrocarbon stores and wastewater have not been fully assessed. Consequently, impacts to receiving waters have not been addressed in AA screening.

Surface water design calculations have not taken account of downstream tidal levels and constraints to free discharge of surface water.

The development in general is contrary to the proper safe and orderly planning of the area.

- Risk to Homes – the appellant’s homes will be at risk from flooding if the development progresses.
- Residential Amenity – flooding to the appellants property has occurred in the past and if the development proceeds it will result in a heightened risk to property and limit enjoyment of same.
- Property Value – public safety will be impacted upon, and hence the value of the appellant’s property will be reduced, legal case *Maher v ABP* is referenced.

The appeal is accompanied by previous submissions to the planning application dated 8 September 2021 and 6 September 2022.

6.2. Applicant Response

6.2.1. The applicant has responded to the third party’s grounds of appeal and included detail of the flood risk assessment FI response; the submission can be summarised as follows:

- The applicant adhered to all relevant requirements of the PDA 2000.
- Flood risk - The justification test was passed and the proposed development will not result in an increase of flood risk to surrounding lands. Permeable fill material will ensure the underlying groundwater regime remains the same.
- Surface water management – greenfield run off rates will be maintained and an increase to 30% storage to cope with climate change can be achieved.

- Proposed development is consistent with the County Development Plan and Carrigaline Transportation and Public Realm Enhancement Plan (CTPREP).

Appendix A contains the flood risk assessment FI response.

Appendix B Report of the Senior Divisional Manager South dated 4 October 2022.

6.3. Planning Authority Response

- 6.3.1. All relevant matters have been addressed in the documentation already submitted, no further comments.

6.4. Observations

- 6.4.1. Two observations have been received by the Board and can be summarised as follows:
 - Occupant of 75 Mount Rivers, is concerned about the construction of a 12ft boundary wall to the rear of their property will impact on light and present and overbearing appearance. This also results in raised ground levels for the appeal site and delivery lorries will be able to look into the property.
 - Plant (shredders) and generators are located close to residential property and the noise generated by same will be a nuisance.
 - The coming and going of people within the site will also create a nuisance for neighbouring property.
 - Flooding is a problem at this location and the proposed development could adversely impact on flood risk. If flooding occurs it could impact upon house insurance rates.
 - Two cottages on Crosshaven Road are located in flood zone A, as is the Lidl site and other fields in the area. The observation raises the same issues with respect to flood risk as the third party appeal.
 - A new town car park does not form part of the Carrigaline Transportation and Public Realm Enhancement Plan (CTPREP), but a park and ride does and it is located to the north of the town. There are other car parks in the vicinity, including the Lidl store and none are ever at capacity, no new car parks are

necessary. Carrigaline has over 1,100 car parking spaces within the town centre, more are not needed and this is the opinion of the Senior Planner. Additional car parking in the town centre is not an objective of the CTPREP.

7.0 Assessment

7.1. Introduction

- 7.1.1. The applicant has not appealed the decision of the planning authority, instead they wish to appeal certain conditions attached to the notification to grant permission. In this regard the applicant is clear that their appeal is made in the context of section 37(2) and section 139 of the Planning and Development Act 2000 as amended, the appeal refers to 15 conditions no other issues are raised. There is also a third party appeal against the decision of the planning authority to grant permission. Hence, the main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. I deal with the third party appeal first and the applicant's appeal against conditions second, the issues can be dealt with under the following headings:

Third Party Appeal

- Principle of Development
- Flood Risk
- Residential Amenity
- Other Matters

First Party Appeal

- Conditions

Third Party Appeal

7.2. Principle of Development

- 7.2.1. The site is located on lands that are subject to the Town Centre/Neighbourhood Centres zoning objective in the current development plan, the aim of the objective is to promote the development of town centres and neighbourhood centres as the

primary locations for retail and other uses that provide goods or services principally to visiting members of the public. It is broadly accepted by all parties that the development that is proposed would be an acceptable use at this location. Opinions differ within officials of the planning authority on the layout and form of retail development proposed and specifically the provision of a town car park. Ultimately, the planning authority granted permission in line with the further information submitted by the applicant and a scheme comprising a replacement foodstore, two retail/café units, a town car park and amendments to the Crosshaven Road are now before the Board.

- 7.2.2. The third party appellant and observers raise significant concerns about the proposed development and its implications for flood risk and I deal with these matters in section 7.3 of my report. However, the appellant also poses questions about the scale of development proposed and compliance with the statutory plans in place. In addition, observers query the need for a town car park at all and in this particular location. Specific criticisms are levelled at the proposed town car park element of the scheme and how it can possibly conform with the Carrigaline Transportation and Public Realm Enhancement Plan (CTPREP) published in July 2021.
- 7.2.3. At a very high level the principle of a foodstore at this location is acceptable, after all, this is essentially a replacement store for the one that already exists on the site. Car parks are also an acceptable use on lands in the Town Centre/Neighbourhood Centres zoning. However, there are complications I find it difficult to reach a simple conclusion when issues such as urban design and sustainable transport are simply not tackled by the scheme as permitted by the planning authority. Observers and the appellant make this point too.
- 7.2.4. Urban Design - The site already performs a retail role, albeit of a style and form that contributes little to urban form. The initial layout submitted with this application simply replicated the campus style format to a different part of the site and was amended by way of an afterthought by the imposition of two additional units between car park and road. The applicant points to careful urban design principles and that the permitted layout is an acceptable extension of the town centre eastwards. I disagree and can see that an opportunity arises at this location to positively add to the town centre of Carrigaline. Moreover, the current development plan considers

accessibility, vitality and viability of town centres to be important. Hence, the focus of town centres is to develop and consolidate with an appropriate mix of commercial, recreational, cultural, leisure and residential uses, in accordance with the principles of urban design and sustainable development. The development plan also talks about good placemaking underpinned by good urban design, as well as water sensitive urban design that leads to vibrant and active streetscapes, objective TCR 9-19: Design and Innovation in Retail and WM 11-17: Development in Flood Risk Areas both refer. No doubt, retail and car parking are acceptable uses here at this edge of town centre, but it is the execution of the design that I have significant concerns about. I am not satisfied that the permitted layout responds to its edge of town centre location or reacts well to important factors concerning flood risk.

- 7.2.5. Sustainable Transport – Observers have raised question about the necessity of a standalone car park at this location. The Carrigaline Transportation and Public Realm Enhancement Plan (CTPREP) is referenced and it is stated that there is no strategy to provide a car park of the scale proposed other than a park and ride facility to the north of the town.
- 7.2.6. The Carrigaline Transportation and Public Realm Enhancement Plan (CTPREP) is a document published in 2021 and referenced in the current development plan as essential to the creation of more attractive and people-friendly town centres, objective CL-GO-05 refers. The CTPREP identifies the future transportation requirements of the town and considers them in the context of urban realm enhancement opportunities. The Plan endeavours to create an attractive urban environment and integrates with the National Planning Framework, the Cork County Development Plan 2022 -2028 and Cork Metropolitan Area Transport Strategy. It is a robust document that was published after public consultation and identifies how the town will approach and enhance the pedestrian network, cycle network, public transport network, car parking and vehicular traffic.
- 7.2.7. The site is located in the CTPREP study area and the signalisation of the Strand Road, Crosshaven Road and Bóthar Guidel junction is mentioned and illustrated, page 78 of the CTPREP refers. In addition, a strategic cycle network is identified along the Crosshaven Road and Bóthar Guidel. The CTPREP goes further and envisages short term (2021-2028) outcomes of which the Carrigaline to Crosshaven Greenway is one. This greenway is to deliver an enhanced pedestrian and cycle

network and will also include a short section of the Carrigaline to Passage West Cycleway over the Owenabue River to provide improved access to the local schools on Bóthar Guidel. In this regard I note a 2022 decision of the Board to grant permission for a pedestrian and cycle bridge across the Owenabue River, that includes a tie in with the existing footpath on the R612 south of the Owenabue River and east of the R612 roundabout, ABP-312041-21 refers. The applicant's documentation and drawings do not refer to the proposed river crossing and how it could be integrated with their design proposals, specifically with reference to the extent of road works in their design proposals.

7.2.8. The provision of a standalone edge of town car park (212 spaces) seems anachronistic in light of the plans that are laid out for Carrigaline by the CTPREP. On the one hand I can see that improvements to the public realm outlined in the CTPREP will displace car parking from the town centre and that the proposed development is seen as the answer that will fulfil a perceived need. But this is not what the CTPREP or the current development plan envisage for Carrigaline. In fact, with reference to car parking and the CTPREP, the only mention is a Local Park and Ride site to the north of the town in tandem with the proposed improvements to the bus priority measures along Cork Road, and this is a medium to long term proposal (2028-2040).

7.2.9. This lack of coordination between the CTREP aims and objectives regarding sustainable transport and significant supporting infrastructure recently permitted in the vicinity of the site, demonstrates a serious disconnect between proposed and planned development. I am concerned that the subject proposal is poorly conceived and runs counter to the plan led approach that would surely lead to positive outcomes in terms of placemaking and sustainable transport. For all of these reasons permission should be refused for the development as it demonstrates a disregard and ignorance of statutory planning objectives for the area, as outlined in Volume 4 of the current development plan and the CTREP.

7.3. Flood Risk

7.3.1. A significant portion of concern around the proposed development is the issue of flood risk and the potential for the development to cause off site flooding. The appellant and observers set out very detailed and lengthy concerns about the

development in a flood zone and the potential to heighten flood risk for the wider area. Concern is also expressed with reference to climate change in general, and the propensity of the area to flood in the past and more likely to do so in the future. The lack of adherence to all of the objectives contained in development plan related to proposals in areas at risk from flooding are all referenced. Surface water design calculations are questioned and have not taken account of downstream tidal levels and constraints to free discharge of surface water. The appellant is critical of the surface water design of the scheme with reference to fluvial flooding and is also critical of the conditions attached by the planning authority. Specifically, the appellant notes that the requirement to incorporate future flood volume within the site, would need major changes to the whole site layout, and could impact flooding elsewhere.

7.3.2. In response, the applicant refers back to the initial flood risk assessment and the response to further information report prepared by JBA Consulting Ltd. The site is located in flood zone A but the development proposal passes the justification test. In addition, the applicant notes that their consultant's report identified the principal source of flooding as tidal and that loss of flood storage is not considered to be an issue. The development will not increase flood levels alone. The site is not an important conveyance route and will not impact sites nearby. The answer is to raise the level of the proposed store and leave car parking areas at a lower level, fill material will be important and will not change the underlying groundwater regime. All of these measures are to ensure no increase to flooding off site. Finally, the applicant concludes that the proposed surface water management systems on site will address flood risk and the addition of 10% storage required by condition 4 can be easily achieved.

7.3.3. The documentation that accompanied the planning application included a Flood Risk Assessment (FRA) authored by JBA consulting and was prepared in the context of the guidance set out in 'The Planning System and Flood Risk Management - Guidelines for Planning Authorities' (DoEHLG, 2009). The FRA notes a watercourse adjacent to the site and the tidal Owenabue River to the north, the underlying geology is best described as 'made ground' underlain with sandstone and interbedded pyritic mudstone. Being located in flood zone A, flood events in the area are noted and described, pluvial and groundwater flooding is not envisaged as an issue for the site. Tidal flooding is the principal issue with fluvial flooding from the

Owenabue River as secondary. The southern section of the site is more prone to flooding, it is low lying and so the finished floor levels of the store are to be raised, other mitigation measures are concerned with surface water management. In terms of the Justification Test, the land is zoned town centre, a foodstore is a less vulnerable development type and so the report concludes that the justification test is passed. The planning authority required certain aspects of the initial FRA to be clarified and so further information was requested.

7.3.4. The applicant prepared a further information response document dated May 2022 with reference to flood risk, the planning authority accepted the response in part and required further conditions to address flood risk concerns. The response report does not revise its assessment of flood risk but hones in on the four issues raised by the planning authority. Firstly, the Justification Test is set out in more detail, but most of the previous conclusions are reached again. However, with reference to the requirement to not increase flood risk elsewhere, the report states that potential risk now includes tidal flooding from the estuary, groundwater impacts from site infilling, surface water flooding from the drain to the east of the site and direct pluvial flooding from extreme rainfall events. The increase in ground level will not result in an increase in flood level. The explanation for this is because an incoming tidal surge will block existing surface water outflow, an increase in ground levels is not a factor to consider. Stormwater will be managed on site and attenuation has been designed in to take account of climate change (20%). Groundwater risk is addressed by careful selection of a granular fill to allow for permeable free draining and this will not affect groundwater regime. In summary the report concludes that the proposed store is a less vulnerable development type and suited to flood zone A and raised FFLs is a suitable mitigation measure and the type of infill material will not impact the groundwater regime. The site is prone to tidal flooding and the lands do not have the same characteristics as a fluvial floodplain. Lastly, because of all these factors off site flooding of the development will not occur.

7.3.5. I see that the flood hazard map shown indicates that the site of the proposed development is in Flood Zone A. The types of flooding that would affect this site are: tidal, fluvial, pluvial and surface water, flooding from groundwater is rated as a very low risk. Firstly, according to floodinfo.ie the proposed Carrigaline Flood Relief Scheme is under review to confirm the technical aspects and viability of the scheme

and subject to outcomes, will then progress to Outline Design and Planning. I note section 1.4.73 in Volume 4, 'South Cork' of the Cork County Development Plan 2002-2028 which relates to Carrigaline and states in respect of flooding that "until the flood relief scheme is completed, significant new development in Flood Zones A and B is considered premature. Development in built up areas should be limited to minor development as defined by Section 5.28 of the Guidelines for Planning Authorities 'The Planning System and flood Risk Management'. Whilst section 5.28 of the Guidelines relates to minor development, such as small extensions to houses, I am of the opinion that the proposed foodstore, two units, town car park and road improvements is not a minor development and so must be considered as 'significant new development'.

- 7.3.6. I note that the FRA submitted with the application has been prepared in accordance with the Flood Risk Management Guidelines. The FRA notes, in respect of tidal flood risk, that there is a significant risk of tidal flooding in the vicinity of the site as most of the site is within the 10% Annual Exceedance Probability (AEP) tidal flood extent. From an examination of floodinfo.ie I note that most of the site is also located within the 10% AEP tidal flood extent (high probability), the existing foodstore sits on higher ground. High Probability flood events have approximately a 1-in-a-10 chance of occurring or being exceeded in any given year. This is also referred to as an Annual Exceedance Probability (AEP) of 10%.
- 7.3.7. Figure 4.1 of the response FRA report shows post development flood zones, with most of the car parking areas and the new foodstore lifted out of flood risk. This is achieved through extensive infilling (25,000m³) of the site to raise finished floor levels, 3.5 m above OD and above the 0.5% climate change level and with an additional 170mm freeboard. The site flood defence level equates to 3.67m OD.
- 7.3.8. As most of the site is within Flood Zone A the assessment contains a Justification test as outlined in Box 5.1 of the Flood Risk Management Guidelines with the development considered to be a less vulnerable development type compliant with the town centre zoning objective. In this instance, I agree that a foodstore and car parking are all less vulnerable forms of development and can be considered for zoned lands within flood zone A.

- 7.3.9. Having regard to all of the information submitted including that the proposed development will be finished at a height above any potential flood levels I am satisfied that sufficient detail has been provided to support the conclusion that the proposed development itself would not be subject to flooding. However, I am not satisfied with the rationale advanced by the applicant that their proposed development will not increase flood risk elsewhere. The appellant and observers also have a strong opinion about flooding and worry if the development is permitted it could place their property at risk from flooding.
- 7.3.10. I note the surface water management design prepared by the applicant and I reference the Services Design Report submitted to the planning authority on the 10th June 2022. This report states that the management regime of the existing car parking and store area will remain largely unchanged with respect to its hardstanding nature (catchment area 1). Catchment areas 2 and 3, the balance of the site, will be managed separately and run-off rates differ. Two attenuation tanks were proposed after the further information request and allow for a 20% increase in capacity to deal with rainfall events associated with global warming. Condition 4 seeks a further increase to 30%, together with a revised stormwater management regime, and condition 24 seeks further storm attenuation measures to be deployed in order to prevent flooding. It is likely that the site can accommodate increased attenuation tanks within the site, it is a large site designed to accommodate one large foodstore building and two small units.
- 7.3.11. However, I remain concerned that there is still design work to be done with regard to flood risk and surface water management. I would have expected to have seen very detailed proposals to include layouts and site sections showing infill locations, volumes and strata. The applicant has stated that infill material will have to be carefully selected in order to not alter the existing groundwater regime. Though, such detailed material is absent, and the planning authority are concerned enough to require two separate conditions to elicit the information from the applicant, the reason for both conditions is to mitigate or prevent the effects of flooding. This is an alarming scenario and is quite opposed to the flood risk guidelines, and hence I cannot conclude whether measures to deal with flood risks to the area proposed for development can satisfactorily reduce the risks to an acceptable level while not increasing flood risk elsewhere. The appellant and observers also raise similar

concerns about flood risk to their property and cannot understand how the infilling of these lands will not influence and increase flood risk elsewhere.

- 7.3.12. In this respect, the 2009 flood risk guidelines state that even in a defended floodplain, land-raising may reduce the potential amount of flood storage or affect a flood-flow route, with consequent effects on flood risk elsewhere. At present, though there are flood risk plans in train, Carrigaline has no formal flood defences. Thus, if a significant flood event should occur land-raising could adversely affect the surrounding low-lying areas by causing areas to flood that would not have flooded previously due to loss of floodplain storage. The applicant has not fully explained why their land raising proposals would not impact flood risk and I am doubtful of the overall benefits that the proposed development would bestow on the area as a whole and outweigh the adverse impacts of flooding. I am not certain that the proposed development has been planned in such a way that residual flood risk is equitably shared by new development and maintained or reduced for existing developments. There is nothing conclusive on the file to persuade me that the issue of flood risk elsewhere has been adequately dealt with by the applicant and on that basis permission should be refused.

7.4. Residential Amenity

- 7.4.1. The main concern expressed by observers and the appellant is that of increased flood risk, the threat to their property and the limitations to the full enjoyment of their residential amenities. I have already assessed the development in the context of flood risk, section 7.3 refers. In terms of residential amenity, I am certain that flood related events would have severe effects on residential amenity.
- 7.4.2. An observer, in relation to the Mount Rivers estate, is concerned that the imposition of the new foodstore to the rear of their house will impact upon residential amenity. The effects of the new store will impact light and constitute an overbearing appearance because of the rise in ground levels. Privacy will be impacted upon and the noise from plant and equipment will cause a nuisance.
- 7.4.3. The layout drawings submitted by the applicant show that the new store will be positioned at the southern portion of the site adjacent to the Mount Rivers estate to the west. A separation distance between the new single storey foodstore with a height of 5 metres along the western elevation will be 19 metres from the nearest

two storey home, 76 Mount Rivers. Planting has been shown between the store and the boundary, but no vegetation is found there at present. The applicant also prepared cross section drawings, transecting various portions of the site. With reference to residential properties located to the west of the proposed foodstore, cross sections B and C are the most relevant. Section C shows the extent of new made ground to bring the floor level of the new foodstore to match that of the floor levels of existing houses. I observed that the site is below the garden level of existing homes to the west. In terms of overbearing appearance and the loss of light to homes, the imposition of a new building where none had previously been will inevitably result in a change of outlook. In this instance, I do not anticipate that the western elevation of the new store at a height of 5 metres will bring with it a significant element of overbearing appearance. In terms of loss of light, again, given the limited height proposed and the position of the storey to the east of rear gardens, I anticipate the impact to be again slight. However, given the overall scale of the site, I find that a separation distance of as little as 19 metres is unsympathetic to neighbouring residential amenities. Consequently, I recommend that if permission is to be granted, the store should be repositioned 5 metres to the east and a suitable scheme of screen landscaping and robust boundary be submitted for approval prior to the commencement of development.

- 7.4.4. Observers have also raised concerns about the nuisance that can be derived from the day to day operations of the store, the shredding and bailing of recyclable material seems to be an issue with the present store on the site. I note that the applicant proposes to erect an acoustic enclosure around the plant farm and operational noise will be controlled and managed at appropriate levels. I anticipate that the issue of a noise nuisance can be managed by an appropriately worded condition.

7.5. Other Matters

- 7.5.1. Property Values – The appellant is concerned that if the development is permitted it will decrease the value of their property and others in the area. The appellant references a legal case *Maher v ABP*, but has not submitted either the judgement or relevant extract that links property value and planning permission. No documentary evidence has been submitted to demonstrate that the development will adversely affect property values in the area, and it is likely that the provision of additional and

enhanced shopping facilities will improve desirability for the area as a whole. It may be the perception of appellants that their residential amenities will be affected and hence the value of their property will decrease. I have already explained that residential amenities will not be impacted upon to any great degree. I am not satisfied that a demonstrable case has been advanced to be certain that property values will be adversely affected by the development as proposed and controlled by condition.

First Party Appeal

7.6. Conditions

- 7.6.1. The applicant has appealed certain conditions attached to the notification to grant permission that was issued by the planning authority. The applicant has requested that the Board determine the appeal with reference to conditions alone and that the decision of the planning authority to grant permission does not form part of the appeal. The applicant explains that the appeal is made under section 37(2) and section 139 of the Planning and Development Act 2000 as amended, the appeal refers to 15 conditions no other issues are raised.
- 7.6.2. In this instance the Board is precluded from assessing the conditions alone, because a third party has lodged a valid appeal against the decision of the planning authority and there are observers to the appeal that have also raised general concerns.
- 7.6.3. The planning authority's notification to grant permission includes 64 conditions, many require further agreement with the planning authority prior to the commencement of development. For the sake of clarity and when necessary, I have reproduced each condition in full in these sections of my report and in the order of that set out in the applicant's grounds of appeal, Notwithstanding, my recommendation to refuse permission as outlined in the previous sections of my report, I now assess each condition as follows:

Conditions 2, 3, 47, 57 and 60

- 7.6.4. The applicant explains that conditions 2, 3, 47, 57 and 60 should all be amended to omit the burden of costs. The applicant points out that the Cork County Council Traffic and Transportation Engineer received all information with regard to improvements and the provision of car parking for the town, to meet objectives of the

Carrigaline Transportation and Public Realm Enhancement Plan 2022. The applicant is willing to meet all other aspects of conditions 2, 3, 47, 57 and 60, but costs to do with design and construction will not be met, each condition reads as follows:

2. Prior to the commencement of development, or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing the Applicant shall submit and agree the detailed design of the Town Carpark with the Traffic and Transportation Section, with a view to addressing the concerns raised in the submitted Road Safety Audit (including problems 2.3 and 2.4), and addressing concerns raised by Traffic and Transportation in relation to potential conflict of traffic accessing the carpark and vehicles reversing from their parking space. The applicant is responsible for all costs to design and construct same.

Reason: To ensure safety of public road users.

3. Prior to the commencement of development, or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing full details of the proposed programme for the delivery of the Town Car Park in an orderly timeframe shall be submitted to and agreed in writing with the Planning Authority. The applicant is responsible for all costs to design and construct same.

Reason: To ensure satisfactory provision of facilities and in the interests of orderly development.

47. Prior to construction commencing, the applicant shall agree in writing with the Planning Authority, the detailed design of the Crosshaven Road with the Traffic and Transportation Section, with a view to providing fully segregate 2-way cycle and pedestrian facilities along the northern side of the Crosshaven Road (R-612). The applicant shall be responsible for all costs to design and construct same.

Reason: To ensure safety to public road users and in the interests of orderly development.

57. The applicant shall prepare & submit a Road Safety Audit (RSA) Stage 2 & Stage 3 for the entirety of works proposed within their red line boundary. The applicant shall be responsible for ensuring any actions / recommendations arising from the In the interests of safety to all road users. road safety audit is agreed and 'closed out' to the satisfaction of the road safety auditor for their sign-off of same. The road safety audit shall comply with TII's road safety guidance (GE-STY-0124 Road Safety Audit, GE-STY-0127 Road Safety Audit Guidelines, GE-STY-0125 Road Safety Audit – Audit Team Qualifications). The applicant shall be responsible for arranging the RSA and all costs associated with complying with same.

Reason: In the interests of safety to all road users.

60. Sufficient material quality and depths in compliance with TII design standards for the construction of proposed footpaths, roads, and cycle path infrastructure shall be provided. The applicant shall be responsible for all costs associated with same.

Reason: To ensure quality of construction and in the interests of orderly development.

7.6.5. I can see that each of the conditions above asks for design work to be done by the applicant to the satisfaction of the planning authority. This is not an unusual request to be made and in the normal course of events an agreement is usually reached. However, conditions 2, 3, 47, 57 and 60 requires a considerable amount of design work to be done over a significant portion of the public road and in addition the applicant is being requested to meet construction costs as well. I also note that condition 64 was calculated in accordance with the Council's Development Contributions Scheme and charged in respect of public infrastructure and facilities benefiting development in the area.

7.6.6. It appears to me that a significant portion of the public road, footpath and cycle facilities will be altered by the development as proposed and some amount of design work has already been done by the applicant. The works proposed will not facilitate

the development alone but will benefit the area as a whole. I also note that the Carrigaline Transportation and Public Realm Enhancement Plan (CTPRET) seeks a wide range of public realm improvements and the change from a roundabout to a signalised junction here is illustrated in the plan. In that regard I am satisfied that the applicant should continue to liaise with the planning authority in terms of the appropriate design of the public realm in this area of Carrigaline, but the costs to construct those works should be borne by the planning authority and covered by the section 48 development contribution scheme for the county. In addition, the applicant points out that the town car park and road improvements will transfer to the Council, but I have not seen any agreement, legal or otherwise that sets this all out. In any case, I recommend that all reference to the construction costs be attributed to the applicant should be omitted from conditions 2, 3, 47, 57 and 60.

Conditions 5 and 6

- 7.6.7. The applicant states that it is unreasonable to constrain development of the site, when the delivery of other elements of the scheme are beyond their control, specifically boundary treatments associated with the upgrade and widening of the R612. The applicant desires that conditions 5 and 6 be omitted altogether, each condition reads as follows:

5. The retail unit permitted by this development shall not commence retail operations until such time as units 1 café and unit 2 restaurant /deli have been completed and are made available for letting/ purchase.

In the interests of proper planning and sustainable development of the area.

6. Notwithstanding any details submitted with the planning application in relation to boundary treatments, before any development commences, or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing, details of the boundary treatments surrounding and within the development shall be submitted and agreed in writing with the Planning Authority.

In the interests of the proper planning and sustainable development of the area.

7.6.8. Condition 5 requires the completion and availability of units 1 café and unit 2 restaurant /deli before retail functions begin on site. I see nothing unreasonable with this requirement, it ensures the completion of the development in line with the further information request required by the planning authority. The provision of these two units gives some form of urban edge to the scheme and their completion will go a little way to enhancing the entrance to town. I am satisfied that condition 5 remains. For the sake of clarity and the omission of doubt, condition 5 should read as follows:

5. The Licenced Discount Foodstore retail unit permitted by this development shall not commence retail operations until such time as units 1 café and unit 2 restaurant /deli have been completed and are made available for letting/purchase.

In the interests of proper planning and sustainable development of the area.

7.6.9. Condition 6 deals with boundary treatments, and again it is not an unusual request. Boundary design and treatment is a fundamental part of any development that abuts the public road, such as this site and I am satisfied that condition 6 remains in its entirety.

Condition 16 and 38

7.6.10. The applicant explains that condition 16 refers to covered skips and to keep the site tidy and all of this is replicated in condition 38, each condition reads as follows:

16. During the course of construction of work the developer shall provide on site a covered skip or other such receptacle for the deposit therein of all rubbish, litter, packaging, rubble and other such materials arising from the works. The developer shall ensure that the site and its environs are maintained at all times in a clean and tidy condition.

Reason: To protect the amenities of the area.

38. During the course of construction works, the developer shall provide onsite a number of covered skips or other such receptacle for the deposit therein of all rubbish, litter, packaging, rubble and other such materials arising from the works. The developer shall ensure that the site and its environs are maintained at all times in a clean and tidy condition. Materials exported from the site for

recovery, recycling, or disposal shall be managed at an approved facility. Adequate on-site arrangements shall be made to the satisfaction of the Planning Authority for the storage of recyclable materials prior to collection.

Reason: To protect the local environment.

- 7.6.11. It can be seen that there is replication in conditions 16 and 38 with regard to covered skips and a tidy site. I recommend that condition 16 be omitted in its entirety and the 'reason' for condition 38 be amended as follows:

Reason: To protect the amenities of the area and the local environment.

Conditions 43 and 30

- 7.6.12. The applicant explains that condition 43 duplicates the compliance requirements set out in condition 30 with reference to a Construction & Environmental Management Plan (CEMP) and so condition 43 should be omitted, each condition reads as follows:

43. The operator of the site shall ensure that all construction and demolition works on site shall be carried out in accordance with a site specific Construction & Environmental Management Plan submitted by the applicant.

Reason: To protect the environment.

30. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall provide details of the intended construction practice of the development, and which will accord with the requirements of condition 8, and which shall include: (a) to (e).

Reason: To prevent water pollution.

- 7.6.13. I note that amendments to the preliminary CEMP with reference to the NIS was required by the planning authority as further information. A revised CEMP was submitted dated May 2022 and can be found on file. It can be seen that there is some replication in conditions 43 and 30 with regard to a CEMP. Both conditions require the submission of a further CEMP to address matters considered important by the planning authority and that were not covered by the submission made by the applicant during the planning application process. In addition, I note that condition 30

references accordance with the requirements of condition 8. Condition 8 refers to materials and finishes and is not relevant in this instance. I consider that condition 30 is the more robust and targeted condition and should remain with amendments to its content and the 'reason' as follows:

30. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall provide details of the intended construction practice of the development, and which shall include:

- a) Storage of construction and demolition materials on site. Waste storage areas shall be selected so that they are set back from watercourses, ecological sensitive areas of extreme vulnerability, and away from potential floodplain areas and areas containing invasive species. A site layout map (scale 1:500) prepared and submitted with planning application documents shall indicate where materials and waste will be temporarily stored prior to use, disposal / recovery
- b) Details of appropriate mitigation measures for Noise, Dust and vibration and monitoring of such levels(parameters) shall be provided.
- c) Measures for containment of construction related fuel and oils within specially constructed bund to ensure that fuel spillages are fully contained. Such bunds shall be covered to exclude rainwater. All hydrocarbon containers shall be double skinned and banded to guard against potential accidental spillages and leakages entering watercourses and drains. Appropriate Spill kits are to be retained on site all times to ensure that any spillages or leakages are attended to immediately.
- d) Cement contaminated water, concrete wash down water shall not be directly or indirectly discharged to any surface water feature/drains and to soil during construction activities. Measures to deal with Cement contaminated water, concrete wash down water during construction activities shall be provided.
- e) Site specific measures to ensure that surface water run-off is controlled such that no sediments/silt or pollutants enters local surface water drains and sewers shall be provided.

Reason: To prevent water pollution and to protect the environment.

Condition 35

7.6.14. The applicant states that condition 35 refers to demolition and construction noise, and should be amended with requirements that are more relevant to construction noise, not ongoing operational noise. The applicant offers alternative noise level restrictions to accommodate the noisier activities associated with demolition and construction in line with current construction best practice, the condition reads as follows:

35. The operator of the site shall ensure that all demolition and construction activities shall be carried out, such that no noise nuisance is caused to adjacent properties. The operator of the site shall ensure that Noise levels emanating from the proposed development when measured at Noise Sensitive locations shall not exceed:

55dBA (30 minute LAR) between 0700 and 1900 hours

50dBA (30 minute LAR) between 1900 and 2300 hours

45dBA (15 minute Leq) between 2300 and 0700 hours

All sound measurements shall be carried out in accordance with ISO Recommendations R 1996 - "Acoustics-Description and Measurement of Environmental Noise" as amended

The developer shall undertake a noise monitoring survey if so, directed by the Planning Authority. The survey and the monitoring sites used, shall be agreed with the Planning Authority in advance. The results of the survey shall be submitted to the Planning Authority within one month of completion of the survey.

Reason: To safeguard the amenities of the area, prevent noise nuisance and provide for noise monitoring.

7.6.15. Firstly, the applicant and I note that condition 35 and 45 demand the same noise limits to be adhered to. Correctly, condition 45 refers to operational noise and is appropriate in this instance. With respect to demolition and construction noise, these tend to be short term in nature and are subject to different criteria, the applicant has outlined them in detail in their grounds of appeal. However, I note that condition 30

(b) and 36 (v) reference construction phase noise, but leave out reference to parameters, as follows:

30 (b) Details of appropriate mitigation measures for Noise, Dust and vibration and monitoring of such levels (parameters) shall be provided.

36 (v) Details of appropriate mitigation measures for Noise, Dust and vibration and monitoring of such levels (parameters) shall be provided.

7.6.16. The second part of condition 35 refers to the timing of noise emissions from the site. I note that the planning authority have not attached a condition to limit the hours of demolition and construction activity on the site, this is standard practice, and I am surprised by its omission. However, I am satisfied that condition 35 can be replaced to reflect suitable construction hours. Finally, I am satisfied that the issue of demolition and construction noise is adequately dealt with in conditions 30 and 36 and so there is no need for an additional and very prescriptive condition that references demolition/construction noise. In that context I recommend that condition 35 should be replaced with a standard Board condition, as follows:

Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

Condition 50

7.6.17. The applicant explains that condition 50 limits the operational capacity of the site by restricting traffic movements. Condition 50 does not acknowledge the future plans to alter the current roundabout to a fully signalised junction after the Lidl site has been developed nor proposals to access the Lidl site (option 12) , the condition reads as follows:

The applicant, in agreeing the detailed design of the proposed Crosshaven Road (R-612) widening, shall review & submit options, recommending a preferred option, that restricts traffic exiting from the proposed access road

from turning right on to the Crosshaven Road (R-612). The applicant shall be responsible for all costs to design and construct same.

Reason: To ensure safety to all road users and in the interests of orderly development.

7.6.18. Condition 50, as it has been worded by the planning authority requires some future agreement for the redesign of a public road. However, in essence the condition seeks to limit right turning movements when existing the site on to the Crosshaven Road (R-612). The applicant points out that the proposed development includes an access road that will unlock zoned land to the south and that the roundabout in the vicinity will change to a signalised junction. The applicant further explains that traffic modelling that they carried out, sets out the suitability of the junction that they have proposed. In addition, the applicant already pointed out that traffic volumes will continue to grow and this tips over the requirement to signalise the current roundabout junction.

7.6.19. It appears to me that there are a lot of unsolved issues with regard to the way this site is to be accessed and what will happen in the general area in the future in the context of the aims and objectives of the CTPRET. I have already set out why I think that permission should be refused for this development as a whole and condition 50 confirms my doubts about overall roads design in this part of Carrigaline. In my mind, the pattern of how people and vehicles will move around this area is not fully thought through and condition 50 eliminates any kind of stakeholder engagement from the wider community. Notwithstanding my high level concerns, condition 50 restricts the operational viability of the site and is contingent on further design changes and options without public engagement or further traffic modelling. In that regard, I recommend that condition 50 be omitted altogether.

Condition 63

7.6.20. The applicant would prefer condition 63 to be amended to so that the signage associated with Lidl can progress and that the other two units can be agreed at a later date. I can see that condition 63 simply asks for agreement on signage before development commences, this is a standard approach to what is not known. The applicant points out that Lidl signage is standard in design and details have already been submitted, this is noted. The two additional units are shown with generic

signage. This area of Carrigaline is not protected by any particular landscape or townscape designation, it is not an Architectural Conservation Area and there are no protected structures in the vicinity. With regard to a location like this one in Carrigaline, I note objective TCR 9-20: Shopfronts and Signage of the current development plan and I am satisfied that the details already submitted with the planning application and amended by further information are adequate for the purposes of compliance with objective TCR 9-20. I recommend that condition 63 be omitted altogether.

Condition 49

7.6.21. The applicant explains condition 49 that provides for cargo bikes should be omitted altogether because it is contrary to the current development plan with reference to cargo bikes and road freight and ports, section 12.17 and 12.19 of the plan refer. No justification for the requirement to provide cargo bike parking has been made in the planning reports. The proposed development provides for 34 spaces and that exceeds development plan requirements and this is sufficient.

7.6.22. Firstly I note that there are only two references to cargo bikes in the current development plan and they are in the context of freight/ports, objective TM 12-14: Freight refers. The applicant is correct that the provision of cargo bike parking demanded by condition 49 is not set out clearly in the current development plan outside of port areas. However, it is desirable to provide additional space for bikes that are larger than the norm, in this case the Cycle Design Manual (September 2023) notes that there has been a noticeable increase in recent years in the use of non-standard cycle equipment such as cargo bikes, tricycles, electric bicycles etc. Consequently, it is important to ensure that cycle facilities are accessible to all users, it follows that cycle facilities must be designed to cater for all the different types of cycle vehicles in use. Notwithstanding the pace of change with regard to agreed standards and cycle parking, I find that condition 49 is reactive and without justification and should be omitted. However, it would be good practice to provide designated space for larger bikes and this sort of design change should have been sought as further information by the planning authority.

Condition 61

- 7.6.23. The applicant requests that condition 61 that asks for a canopy over bike parking spaces, should be omitted. The explanation is that 8 spaces will already be covered near the trolley bay of the foodstore. The applicant explains that a covered bike parking area at the retail units would be unsightly and attract antisocial behaviour and there was no similar requirement to provide covered bike spaces at the town car park.
- 7.6.24. From the layout drawing (drawing number 01-03 refers) submitted by the applicant I can see that there are four bicycle parking areas spread around the site, the one adjacent to the new foodstore is covered, whilst the rest are not. In total 44 bike spaces are proposed. Firstly, I note that Table 12.9: Cycle Parking for Non-Residential Development, states that sheltered (covered) cycle parking can provide a higher quality of short-term parking offering weather protection and helping protect bikes from accidental damage by providing greater separation from a sidewalk or parking area. Installing cycle parking underneath awnings, overhangs or stairways can also provide good shelter and may avoid extra construction costs. An enclosed structure provides the best shelter however a simple covering will still help to protect bikes and cyclists from rain and snow. A minimum of 50% of short-term cycle parking and all long-term cycle parking should be covered. Individual bike lockers can also be provided to provide safe cycle parking.
- 7.6.25. The applicant would have been aware that the current development plan looks to promote more sustainable travel modes, of which cycling is one, and that the provision of comfortable cycle facilities would help this aim. In that context, the applicant has only provided 8 covered spaces and this is less than the 22 spaces (50% of 44 spaces) that should be provided with some form of shelter. I also note that the Cycle Design Manual provides advice with respect to bike shelters, section 6.4 Locating On-Street Short Stay Parking refers. I am satisfied that condition 61 should remain in its entirety.

Condition 62

- 7.6.26. The applicant notes that condition 62 requires a bond to be submitted and used as security to ensure tree and shrub planting, in accordance with conditions 6 and 14. As conditions 6 and 14 refer to lands that will be impacted upon by Cork County

Council road works, this is unreasonable for the developer, and the condition should be omitted.

62. Before any development commences, or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing, the developer shall provide, to the satisfaction of the Planning Authority, security in the amount of €3,000 to guarantee the satisfactory completion of tree and shrub planting and all other landscaping proposals for the site as required by Condition Nos. 6 and 14. The sum lodged pursuant to this condition shall be refunded only when it is certified by the Planning Authority that the planting and landscaping have been completed to its satisfaction.

Reason: To ensure the satisfactory completion of the development.

7.6.27. Conditions 6 and 14 refer to boundary treatments and landscaping respectively.

Condition 62 is a standard bond condition to ensure satisfactory completion of landscaping proposed by the applicant and boundary treatments that are acceptable to the planning authority. I have already explained that condition 6 is acceptable and I support the attachment of condition 14 too, they are both reasonable and enforceable. There is no logical explanation to omit condition 62, it is standard practice to require a bond to secure satisfactory completion of development and will be returned if development is completed to an acceptable standard.

Appeal Conditions Conclusion

7.6.28. The applicant has raised issues with a large number of conditions attached by the planning authority to the notification to grant permission. The planning authority granted permission subject to 64 conditions, and most require further engagement prior to the commencement of development. In very broad terms, this raises serious questions as to the appropriateness of the development if so many points of detail and larger issues are to be resolved at a later date. This leaves uncertainty for the applicant, third parties and any other interested observers. In this regard I am mindful of the OPR Practice Note PN03 Planning Conditions October 2022, specifically section 3.9 Compliance Conditions, and so should the planning authority. The OPR state that the imposition of compliance conditions that require 'matters to be agreed' post decision should be given careful consideration, and I am not certain that this is the case in this appeal before the Board. Notwithstanding my general

observations with respect to the conditions attached, I have fully assessed the grounds of appeal lodged by the applicant and set out the reasons for any changes above, in short, I recommend the following:

1. Conditions 2, 3, 47, 57 and 60 should be amended and all reference to the construction costs be attributed to the applicant be omitted.
2. Condition 5 be amended as follows:
 5. The Licenced Discount Foodstore retail unit permitted by this development shall not commence retail operations until such time as units 1 café and unit 2 restaurant /deli have been completed and are made available for letting/purchase.

In the interests of proper planning and sustainable development of the area.

3. Condition 6 remain in its entirety.
4. Condition 16 be omitted in its entirety and the 'reason' for condition 38 be amended as follows:

Reason: To protect the amenities of the area and the local environment.

- 5 Condition 43 be omitted in its entirety.
- 6 Condition 30, the 'reason' be amended as follows

Reason: To prevent water pollution and to protect the environment.

- 7 Condition 35 be amended as follows:

Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

- 8 Condition 50 be omitted in its entirety.
- 9 Condition 63 be omitted in its entirety.
- 10 Condition 49 be omitted in its entirety.

11 Condition 61 remain in its entirety.

12 Condition 62 remain in its entirety.

7.6.29. Should permission be granted, the order of the conditions to be attached should be amended as appropriate.

7.7. Appropriate Assessment

7.7.1. The areas addressed in this section are as follows:

- Compliance with Articles 6(3) of the EU Habitats Directive
- The Natura Impact Statement
- Appropriate Assessment

Compliance with Articles 6(3) of the EU Habitats Directive

7.7.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

7.7.3. The proposed development is not directly connected to or necessary to the management of any European site and is therefore subject to the provisions of Article 6(3).

The Natura Impact Statement

7.7.4. A report entitled Ecological Assessment and information to support Appropriate Assessment accompanied the application documentation and included Screening and Natura Impact Statement sections. The Screening section of the report described the proposed development, the project site and the surrounding area. The Stage 1 Screening Assessment concluded that a Stage 2 Appropriate Assessment was required on the basis that there is potential for the proposed development, alone or in combination with other projects, to significantly impact the Cork Harbour SPA via impacts on water quality and disturbance to qualifying interests. The NIS outlines

the methodology used for assessing potential impacts on the wetland habitat and bird species that are qualifying interests of the SPA. It identifies and assesses the potential for adverse impacts on qualifying interest features and mitigation measures are detailed and described and in-combination effects assessed.

7.7.5. The NIS was informed by the following studies, surveys and consultations:

- A desk top study
- Habitat surveys
- Reference to a number of publications, data and datasets.

7.7.6. The NIS considers the main impacts to be related to the impact from surface water runoff during construction, impacts to bird species from visual disturbance and noise during construction and in-combination effects. There will be no direct impacts in the SPA and no loss of wetland habitat associated with the foodstore, retail units and car park construction.

7.7.7. The report concluded that, subject to the implementation of mitigation measures, that the construction and operation of the proposed development will not adversely affect (either directly or indirectly) the integrity of any European site, either alone or in combination with other plans or projects.

7.7.8. Having reviewed the NIS and supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, clearly identifies the potential impacts, and uses best scientific information and knowledge. Details of mitigation measures are provided, and they are summarised in Section 4 of the NIS and will be implemented via the CEMP, the final draft of which would be compiled by the eventual contractor. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development (see further analysis below).

Screening for Appropriate Assessment

7.7.9. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess

whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

7.7.10. Description of Site, Surroundings and Development: Section 1.0 of my report describes the site location and character of the surroundings, section 2.0 refers to the development as proposed and amended after a further information request.

7.7.11. European Sites: I note the applicant has determined that, in view of the source, pathway and receptors of potential impacts and the location, nature, and scale of the proposed development, a 15km radius is considered appropriate to screen all likely significant effects that might impact upon European sites. I accept, having regard to the nature, scale and location of the proposed development within the serviced urban settlement of Carrigaline, that this is reasonable. There are two European sites within 15km of the site, namely Cork Harbour Special Protection Area (Site Code: 004030) and the site is located immediately adjacent to it, i.e. Owenboy Estuary which forms a part of the SPA. The Great Island Channel Special Area of Conservation (Site Code: 001058) is 8 kilometres north east of the site.

7.7.12. The qualifying features of conservation interest and conservation objectives for the European sites are as follows:

European site (SAC/SPA)	Qualifying Interests and conservation objectives M: maintain favourable conservation condition R: restore favourable conservation condition	Distance
Great Island Channel SAC Site Code 001058	Mudflats and sandflats not covered by seawater at low tide [1140] M Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330] R	8km northeast of the proposed development.

European site (SAC/SPA)	Qualifying Interests and conservation objectives M: maintain favourable conservation condition R: restore favourable conservation condition	Distance
Cork Harbour SPA Site Code 004030	M for all: Little Grebe (<i>Tachybaptus ruficollis</i>) [A004] Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] Cormorant (<i>Phalacrocorax carbo</i>) [A017] Grey Heron (<i>Ardea cinerea</i>) [A028] Shelduck (<i>Tadorna tadorna</i>) [A048] Wigeon (<i>Anas penelope</i>) [A050] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Lapwing (<i>Vanellus vanellus</i>) [A142] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162]	50m – north of the proposed development. European

European site (SAC/SPA)	Qualifying Interests and conservation objectives M: maintain favourable conservation condition R: restore favourable conservation condition	Distance
	Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Common Gull (<i>Larus canus</i>) [A182] Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] Common Tern (<i>Sterna hirundo</i>) [A193] Wetland and Waterbirds [A999]	

7.7.13. Identification of Likely Effects: It is first acknowledged that the proposed development is not connected with or necessary for the conservation management of any Natura 2000 site. It is further acknowledged that the site may reasonably be determined to be in a sensitive ecological location due to its close proximity to the SPA and an unnamed drainage channel to the east. I note that all proposed works are intended to take place outside of the SPA and there would be no direct loss of habitat within the European site.

7.7.14. The potential impacts for an indirect hydrological connection with Great Island Channel SAC can be screened out at this stage due to the intervening distance.

7.7.15. The range of activities with potential effects on the adjoining European site would include:

- Vegetation clearance
- Demolition works and site excavation
- Construction of commercial units, services, access roads and car parks
- Construction of surface water and foul drainage systems

- Use of fuels, oils chemicals and concrete during the works
- Use of plant, equipment and machinery
- The presence of workers
- Occupation of the new development and associated activities

7.7.16. The potential effects would include:

- Displacement and disturbance of waterbirds arising from the works, including excavation, and presence of workers at the construction phase
- Displacement and disturbance of waterbirds at the operational phase due to the increase in human presence and associated activities
- Water quality impacts to coastal waters arising from surface water drainage and the potential for adverse outcomes from flooding
- Indirect water quality impacts from contaminated sediment and accidental spillage of fuels, oils and chemicals

7.7.17. It is reasonable to determine that the proposed development has the potential to result in disturbance effects due to noise emissions from plant, equipment and machinery, from the presence of workers, from lighting and that there is potential for displacement of birds due to this disturbance. It is also considered reasonable to determine that the nature and extent of the proposed works may potentially impact on the natural marine environment at this location arising from the effects on water quality through the release of pollutants which could negatively affect the species that use the waters as well as the seabed habitats. The operational impacts arise from the changed nature of the land use and the ongoing human presence and associated activities and use of the land.

7.7.18. Having regard to these considerations, it is reasonable to determine that the proposed development could have effects, direct and/or indirect, on the conservation objectives of the adjoining European site.

In-combination Effects

7.7.19. In Section 3.2.1 of the AA Screening Report, the applicant identified a range of plans, wastewater and industrial discharges, and some proposed developments that could result in potential cumulative impacts. I note the site of the proposed

development is located within the urban area of Carrigaline, the further ongoing development of the town, and the proximity to industrial development in the vicinity and to nearby Ringaskiddy. I am of the view that the proposal would seek to comply with development plan provisions and other public management plans associated with the area and do not consider that there would be any known potential cumulative impacts with such plans. I further note the emission standards to be met associated with treatment of wastewater and industrial discharges and the relatively small scale of the proposed development and do not consider that the proposed development would seek to contribute any significant cumulative impact. Point and diffuse sources of pollution within the harbour, as well as land use and marine activities in the vicinity, are acknowledged also. I know of no significant development proposals in the area with which there would be potential cumulative or in-combination adverse effects on European sites.

7.7.20. I am satisfied to conclude that there would be no known negative in-combination impacts with other plans and projects.

Mitigation Measures

7.7.21. No measures designed or intended to avoid or reduce any harmful effects of the proposed alterations on a European site have been relied upon in this screening exercise.

Screening Determination

7.7.22. The proposed development has been considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would be likely to give rise to significant effects on Cork Harbour SPA (Site Code: 004030), in view of its Conservation Objectives, and Appropriate Assessment is therefore required.

7.7.23. This determination is based on the following:

- The nature and extent of the proposed works associated with the proposed development,
- The functioning of the commercial development when occupied,

- The proximity to the adjoining European site, and
- The known pathways between the site and the adjoining European site.

7.7.24. Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors the following European Site is considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.

7.7.25. Based on my examination of the NIS report and supporting information, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would concur that a Stage 2 Appropriate Assessment is required for one of those European sites referred to above, that being the Cork Harbour SPA.

7.7.26. Great Island Channel SAC can be screened out from further assessment because of the nature and scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Conservation Interests, the separation distances and the lack of a substantive hydrological or ecological linkage between the proposed works and the European site. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site no. 001058, Great Island Channel SAC, in view of the site's conservation objectives and a Stage 2 Appropriate Assessment is not therefore required for the site. No reliance on avoidance measures or any form of mitigation is required in reaching this conclusion.

Appropriate Assessment

Background

7.7.27. The proposed development is not directly connected to or necessary for the management of any European site. It is therefore subject to the provisions of Article

6(3) of the EU Habitats Directive. Following the screening process above, it has been determined that appropriate assessment is required as it cannot be excluded on the basis of objective information that the proposed development individually or in-combination with other plans or projects will have a significant effect on Cork Harbour SPA (Site Code: 004030). The possibility of significant effects on other European sites has been excluded on the basis of objective information. Measures intended to reduce or avoid significant effects were not considered in the screening process.

Natura Impact Statement

- 7.7.28. The applicant submitted a Natura Impact Statement with the planning application to Cork County Council. The NIS addresses methodologies employed, gives a description of the project, identifies the relevant Natura 2000 site and assesses the potential significant effects thereon (inclusive of cumulative effects), and details mitigation. Potential adverse effects of the proposed development on Cork Harbour SPA were examined and assessed. No bird surveys were carried out and nor was a Bat Survey conducted despite a submission made by the Department of Housing, Local Government and Heritage. The NIS was prepared in line with current best practice and provides an assessment of all potential effects on the SPA arising from the proposed development.
- 7.7.29. The NIS concluded that there will no direct loss or modification of habitats within the Cork Harbour SPA and the potential for significant impacts as a result of the proposed development have been mitigated. I note the submissions received from the Department of Housing, Local Government and Heritage, the considerations of the planning authority's Ecology and Environment Sections, and the third party submissions.
- 7.7.30. Having reviewed the documents, submissions, reports and consultations, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of Cork Harbour SPA alone, or in combination with other plans and projects.

Appropriate Assessment Introduction

- 7.7.31. This assessment considers all aspects of the proposal which could result in significant effects and mitigation measures designed to avoid or reduce any adverse

effects are considered and assessed. The assessment has had due regard to the applicant's submitted Natura Impact Statement, the further information submission in response to ecological matters (CEMP), the reports received by the planning authority and the Board, and third party submissions.

7.7.32. The following guidance is adhered to in the assessment:

DoEHLG (2009) Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities.

EC (2002) Assessment of plans and projects significantly affecting Natura 2002 sites. Methodological guidance on the provisions of Articles 6(3) and 6(4) of the Habitats Directive 92/43/EC. Z

EC (2018) Managing Natura 2000 sites.

Observations on Land Use

7.7.33. I note the following relating to this site:

- The site comprises mostly brownfield lands. A large portion of the site is currently in use as a foodstore and associated car parking. That portion of the site that includes the public road, is currently in constant use. The final portion of the site is a combination of hardcore, gravel and scrub.
- The site lies within the settlement boundary of Carrigaline and is zoned for town Centre uses.
- The predominant habitat within the site consists of buildings and artificial surfaces, with some areas of amenity planting, immature woodland and a drainage channel. No flora of conservation interest or Annex II species were recorded on the site in surveys undertaken.
- No survey for SCI species for Cork Harbour SPA, Annex I or Red listed birds was undertaken on site.
- None of the lands designated as part of Cork Harbour SPA will be directly impacted or removed as a result of the proposed development. There will be no direct impacts on this SPA.

European Sites

7.7.34. The following site is subject to appropriate assessment:

- Cork Harbour SPA (Site Code: 004030)

- 7.7.35. Cork Harbour is a large, sheltered bay system, with several river estuaries - principally those of the Rivers Lee, Douglas, Owenabue and Owennacurra. The SPA site comprises most of the main intertidal areas of Cork Harbour.
- 7.7.36. Cork Harbour is of major ornithological significance, being of international importance both for the total numbers of wintering birds (i.e., > 20,000) and also for its populations of Black-tailed Godwit and Redshank. In addition, it supports nationally important wintering populations of 22 species, as well as a nationally important breeding colony of Common Tern.
- 7.7.37. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the following species: Little Grebe, Great Crested Grebe, Cormorant, Grey Heron, Shelduck, Wigeon, Teal, Mallard, Pintail, Shoveler, Redbreasted Merganser, Oystercatcher, Golden Plover, Grey Plover, Lapwing, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Greenshank, Blackheaded Gull, Common Gull, Lesser Black-backed Gull and Common Tern. The site is also of special conservation interest for holding an assemblage of over 20,000 wintering waterbirds. The E.U. Birds Directive pays particular attention to wetlands and, as these form part of this SPA, the site and its associated waterbirds are of special conservation interest for Wetland and Waterbirds.

Cork Harbour SPA – Conservation Objectives

- 7.7.38. The Conservation Objectives for the Cork Harbour SPA notes that the overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. The NPWS has prepared site specific conservation objectives, attributes and targets for the special conservation interests (SCI) associated with the Cork Harbour SPA, which can be found online at the NPWS website.
- 7.7.39. It is a conservation objective for Cork Harbour SPA to maintain the favourable conservation condition of the qualifying interests 23 no. bird species and that of the wetlands habitat listed in Table 8.1. I consider the qualifying interests are at risk of potential impact from the proposed development.

Relevant Aspects of the Proposed Development

7.7.40. Section 3.2 of the applicant's NIS details the characteristics of the proposed works associated with the project and Section 3.4.2 identifies other plans, projects and activities relating to potential in-combination effects. As referenced in the Screening undertaken earlier, the main aspects of the proposed development that could adversely affect the conservation objectives of the European sites include:

- Vegetation clearance
- Demolition works and site excavation
- Construction of foodstore, two units, access roads and car parks
- Construction of surface water and foul drainage systems
- Use of fuels, oils chemicals and concrete during the works
- Use of plant, equipment and machinery
- The presence of workers
- Occupation of the new development and associated activities

7.7.41. The potential effects would include:

- Displacement and disturbance of waterbirds arising from the works, including excavation, and presence of workers at the construction phase
- Displacement and disturbance of waterbirds at the operational phase due to the increase in human presence and associated activities
- Water quality impacts to coastal waters arising from surface water drainage and the provision and the potential for adverse outcomes from flooding
- Indirect water quality impacts from contaminated sediment and accidental spillage of fuels, oils and chemicals

7.7.42. The site of the proposed development lies immediately south of Cork Harbour SPA. Section 4.1 of the applicant's NIS addresses the potentially significant impacts on the Special Conservation Interests of the SPA. The following potential impacts are accepted:

- Potential for pollution during construction phase.
- Flood Risk.
- Disturbance to SCI species for the SPA.

Habitat Loss

- 7.7.43. There would be no loss of habitat within the SPA.

Habitat Alteration

- 7.7.44. Due to the development being in close proximity to the SPA and the existence of a drain along the site's eastern boundary, there is potential for receiving marine waters to be altered as a result of the ingress of pollutants during the construction phase, with the reduction of water quality potentially having a negative effect on water quality and the habitat which the birds of special conservation interest depend on for foraging. It is noted that the construction phase works would include excavation, drainage, house construction and stockpiling of materials. During the operational phase, surface water and foul water discharges could potentially impact water quality in Cork Harbour.

Disturbance and/or Displacement of Species

- 7.7.45. The Owenboy Estuary is noted to be used as a wintering site for 16 of the 23 SCI species for the SPA. The proposed works at the construction phase would result in noise emissions and visual disturbance, which would potentially displace foraging and roosting wetland birds, due to demolition work and plant and machinery operations, with workers' activities on the site also likely reducing feeding activity and potentially forcing birds to seek alternative feeding areas. It is acknowledged that the works would be short-term. The established use on the site and the established noise environment is noted at this location, including existing residential development in the immediate vicinity of the site. The SPA is designated for one breeding bird, Common Tern. Section 3.3.4 of the NIS states that a bird survey was not carried out due to the nature of the subject site and the lack of any kind of habitat that would support breeding or foraging. It is possible that the occupation and associated activities with the development of the residential estate on the site would potentially result in displacement of waterbirds, affecting the ongoing distribution and density of species in the immediate environs of the site.

Habitat or Species Fragmentation

- 7.7.46. There would be no habitat or species fragmentation within the SPA.

Considerations on the Effects on Conservation Objectives

7.7.47. The following is noted:

- There would be no land take of any wetland habitats and the proposed development would take place outside of the SPA.
- The site is not known to support or to provide suitable habitat to support the SCI species for which the SPA has been designated.
- The disturbance impacts at the construction stage would be short-term. The impacts at both the construction and operational phases would be localised.
- Foul effluent generated by the proposed development would be treated at Shanbally Wastewater Treatment Plant, whose discharge to waters is obligated by licence to meet required water quality standards.

7.7.48. The potential for pollutants entering the marine environment from the proposed development could negatively impact on water quality, which could result in habitat modification and affect the distribution and/or abundance of prey. This could impact on the distribution of foraging birds. The potential for disturbance of roosting and foraging birds arising from the works is noted. Having regard to the Conservation Objectives for the European site, to the 'Attributes' referenced, and the potential effects arising from the construction works and the operational phase of the residential development, it is concluded that appropriate robust mitigation measures would be necessary to avoid and/or ameliorate adverse effects.

Potentially Significant Cumulative Effects

7.7.49. The Board will note my considerations earlier in the Screening for AA in relation to in-combination / cumulative effects. The plans and projects associated with the Cork Harbour area and the various development pressures on the harbour have been identified by the applicant. I am again satisfied to determine that it may reasonably be concluded that there would not be significant in-combination / cumulative effects on bird species comprising the Special Conservation Interests of the Cork Harbour SPA.

Mitigation

7.7.50. Sections 4.2 and 4.5 of the applicant's NIS details the range of mitigation measures intended to be employed as part of the proposed development at the construction and operational phases. I note the applicant's further information submission to the

planning authority, and in particular the revisions to the preliminary construction management plan, and additional flood risk and tree survey details. I note that the range of construction phase mitigation measures proposed include the provision of a Construction and Demolition Management Plan, the application of best practice guidelines for the control of impacts on water quality, timing of construction works to reduce impacts on breeding birds, noise control measures, control of surface water runoff and a visual habitat inspection with reference to bats. I note the operational phase mitigation measures include landscaping provisions and boundary treatment, the application of surface water management features, and the treatment of foul waste at Shanbally WWTP. It is understood that Shanbally WWTP has sufficient capacity to accommodate the proposed development and that Irish Water has no objection to this proposal. I acknowledge the surface water drainage system would include a hydrocarbon interceptor. The control of public lighting during the operational phase is also noted. In my opinion, these constitute suitable, robust, comprehensive and necessary measures to avoid any adverse impacts on the integrity of Cork Harbour SPA.

Residual Impacts

- 7.7.51. I am satisfied to concur with the applicant's findings that, if the proposed mitigation measures are implemented in full, it is expected that significant effects would not result for the Species of Conservation Interest of Cork Harbour SPA. Following my appropriate assessment of the proposed development and with due regard to consideration of the proposed mitigation measures, I am able to ascertain confidence that the proposed development would not adversely affect the integrity of Cork Harbour SPA in view of the Conservation Objectives of the site. This conclusion is drawn on a complete assessment of all implications of the proposed development alone and in combination with other plans and projects.

Appropriate Assessment Conclusion

- 7.7.52. The proposed development has been considered in light of the assessment requirements of the Planning and Development Act 2000 as amended.
- 7.7.53. Having carried out screening for appropriate assessment of the project, it was concluded that it may have a significant effect on Cork Harbour SPA. Consequently,

an appropriate assessment was required of the implications of the project on the qualifying features of the site in light of its conservation objectives.

7.7.54. Following an appropriate assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of Cork Harbour SPA (Site Code: 004030), or any other European site, in view of the site's Conservation Objectives.

7.7.55. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives of Cork Harbour SPA.
- Detailed assessment of in-combination effects with other plans and projects including current plans and proposed projects in the area.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Cork Harbour SPA.

8.0 Recommendation

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

9.0 Reasons and Considerations

1. The proposed development includes standalone car parking for 212 car parking spaces and this would be contrary to Objective CL-GO-05 contained in Volume 4 South Cork of the Cork County Development Plan 2022-2028, that seeks to support and implement the provisions of the Carrigaline Transportation and Public Realm Enhancement Plan (CTPREP). The disconnected and poorly thought out extension of the town centre, the lack of a strong urban edge at the periphery of the site and the extent and oversupply of car parking of the scale proposed does not form part of any plan or objective contained in the CTPREP and would militate against the aims of the plan to identify the future transportation requirements of the town and consider

them in the context of urban realm enhancement opportunities. The proposed development would work against the achievement of an attractive urban environment that celebrates the assets of the town and provide high quality spaces and this would thereby constitute a substandard form of development which would seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

2. Having regard to section 4 of the Flood Risk Assessment submitted with the application and to the projected extent of post development flood zones as a result of the proposed development, the Board does not consider that the proposal has been subject to an appropriate flood risk assessment that would accord with Cork County Development Plan Objective WM 11-17: Development in Flood Risk Areas or satisfy criterion no. 2 of the Justification Test for development management set out in section 5.15 of the Guidelines for Planning Authorities on the Planning System and Flood Risk Management issued by the minister in November 2009. Specifically, it has not been satisfactorily demonstrated that the proposed development would not increase flood risk elsewhere or reduce overall flood risk. A grant of permission would therefore be contrary to the development plan for the area and the guidelines, and would, therefore be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Stephen Rhys Thomas
Senior Planning Inspector

12 March 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-314953-22		
Proposed Development Summary	Demolition of existing discount foodstore, construction of new discount foodstore and town car park on a total site area of 2.766 Hectares.		
Development Address	Carrigaline Lidl Foodstore & Council Yard/Circus Field, Kilnaglery, R612, Crosshaven Road and Roundabout, Carrigaline, Co. Cork.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	✓		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	✓	10. Infrastructure projects, (b) (ii) Construction of a car-park providing more than 400 spaces, other than a car-park provided as part of, and incidental to the primary purpose of, a development.	Replacement foodstore at an edge of town centre location with standalone car parking of 212 spaces on a site of 2.766 Hectares
			Conclusion
			No EIAR or Preliminary Examination required

		And (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.	Scale of car parking development is less than 400 spaces, on a site of 2.766 Hectares outside of the business district area.	
Yes				Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	N/A	Preliminary Examination required
Yes	N/A	Screening Determination required

Inspector: _____

Date: _____