



An
Bord
Pleanála

Inspector's Addendum Report

ABP-315409-22

Development

Construction of discount food store (with ancillary off-licence), vehicular and pedestrian access from Clonfert Avenue and Dominic Street, car parking, boundary treatments and signage. A Natura Impact Statement (NIS) accompanies the planning application

Location

Clonfert Avenue and Dominic Street,
Portumna, Co. Galway

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

2260734

Applicant

Lidl Ireland GmbH

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party v Refusal

Appellant

Lidl Ireland GmbH

Observer(s)

O' Meara's Supervalu, Portumna
Lorraine Didek

Galway Cycling Campaign

Date of Site Inspection

16th June 2023

Inspector

Ian Campbell

1.0 Introduction

- 1.1. This report is an addendum report to the Inspector's report in respect of ABP-315409-22 (dated 13th December 2023).
- 1.2. On the 20th of June 2024 the Board decided to defer consideration of this case and issued a **Section 137 notice** to the parties under the Planning and Development Act, 2000, as amended.
- 1.3. A Section 137 notice was issued to the parties on the 23rd of July 2024, the wording of the Direction was as follows:
 1. That the parties be invited to address the issue of the location of the surface car parking together with part of the internal road network serving the supermarket and the zoning of this proposed location.
 2. That the parties be invited to address whether the proposal provides appropriate pedestrian/cycle permeability in light of the guidance set out in the Retail Design Manual, a companion document to the Retail Planning Guidelines for Planning Authorities, 2012, which provides that new retail development should provide greater pedestrian permeability both through the development itself, and into the network of routes and destinations of its locality.
- 1.4. This report considers the submissions made by the applicant and the observers on foot of the notice. Submissions were received from the applicant, O'Meara's Supervalu (Observer c/o Brock McClure) and Lorraine Didek (Observer c/o John Hanahoe). Galway County Council and Galway Cycling Campaign did not make submissions.

2. Response(s) to the Board's S. 137 Notice

- 2.1. The applicant made the following points in their submission to the Board (dated 8th of August 2024).

Re. Zoning – the encroachment onto the 'Open Space, Recreation and Amenity' zoned lands does not undermine any fundamental provisions of the Development Plan, and will support the objectives of the Development Plan i.e. the avoidance of incompatible development types. More specifically the applicant's submission notes;

- The proposal would not be a material contravention of the Development Plan as the extent of the encroachment is minimal.
- The Board have permitted development which entailed more significant encroachments.
- The zoning is only one of the policy layers, others include the opportunity site designation and the constrained land-use objective.
- The Planning Authority were satisfied that the proposed development was acceptable.
- The intention for the area of land zoned 'Open Space, Recreation and Amenity' is not to create an active area of open space, but rather to reflect the flood risk of this part of the site. Objective SGT8 and SGT16 support this contention.
- The proposed development, as it relates to the area of the site zoned 'Open space, Recreation and Amenity' is water compatible, does not create a flood risk elsewhere, and complies with Objective SGT8 and SGT16.
- Flood storage is catered for within the site.
- An alternative area of open space is proposed (if deemed necessary), should the loss of open space be of concern to the Board.

Re. Permeability – adjustments have been made (see *Drawing no. 01-02*). The applicant states that these adjustments enhance pedestrian and cycle permeability within the site and maximise accessibility for pedestrians and cyclists. More specifically the applicant's submission notes that within the site;

- The priority is for convenient cycle parking and the promotion of a low speed environment.
- Dedicated cycle lanes/routes are not proposed, and are not in accordance with best practice. The National Cycle Manual states that *'mixed or shared streets are suitable in low traffic single lane environments where cyclists and pedestrians take precedence over vehicular traffic'*.
- Cyclists are well catered for within the site with extensive cycle parking.
- Enhanced pedestrian facilities will also benefit dismounted cyclists.

- The pedestrian desire line from Clonfert Avenue has been enhanced, through the refinement of the road and path layout from the public footpath to the store entrance.
- Cycle parking has been adjusted to avoid cluttering.
- Carriageway widths have been reduced and dropped kerbs have been expanded to provide more direct and obvious pedestrian routes.
- The pedestrian desire line from Dominic Street has also been enhanced, with a widening of the path along the building.
- Pedestrian links from the parking area have been enhanced, with additional/enhanced paths to direct customers towards the pedestrian network within the site.

The applicant notes that the revised layout involves subtle changes however they measurably improve permeability, based on the principles set out in the Retail Design Manual, for instance in relation to directness of links, following desire lines, decluttering paths and routes, providing for accessibility, well-lit routes, regulating traffic speeds through design, etc.

Regarding permeability to and from the site the applicant notes;

- The site is within the designated town centre and is the optimal location for the proposal.
- The site is connected to the town centre and surrounding residential areas by footpaths on both frontages of the site.
- A pedestrian crossing of Dominic Street is proposed.
- It is proposed to provide a wider footpath along the northern side of Dominic Street, along the frontage of the site, whereas in the previous proposal the footpath tapered in width to meet a narrow section of footpath.

- A connection from the footpath to the east of the site is proposed to allow for a more direct route.

The submission is accompanied by a letter from a consulting engineer outlining 5 no. changes to the proposal (which have generally been referred to above), specifically;

- The upgrading of the footpath on Domnic Street for the full extent of the planning boundary.
- Increase in the width of the footpath adjacent to the building, reducing the number of car park spaces in this area to allow for a minimum 1.8m wide footpath.
- Widening of the dwell area for pedestrians to allow for a better crossing at the main entrance into the site off the N65. Tightening of the kerb radius at the main entrance to provide a better pedestrian crossing and slow traffic entering the carpark area. The parent and child spaces are now located adjacent to this area to allow for a safer access into the store from these spaces.
- Narrowing of the aisle widths within the carpark to allow for shorter crossings for pedestrians.
- A further pedestrian connection has been made to the southeast of the site to provide greater permeability from this direction.

2.2. O'Meara's Supervalu (Observer c/o Brock McClure) made the following points in their submission to the Board (dated 9th of August 2024).

Re. Zoning -

- the 'Open Space, Recreation and Amenity' zoned lands are within Flood Zone A. It is proposed to accommodate car parking and EV car parking on this part of the site.
- The area of the site zoned 'Open Space, Recreation and Amenity' is also designated as a 'Constrained Land Use' and the provisions of Objective STG16 apply.
- Car parking is not identified in the 'water compatible' list in the Flood Risk Guidelines, 2009. Impermeable surfaces can exacerbate flooding issues by

preventing water absorption to the ground. The presence of vehicles in flood zones gives rise to pollution risks and a risk of people becoming trapped in vehicles. The siting of EV charging stations within a flood risk area results in a risk of electrocution.

- The applicant is attempting to make the case that the Constrained Land Use category takes precedence over the Open Space, Recreation and Amenity zoning. This is at odds with planning legislation and regulations.
- Car park use class is not 'permitted in principle' nor is it 'open for consideration' under the site's zoning objective and therefore, the proposed development materially contravenes the Development Plan's 'Open Space, Recreation and Amenity' land use zoning, objective and description, posing potential flood risk issues which have not been addressed appropriately.

Re. Permeability –

- The proposal is car dominant with little consideration of pedestrians and cyclists. There is no pedestrian only route through the site and pedestrian/cyclist priority is not evident. The proposal is not conducive to a walking environment. Pedestrian routes are not direct or easy. There is no dedicated cycle route through the site.
- The applicant did not address issues raised in the Road Safety Audit (RSA), specifically anticipated levels of pedestrian activity and likely desire lines to and from the site.
- The proposal does not effectively link to the centre of the town. The closest pedestrian crossing on the N65 is c. 400 metres from the site. The N65 is a high speed environment.
- The site is c. 550 metres from the closest bus stop.
- The National Sustainability Policy (2022) and DMURS commits to a pedestrian first approach.
- There is no dedicated pedestrian route from the Clonfert Avenue entrance to Dominic Street.
- There is no provision for internal traffic calming.
- There is no provision for a pedestrian crossing across the Clonfert Avenue or Dominic Street access points, forcing pedestrians to navigate an area designed for vehicles.

2.3. Lorraine Didek (Observer c/o John Hanahoe) made the following points in her submission to the Board (dated 12th of August 2024).

- Car parking is not permitted under the Open Space, Recreation and Amenity zoning.
- The site is susceptible to flooding.
- The proposal prioritises car users and is contrary to the Retail Design Manual.
- Traffic safety concerns at N65 and Dominic Street.
- Traffic generation from proposal.
- The entrances to the site are very wide and make no provision for pedestrian crossings.

On the 18th of December 2024 the Board issued a **Section 131 notice** under the Planning and Development Act, 2000, as amended. This notice was sent to the parties on the 8th of January 2025.

2.4. The applicant made the following points in their submission to the Board (dated 28th of January 2025).

- Both of the observer's submissions depart from the subject matter raised in the Board's request and these comments should be disregarded, however in respect of the issues raised in these observations the following is noted;
 - Re. Flood Risk –
 - the area of the car park in question has been designed to manage a flood event.
 - the car park as a whole has been designed to manage surface water.
 - car parks are not specified as vulnerable to flooding in the Flood Risk Guidelines and proposals for same should be assessed on their merits.
 - the Planning Authority considered the proposal acceptable in terms of flooding.
 - Re. Design & Layout –
 - the provision of car parking for a foodstore is well established (examples cited).

- the proposal is underpinned by a design rationale, master planning exercise and a sequential assessment.
- Re. Permeability –
 - reference to modifications made.
- Re. Traffic/Roads –
 - issues relating to traffic are extensively addressed in the planning and appeal process to date.

2.5. Lorraine Didek (Observer c/o John Hanahoe) made the following points in her submission to the Board (dated 28th of January 2025). A number of the issues raised are included in Lorraine Didek's previous submission and I do not intend to repeat these.

- The Drawing in Appendix C was missing from applicant's response documentation.
- Figure 2 in the applicant's documentation is unclear.
- The drawing in the engineer's document is not scalable and is illegible.
- The proposal for a car park in a flood zone is incompatible with the Flood Risk Guidelines.
- The examples cited by the applicant in relation to precedent cases differ compared to the current proposal.
- Car parks are not normally permissible under the 'Open Space, Recreation and Amenity' zoning, and there is no further qualification as there are for other uses, for example uses under the 'open for consideration' criteria.
- The applicant's contention that the Constrained Land Use takes precedence over the land use zoning is at odds with planning legislation and regulations.
- Car parks are not water compatible development.
- The issue of pluvial flooding is not addressed.
- The adjustments made to address permeability do not maximise accessibility.
- The site is removed from the town centre.
- Issues raised on the RSA have not been addressed by the applicant.

- Permission has been granted by Galway County Council in the intervening period for a Lidl in Loughrea which is likely to have implications for retail impact.

2.6. O' Meara's Supervalu (Observer c/o Brock McClure) made the following points in their submission to the Board (dated 27th of January 2025). A number of the issues raised are included in the previous submission made on behalf of O' Meara's Supervalu and I do not intend to repeat these.

Re. Zoning -

- Any encroachment into the open space designation is a significant deviation from the Development Plan.
- The precedent cases referred to by the applicant are irrelevant in the context of the current application.
- The subject site is within Flood Zone A and is designated as a Constrained Land Use, both of which impose significant constraints on development.
- The applicant's interpretation of Objective SGT 16 is flawed. This objective restricts development in flood-risk areas and explicitly prohibits uses that could exacerbate flood risk. The applicant's claims that the proposal aligns with "qualitative" assessments does not override the clear zoning restrictions and flood risk management requirements outlined in the Development Plan and the Flood Risk Management Guidelines (2009). The Development Plan's flood risk management framework takes absolute precedence over subjective or qualitative arguments.
- The applicant's assertion that flood risk is adequately managed is unsupported.
- The applicant's argument that car parking is flood compatible is inadequate.
- The applicant has not undertaken the Justification Test.
- The applicant's offer of compensatory open space is misguided as it is located outside the flood risk area. The area in question was zoned 'Open Space, Recreation and Amenity' after consideration of environmental, flood and community needs and the applicant's response is dismissive of these facts. The applicant's approach diminishes the integrity of the zoning map by treating it as flexible and easily adjusted.

Re. Permeability –

- While minor adjustments to paths and kerb designs have been made, these changes do not resolve the fundamental issues regarding pedestrian permeability. There is a lack of dedicated pedestrian routes throughout the site, leaving pedestrians to navigate through vehicular areas, which is not only inconvenient but also unsafe, particularly for vulnerable users such as the elderly, children, and those with mobility challenges.
- With two access points the proposal creates a 'rat-run' which will not function as a low-speed environment, this cannot be addressed through road markings.
- There are no pedestrian crossings at the two accesses.
- The Retail Planning Guidelines require retailers to adapt their format, this is not apparent from the proposal.
- The surrounding pedestrian and cycle routes should be fully integrated with the internal circulation system of the site.
- The applicant's claim to extend and upgrade footpaths along Dominic Street does not adequately address the fundamental safety concerns raised in the RSA. The audit identified several critical issues, including narrow footways, hazards on footpaths, and the absence of safe crossings across Clonfert Avenue/N65. The RSA raised concerns about the provision of an informal crossing point on Dominic Street, noting that while dropped kerbs and tactile paving were included, these features were insufficient for safe pedestrian crossing. Moreover, no similar provisions were made for pedestrians wishing to cross the N65. The audit also flagged other concerns, such as inadequate visibility at crossing points, particularly at the northern side of the crossing on Dominic Street.
- The applicant's submission is vague, incomplete, and fails to address fundamental concerns regarding the quality, safety, and connectivity of the pedestrian and cyclist routes to and from the site. While the development makes some superficial improvements, these are inadequate to promote safe, efficient, and sustainable movement within the site and its surrounding areas. In addition, there is a notable lack of attention to cycling infrastructure and public transport links, which are vital for a development of this nature.

Arising from the omission of a drawing in the Board's previously correspondence sent to the parties on the 8th of January 2025 the Board issued subsequent correspondence to the parties on the 29th of January 2025 seeking comments on the applicant's submission dated 8th August 2024.

2.7 O'Meara's Supervalu (Observer c/o Brock McClure) made the following points in their submission to the Board (dated 14th of February 2025). A number of the issues raised are included in the previous submissions made on behalf of O' Meara's Supervalu and I do not intend to repeat these.

- Notwithstanding the changes indicated on the site layout submitted by the applicant it remains that the proposal is centred around the car with minimal consideration of pedestrians. The development makes it difficult for pedestrians and cyclists to navigate the site safely and conveniently. The observer has included a map indicating the route pedestrians would traverse and details of the number of times pedestrians would be required to cross roads within the scheme.
- All pedestrian crossings within the site are informal.
- There are no raised tables to slow traffic at the site entrances, where entrance widths are c. 6.5 metres and c. 7.5 metres.
- The applicant's RSA noted that informal crossing points have been proposed at locations where vehicles may be parked adjacent, presenting a potential obstruction to clear intervisibility between motorists and pedestrians.
- There is no provision for footpaths to the rear of a number of parking bays throughout the site and pedestrians will need to walk within the circulatory aisles where the risk of conflict with vehicles is higher.

2.8. Lorraine Didek (Observer c/o John Hanahoe) made the following points in her submission to the Board (dated 17th of February 2025). The submission also includes a copy of Lorraine Didek's previous submission submitted to the Board on the 28th of January 2025.

- Correspondence/maps submitted by the applicant are unclear. Scale on the site layout plan is not commensurate with that as stated.

- The catchment area used in a planning application for a Lidl in Loughrea overlaps with that used in the current application.
- The proposal will exacerbate vacancy within Portumna.

3 Assessment

3.1. Zoning:

- 3.1.1 The crux of the applicant's case, as set out in their submissions, in relation to the encroachment of the proposed development into the area of the site zoned 'Open Space, Recreation and Amenity' is that the area concerned is minimal; that the Board have previously permitted development entailing encroachments of a more significant extent; and that the area concerned was zoned based on flood risk and was not intended to serve an amenity function. Observations note that the proposal contravenes the Development Plan; that the applicant has misconstrued Objective SGT 16; that the Constrained Land Use designation does not override the underlying land use zoning; and that the precedent cases referred to are not relevant to the current case.
- 3.1.2 I have considered the submissions made by the applicant and the observers. As stated in my initial report, 'car park' use class is 'not normally permitted' under the 'Open Space, Recreation and Amenity' zoning and the area of the appeal site to which this land use zoning pertains is not insignificant in the context of the wider site (representing 0.12 Ha./c. 13% of the appeal site, and comprising c. 35 no. car parking spaces). Irrespective of the rationale for the zoning of this area, which appears to be based on flood risk, the proposal would in my opinion represent a departure from a fundamental provision of the plan for this specific location, which as set out in the zoning objective for the Open Space, Recreation and Amenity zoning, is *'to protect and enhance existing open space and provide for recreational and amenity space'*. The provision of car parking and an internal roadway would clearly not achieve the stated objective for these lands.
- 3.1.3. Regarding the appellant's reference to various precedent cases, as stated in my initial report, it would be inappropriate to draw any conclusions from the decisions of An Bord Pleanála in respect of previous applications which do not relate to the subject site and its surroundings. The application before the Board should be determined in relation to

the particular set of circumstances pertaining to the site and its surroundings and to the policy and provisions set out in the Galway County Development Plan 2022 – 2028.

- 3.1.4. On the issue of Policy Objective SGT16 and the appellant's contention that the Constrained Land Use designation supersedes the base zoning, I refer the Board to Note 6 under the land-use zoning matrix in the Galway County Development Plan 2022 – 2028 (Volume 2, Small Growth Towns) which states that *'permissible uses shall be constrained to those water compatible and less vulnerable uses as relevant to the particular flood risk zone'*, it does not however state that water compatible uses which are 'not normally permitted' will be considered permissible on the basis of being located within a constrained land use zone. In my opinion the underlying land use zoning remains pertinent, with an additional restriction imposed on 'permissible' uses requiring them to be water compatible.
- 3.1.5 The applicant's submission on foot of the Section 137 Notice proposes the provision of an alternative area of open space within the site should the Board have concerns in relation to the loss of zoned open space land. This does not however address the substantive issue of the encroachment of the development onto the part of the site zoned *'OS – Open Space, Recreation and Amenity'*, and I submit to the Board should not be considered as an approach means of addressing the issue.
- 3.1.6. Having regard to the forgoing, I recommend that permission is refused on the basis that the provision of surface car parking together with part of the internal road network serving the supermarket located on the part of the site zoned *'OS – Open Space, Recreation and Amenity'* in the Galway County Development Plan 2022 - 2028, would contravene materially the applicable zoning objective. I note that the Planning Authority did not refuse permission for the proposed development on the basis that it would materially contravene the Development Plan on the grounds of zoning and as such should the Board be minded to grant permission for the proposed development it is not constrained by Section 37 (2) (b) of the Planning and Development Act, 2000, as amended. In my view however, having regard to the information submitted with the application and the appeal, and the observations received, there is no compelling justification for materially contravening the Development Plan in this instance.
- 3.2. Pedestrian/Cycle Permeability:

3.2.1 The applicant has made a number of amendments to the proposal, including the widening of footpaths within the site, footpath improvements along Dominic Street, tightening of kerb radii at the main entrance, and the provision of an additional pedestrian access. The applicant contends that the changes enhance pedestrian and cycle permeability by improving the directness of links, decluttering routes and regulating traffic speeds through design. The applicant notes that dedicated cycle routes are not proposed as they are not in accordance with best practice. The observers note that despite the changes, the design/layout of the proposal remains car centric, with minimal consideration of pedestrians, and that pedestrians, cyclists and those with mobility impairments will face difficulties navigating the site safely and conveniently.

3.2.2 I have considered the amendments made to the proposed layout, the points raised by the applicant and those made by the observers. In considering permeability it is important to distinguish the proposal in the context of the relationship of the site to wider area, specifically Clonfert Avenue and Dominic Street, which bound the site to the west and east respectively. As addressed in my initial report, the site is identified as an opportunity site and it is important in my view that any development of the site provides a high degree of permeability to facilitate cross connection between Clonfert Avenue and Dominic Street. In my opinion, and notwithstanding the proposed amendments, the proposal does not incorporate appropriate pedestrian/cycle permeability, is not sufficiently pedestrian/cyclist orientated, and would give rise to an unattractive environment for pedestrians and cyclists. This is primarily due to the absence of a direct and dedicated route for pedestrians and cyclists who will seek to traverse the site. Cyclists traversing the site will have the option of either sharing the same path as pedestrians, which raises safety concerns, or use the same carriageway as vehicles which would entail passing behind parked cars, which when parked nose in will reverse out onto the carriage and into the path of cyclists traversing the site. The absence of pedestrian crossings at either entrance and the absence of measures to slow traffic, such as raised tables, in my view further highlights the unattractiveness of the environment for pedestrians.

3.2.3. Regarding permeability and connectivity with the locality, as referred in the Section 137 Notice, having regard to the presence of footpaths on both Clonfert Avenue and Dominic Street and the town centre location of the proposal and I am satisfied that

proposal is sufficiently connected to the settlement. However, that being said connection into existing routes is dependant on permeability through the site to enable onward connectivity, and as addressed above this in my view has not been satisfactorily addressed.

3.2.4. Having regard to the forgoing, I recommend that permission is refused on the basis that the proposal lacks the degree of pedestrian/cycle permeability which is required noting the nature of the site, specifically its relationship to Clonfert Avenue and Dominic Street and its designation as an opportunity site, and would be contrary to the guidance set out in the Retail Design Manual, a companion document to the Retail Planning Guidelines for Planning Authorities, 2012, which requires that new retail development should provide greater pedestrian permeability both through the development itself, and into the network of routes and destinations of its locality, thereby increasing pedestrian flows.

3.2.5. Additional Matters

As addressed in my initial report, the design and orientation of the store results in a largely unsurveilled car park through which pedestrians and cyclists would have to traverse, including during hours of darkness. I note that the Board's Section 137 Notice did not refer to this and as such the applicant and parties to the appeal have not had an opportunity to address/comment on same. In my opinion, this issue is of significance in the context of the attractiveness of the proposal for pedestrians and cyclists, however should the Board wish to include this issue within the reason(s) for refusal it remains a new issue and the Board may wish to seek the views of the parties concerned.

4 Recommendation

I refer to the previous Inspector's Report and recommendation dated 13th of December 2023. Having regard to the additional submissions received, it remains my view that permission should be refused on the basis that the proposed development would contravene materially the zoning objective which applies to the northern part of the site, which is 'OS – Open Space, Recreation and Amenity' in the Galway County Development Plan 2022 – 2028, and that notwithstanding the changes made to the

proposal, as indicated on *Drawing no. 01-02*, the proposal lacks appropriate pedestrian/cycle permeability, would give rise to an unattractive environment for pedestrians and cyclists, and would be contrary to the guidance set out in the Retail Design Manual, a companion document to the Retail Planning Guidelines for Planning Authorities, 2012.

5 Reasons and Considerations

1. It is considered that the provision of surface car parking together with part of the internal road network serving the supermarket located on the part of the site zoned 'OS – *Open Space, Recreation and Amenity*' in the Galway County Development Plan 2022 - 2028, would contravene materially the said zoning objective and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the dual fronted nature of the site the proposal would create a strong desire line for pedestrians and cyclists seeking to cross between Clonfert Avenue and Dominic Street. It is considered that the proposal lacks a dedicated, direct and safe route through the site, with pedestrians and cyclists traversing the site having to share the road surface with vehicles and cyclists having to pass behind parked cars. The proposal therefore lacks appropriate pedestrian/cycle permeability, is not pedestrian/cyclist orientated, would give rise to an unattractive environment for pedestrians and cyclists, a propensity for vehicular pedestrian conflicts, and would be contrary to the guidance set out in the Retail Design Manual, a companion document to the Retail Planning Guidelines for Planning Authorities, 2012, which provides that new retail development should provide greater pedestrian permeability both through the development itself, and into the network of routes and destinations of its locality, thereby increasing pedestrian flows. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Note: Given the importance of the site as a crossing for pedestrians and cyclists it is considered that a high degree of surveillance of the car park and pedestrian route is required to be provided by the supermarket building. As fenestration is largely absent from the northern elevation of the supermarket building it is considered that the proposal fails to provide an adequate design response to the site and surrounds, in

particular noting the identification of the site as an opportunity site in the Galway County Development Plan 2022 – 2028.

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.

Ian Campbell
Senior Planning Inspector

26th March 2025