



Development	Demolition of existing licensed discount foodstore and construction of new licensed discount foodstore, with all associated site works.
Location	Existing Cobh Lidl Foodstore, Ticknock Road, Dean and Chapter Land of Cloyne, Cobh, Co Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	22/4299
Applicant(s)	Lidl Ireland GmbH
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party v. Refusal
Appellant(s)	Lidl Ireland GmbH
Observer(s)	None
Date of Site Inspection	23 May 2024
Inspector	Cáit Ryan

1.0 Site Location and Description

- 1.1. The site is located near the northern extent of Cobh, approx. 13km south east of Cork city, and approx. 140m south of the Cobh development boundary at this location. The 0.69ha site comprises a Lidl supermarket, set within an existing retail/commercial park described as Ticknock Retail Park. It is accessed via a shared vehicular route from L-2989-30, Ticknock Road, which adjoins the site to east. This local primary road is a heavily trafficked route at a northern entrance to the town.
- 1.2. Other occupiers/uses within the retail park include Aldi, An Post Delivery Services Unit, YCMA Cobh, Pet Plus and veterinary and physiotherapy practices. A supermarket (SuperValu) is located south of the retail park, with a separate access from Ticknock Road.
- 1.3. The site is bounded to the north by a relatively narrow road L-7017-0, to the north of which is an old graveyard and church ruins. This cul-de-sac road accesses the grounds of Cobh Wanderers AFC and a small number of detached houses. There is much variation in ground levels in the general area. The eastern part of the graveyard and the church ruins are located approximately at the brow of a hill, and ground levels at the eastern end of the graveyard are substantially above the adjoining Ticknock Road.
- 1.4. The Lidl premises occupies the northern portion of the retail park. The supermarket is located at the western part of the subject site, with a large expanse of surface car parking between the building and Ticknock Road. The supermarket is at a slightly higher level to the road, whereby the site slopes gradually from west to east.
- 1.5. The site is bounded -
 - To south by other premises in the overall Ticknock Retail Park.
 - To east by Ticknock Road, on the opposite side of which are undeveloped lands.
 - To west by the access route to Cobh Wanderers AFC, which is in turn bounded by a premises which contains glasshouses and is screened by mature planting.

2.0 Proposed Development

2.1. The proposed development comprises the redevelopment of the existing Lidl premises on an approx. 0.69ha site at Ticknock Road, Cobh, consisting of:

- demolition of existing Lidl licenced discount foodstore (1,498 sq.m gross floor space with 1,050 sq.m net retail sales area)
- construction of discount foodstore with ancillary infrastructure and associated site works, totalling 2,237.5 sq.m gross floor space. This comprises 2,213sqm gross floor space and retail sales area with ancillary off-licence and bakery, resulting in total 1,398sqm net retail sales area.

The proposal would also include entrance pod, public facilities (including toilets), staff facilities, modified boundary treatments, free standing and building mounted signage, services including surface water attenuation storage, ESB substation (24.5 sq.m), roof-mounted solar panels, external lighting, electric vehicle charging infrastructure, car and cycle parking, plant room and loading bay.

Vehicular and pedestrian access is from the enhanced entrance on the internal retail park access road. Pedestrian access is proposed via a new entrance from this route and also from the existing enhanced pedestrian entrance from Ticknock Road.

2.2. Modifications to the proposed development in the Further Information (FI) response include the eastern building line (to Ticknock Road) being further set back, the partial removal of the existing northern boundary wall forward of the modified front building line, and the GFA of the proposed supermarket building being reduced by 44sqm to 2,169sqm. The Clarification of Further Information (CFI) response further amended the site layout, including car parking and loading bay arrangements and revised boundary treatment.

The quantum of the gross and net sales areas for the proposed development, as amended by FI response, is summarised in the table below.

	Existing	Proposed	Proposed –	Proposed –
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	Supermarket	Supermarket	FI Response	CFI Response
Gross Floor Area	1,498sqm	2,213sqm	2,169sqm (-44sqm)	No change
Net retail sales area	1,050sqm	*1,398sqm	No change	No change

*Note: The tables in the FI and CFI responses include an additional figure (1,423sqm) for Proposed Licenced Discount Foodstore Net Retail Sales Area. However, as the public notices refer to 1,398sqm area, this figure is included above.

3.0 Planning Authority Decision

3.1. Decision

The planning authority made a decision to refuse permission for 2 no. reasons:

1. The proposed development, due to design and proximity to Recorded Monuments CO087- 010001 Graveyard and CO087-10002 Church (RPS ID: 00861) will have a significant negative impact on the setting of these monuments and have a detrimental visual impact on the Church which is also a protected structure. The proposed development would therefore contravene materially Objectives HE 16-14 (Record of Protected Structures), HE16-2 (Protection of Archaeological Monuments and their setting), HE 16-8 (Protection of Burial Grounds and their Setting) and HE 16-6 (Protection of Post Medieval Buildings) as set out in the Cork County Development Plan 2022. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the inappropriate reversing movement through 90 degrees resulting in poor visibility within a car park, it is considered that the proposed development would give rise to complex and potentially conflicting HGV turning movements which would endanger public safety by reason of traffic hazard and would, therefore, not be in accordance with the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Basis for planning authority's decision:

Area Planner (8 April 2022, 7 October 2022, 8 February 2023)

First Area Planner's report references Cork County Development Plan 2014 and Cobh MD LAP 2017. Considers Retail Impact Assessment not required and proposal not in conflict with Retail Planning Guidelines. Recommends Further Information (FI) on 8 no. items, including concerns relating to visual impact of proposal on adjoining graveyard and church ruin, the autotrack layout plan and HGV access proposals and requests a Stage 1/2 Road Safety Audit.

Second Area Planner's report considers that a number of matters in the FI request are not sufficiently addressed and recommends Clarification of FI (CFI)

Third Area Planner's report considers that CFI response does not adequately address matters raised and recommends refusal for 1 no. reason.

Senior Executive Planner (SEP) (8 April 2022, 7 October 2022, 8 February 2023)

First SEP report endorses Area Planner's report to request FI.

Second SEP report concurs with recommendation to request CFI generally as per Area Planner's report.

Third SEP report notes Area Planner's report, and recommends refusal for 2 no. reasons.

Senior Planner (9 February 2023) Report concurs with SEP's recommendation to refuse permission for 2 no. reasons.

3.2.2. Other Technical Reports

Area Engineer (16 March 2022): No objection subject to 11 no. conditions.

Traffic and Transport (8 April 2022): Email recommends FI.

Archaeology (4 April 2022, 13 October 2022, 7 February 2023)

First Archaeologist's report recommends refusal for 1 no. reason.

Second Archaeologist's report states not in favour of the planning application, and concurs with Conservation officer's report and awaits FI response.

Third Archaeologist's report recommends refusal for 1 no. reason.

Conservation Officer (8 April 2022, 4 October 2022)

First Conservation Officer's report recommends FI.

Second Conservation Officer's report recommends CFI.

Environment

4 no. Environment reports by 2 separate authors are on file, outlined as follows:

Report dated 31 March 2022: No objection subject to 4 no. conditions

Report dated 6 April 2022: No objection subject to 9 no. conditions.

Reports dated 13 October 2022 and 3 February 2023: Conditions on Environment report of 6 April 2022 shall be complied with.

Public Lighting (4 March 2022, 30 September 2022)

First Public Lighting report: No objection subject to 3 no. conditions.

Second Public Lighting report: No objection subject to 5 no. conditions.

Senior Executive Architect (email 4 April 2022): Recommends that new development be located in the same orientation as existing.

3.3. Prescribed Bodies

None

3.4. Observations to the Planning Authority

2 no. observations were received by the planning authority, one of which is from an elected representative. The issues raised relate to landscape/planting detailing, light pollution, parking/transportation including lack of sustainable transportation and potential pedestrian access to football facility.

4.0 Planning History

Subject Site:

P.A. Ref. 08/4920: Permission granted in 2008 for demolition of agricultural sheds and construction of discount foodstore.

P.A Ref. 10/8311: Permission granted in 2011 for extension to existing foodstore, enclosed plant area and associated works.

P.A. Ref. 09/5239: Permission granted in 2009 for a double-sided internally illuminated flag pole sign at entrance.

Other Applications in the Vicinity:

P.A. Ref. 20/4345: Permission was granted in 2020 for extensions and modifications to the existing SuperValu convenience store, and construction of 3-storey side extension to provide a primary care centre. On site inspection I noted that the 3-storey extension has been constructed and appeared to be occupied at upper level, although no signage relating to a primary care centre was apparent.

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

Vol. 1 (Main Policy Material) and Vol. 4 (South Cork)

The site is zoned 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

Appropriate Uses under this land use zoning includes retail.

It is stated (at Section 18.3.41; Vol. 1) that the focus of town centres is to develop and consolidate with an appropriate mix of commercial, recreational, cultural, leisure and residential uses, and to enhance and develop the urban fabric of these centres in accordance with the principles of urban design, conservation and sustainable development. Retail provision will be in accordance with the Retail Strategy.

The subject site forms part of **Specific Development Objective CH-T-03** (Vol. 4) which comprises a larger 5.62ha area. It states neighbourhood centre and public realm enhancement to create a more attractive, functional, sense of place, maximizing the opportunity for active travel.

It is stated (at Section 2.2.5) that a large mixed use residential area was identified for development at Ballynoe which will consolidate the commercial function established at Ticknock. Growth here should be linked to the provision of a new rail station at Ballynoe, as supported by the Regional Spatial and Economic Strategy for the Southern Region (RSES) and should have connectivity to the town of Cobh.

It is further stated (at Section 2.5.64) that the existing retail offering at Ticknock and adjoining Special Policy Area have been identified as a neighbourhood centre.

Vol. 1

In terms of adjoining land use zonings, these include Objective ZU 18-9: Existing Residential/Mixed Residential and Other Uses to the north of the site, and Objective ZU 18-10: Existing Mixed/General Business/Industrial Uses to the west.

Objectives HE 16-2: Protection of Archaeological Sites and Monuments Secure the preservation (i.e. preservation in situ or in exceptional cases preservation by record) of all archaeological monuments and their setting included in the Sites and Monuments Record (SMR) (see www.archaeology.ie) and the Record of Monuments and Places (RMP) and of sites, features and objects of archaeological

and historical interest generally. In securing such preservation, the planning authority will have regard to the advice and recommendations of the Development Applications Unit of the Department of Housing, Local Government and Heritage as outlined in the Frameworks and Principles for the Protection of the Archaeological Heritage policy document or any changes to the policy within the lifetime of the Plan.

Objectives HE 16-6: Industrial and Post Medieval Archaeology Protect and preserve industrial and post-medieval archaeology and long-term management of heritage features such as mills, limekilns, forges, bridges, piers and harbours, water-related engineering works and buildings, penal chapels, dwellings, walls and boundaries, farm buildings, estate features, military and coastal installations. There is a general presumption for retention of these structures and features. Proposals for appropriate redevelopment including conversion should be subject to an appropriate assessment and record by a suitably qualified specialist/s.

Objectives HE 16-8: Burial Places Protect all historical burial places and their setting in County Cork and encourage their maintenance and care in accordance with appropriate conservation principles.

Objectives HE 16-14: Record of Protected Structures

a) The identification of structures for inclusion in the Record will be based on criteria set out in the Architectural Heritage Protection Guidelines for Planning Authorities (2011).

b) Extend the Record of Protected Structures in order to provide a comprehensive schedule for the protection of structures of special importance in the County during the lifetime of the Plan as resources allow.

c) Seek the protection of all structures within the County, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest. In accordance with this objective, a Record of Protected Structures has been established and is set out in Volume Two Heritage and Amenity, Chapter 1 Record of Protected Structures.

d) Ensure the protection of all structures (or parts of structures) contained in the Record of Protected Structures.

e) Protect the curtilage and attendant grounds of all structures included in the Record of Protected Structures.

- f) Ensure that development proposals are appropriate in terms of architectural treatment, character, scale and form to the existing protected structure and not detrimental to the special character and integrity of the protected structure and its setting.
- g) Ensure high quality architectural design of all new developments relating to or which may impact on structures (and their settings) included in the Record of Protected Structures.
- h) Promote and ensure best conservation practice through the use of specialist conservation professionals and craft persons.
- i) In the event of a planning application being granted for development within the curtilage of a protected structure, that the repair of a protected structure is prioritised in the first instance i.e. the proposed works to the protected structure should occur, where appropriate, in the first phase of the development to prevent endangerment, abandonment and dereliction of the structure.

Vol. 2 – Heritage and Amenity

The Clonmel Church of Ireland (in ruins) is located in the graveyard on the opposite side of road to north – Record of Protected Structures (RPS) Ref. 861.

Development Plan Mapping

The site is located within a High Value Landscape.

The site is within Flood Zone C.

5.2. Retail Planning Guidelines

The Retail Planning Guidelines 2012, Department of Environment, Community and Local Government, 2012 set out that planning for retail development must also take account of the wider policy context in relation to relevant planning guidelines, smarter travel, climate change and architecture. It outlines (at Section 5.4) that the accompanying Retail Design Manual looks at the practical issues of relating design principles to retail development at a variety of scales and in various settings. The principles include assessing the site and location aspects of retail development.

5.3. **Architectural Heritage Protection Guidelines**

The Architectural Heritage Protection Guidelines for Planning Authorities, Department of Arts, Heritage and the Gaeltacht, 2011 states (at Section 1.1.4) that structures can be read as historic evidence just like written documents, and can aid the understanding of past conditions and of how society changes.

Section 13.8 states *inter alia* that the extent of the potential impact of proposals on the setting of a protected structure will depend on the location of the new works, the character and quality of the protected structure, its designed landscape and its setting. Large buildings, sometimes at a considerable distance, can alter views to or from the protected structure and thus affect their character. Proposals should not have an adverse effect on the special interest of the protected structure.

5.4. **Natural Heritage Designations**

The site is not located in or adjoining a Natura 2000 site.

- The Great Island Channel SAC (Site Code 001058) is located approx. 2.1km to the north.
- The nearest part of the Cork Harbour SPA (Site Code 004030) is approx. 2.1km to the north.

5.5. **EIA Screening**

See Form 1 and Form 2 in Appendix 1. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of this first party appeal may be summarised as follows:

- Proposal does not materially contravene County Development Plan.
- There is substantive Development Plan policy in support of the proposed development, including Town Centre/Neighbourhood Centre land use zoning Objective CH-T-03 requiring creation and enhancement of more attractive, functional sense of places. Retail Planning Guidelines 2012; Retail Design Manual acknowledges opportunities for new development to have positive impact on areas previously characterised by poor design.
- Clonmel Church and Graveyard Recorded Monument and Clonmel Church of Ireland (in ruins) Protected Structure occupy the higher ground, and the ruinous church building is the dominant landmark.
- The Architectural Heritage Impact Assessment concludes that graveyard was historically separated from the site by laneway, and walled graveyard was designed as an enclosed space.
- Acknowledges that the church and graveyard is a building/site of heritage value, but any predicted impact on the setting would be slight and localised.
- Modern façade provides contemporary design solution. Part removal of northern boundary wall and removal of overhead cables will enhance view of graveyard from south.
- Proposal is in full compliance with Objective HE 16-14, Objective HE 16-2, Objective HE 16-8 and Objective HE 16-6.
- Planning authority reports on CFI response appear not to acknowledge the Workplace Risk of Reversing Assessment. Amendments include repositioning/realignment of proposed car parking spaces, revised delivery bay layout, wall to east of loading bay is 0.75m-1.0m high, and extending paladine fencing between western boundary and proposed substation.
- Proposed reversing movement though 90 degrees has been subject to Workplace Risk of Reversing Assessment in line with the requirements of

HSA Information Sheet Workplace Transport Safety – Reversing Vehicles. It would not give rise to complex and potentially conflicting HGV turning movements which would endanger public safety by reason of traffic hazard.

6.2. **Planning Authority Response**

All relevant issues have been covered in the technical reports already forwarded to the Board, and the planning authority has no further comment.

6.3. **Observations**

None

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local, regional and national policies and guidance, I consider that the substantive issues in this appeal are as follows:

- Visual impact
- Traffic Safety
- Other Issues
- Material Contravention

7.2. **Visual Impact**

7.2.1. One of the key considerations in the assessment of the proposed development, and having regard to Reason 1 of the planning authority's decision, is its visual impact, principally on the graveyard and church ruins on the opposite side of the road to the north. These are Recorded Archaeological Monuments CO087-010001- Graveyard and CO087-010002- Church. The church is also a protected structure (RPS Ref. 861). The First Archaeologist's report on file outlines that the church is the ruined remains of a late 17th century post medieval church on the site of the ancient parish church of Clonmel used up to 1805, and that the graveyard contains interesting

inscribed headstones, the earliest dating to 1698 and includes the mass Lusitania graves in the south west corner.

- 7.2.2. On site inspection I noted that there is an old stone building at the entrance to the graveyard fronting directly onto the laneway, is of modest scale and domestic appearance and is partially boarded up. In terms of topography, the ground levels within the eastern part of the graveyard and the church ruins are substantially above the adjoining roads at this location.
- 7.2.3. Having regard to the position of the existing Lidl supermarket at the western portion of the site and the expanse of surface car parking to the front of same, there is a sense of an 'open character' to this premises. There is an absence of any fine urban grain at this site and in the wider area.
- 7.2.4. The proposed development as originally lodged shows the eastern building line of the supermarket in the range of 12.9m – 21.4m from the roadside boundary. The FI site layout shows the eastern building line increased to be in the range of 18.9m – 27.4m from the roadside boundary.
- 7.2.5. The design of the proposed supermarket building is single-storey and incorporates a monopitch roof, which has an overall height of 6.7m along its southern elevation, tapering down to 5m on its northern elevation. The eastern elevation (facing Ticknock Road) is approx. 32m wide, and the principal external finish on this elevation is glazing.
- 7.2.6. The revised FI site layout indicates that the supermarket would be approx. 70m in length along its east/west axis, a slight reduction on the 75.4m originally proposed.
- 7.2.7. There is a slight curve in the alignment of the northern site boundary. The proposed supermarket at its nearest point is 1.6m from this boundary, and approx. 5m and approx. 10m from its eastern and western end respectively. The northern elevation contains 2 no. external access points near its western end serving sales area and plant room, as shown on FI floor plan. The upper part of the north elevation would be visible from outside the site. The overall design of the northern elevation incorporates clerestorey windows of horizontal emphasis and external finishes include areas of natural stone cladding and painted render. The FI proposed northern street elevation shows the partial removal of the northern boundary wall forward of the amended front building line. FI Section AA states that this is to provide

enhanced visual presence to the protected structure and graveyard. The CFI response further amends the roadside boundary details to include 1m high stone boundary at this location and along Ticknock Road, continuing along part of the retail park access road.

- 7.2.8. The FI proposed northern street elevation shows that a separate plant area within a 2.4m high acoustic enclosure proposed in the north western corner of the site would not be visible outside the site. Drawings on file indicate that this plant area would be set 0.7m below the level of the existing road.
- 7.2.9. No plant is indicated at roof level. PV solar panels are proposed over a large area of the roof. In terms of detail, no revised roof plan nor revised northern elevation were submitted with the FI response. In the event the Board was minded to grant permission, it is considered that this matter could be adequately addressed by way of condition.
- 7.2.10. Having inspected the site, and having regard to the topography of the area, the proximity of the site to the graveyard and church ruins and the visual dominance of the church ruins to the north, I consider that there is a visually sensitive context to this location. I note the information on file, including the content of internal reports and the Architectural Heritage Impact Assessment lodged as FI.
- 7.2.11. I consider that the proposed supermarket building would not be easily visible on approach from the north, due to the relatively steep incline and the supermarket's front building line set back approx. 19m from the Ticknock Road roadside boundary.
- 7.2.12. With regard to its visual impact on approach from the south, I note that while it is proposed to revise the northern boundary treatment forward of the front building line, much of the graveyard would be obscured from view due to the position of the proposed supermarket on the site. The church ruins and the most easterly part of the graveyard only would be visible as viewed on the approach from the south, and as such this would be a significant change to the current visual context and setting of the graveyard and church ruins. However, while there would be a significant change in terms of visual context, I do not consider that this would be an adverse visual impact on the setting of the 2 no. recorded archaeological monuments, one of which is also a protected structure.
- 7.2.13. With regard to the visual impact of the proposed development as viewed from the immediate north, and having viewed the subject site from both the cul-de-sac road to

the north and from within the graveyard, I note that the overall length of the building would be considerable at approx. 70m. While the overall height of the building is 6.7m at its southern elevation, the height of the northern elevation reduces to 5m only. Notwithstanding the length of the building and the proximity of this elevation to the northern site boundary, and having regard to overall nature, scale, design, height and materiality of the proposed development as it relates to its northern site context, including for example the use of clerestorey windows and external finishes such as stone cladding, I consider that the proposed development would not result in an adverse visual impact on the graveyard and church ruins and their setting.

7.2.14. I note the content of the 4 no. objectives of the Development Plan stated to be materially contravened in the planning authority's decision to refuse permission, and I consider that the proposed development would not materially contravene these 4 no. objectives. I also have had regard to the Architectural Heritage Protection Guidelines in the assessment of this case, including Section 13.8 which states *inter alia* that proposals should not have an adverse effect on the special interest of the protected structure.

7.2.15. As outlined above, I do not consider that the proposed development would adversely impact on the visual amenities and setting of the graveyard and church ruins. In addition, having regard to the extensive area of surface car parking to the front of the existing supermarket, I consider that the proposed development by reason of its overall design and scale and its proximity to Ticknock Road would assist in creating a sense of a 'streetscape' at this location, albeit not fine urban grain. I consider that the proposed development would be acceptable in terms of its impacts on built heritage and would be acceptable in terms its visual impact as viewed from the public realm on Ticknock Road generally.

7.2.16. Having regard to the matters outlined above, I consider that the proposed development would not adversely impact on burial places and archaeological monuments and their setting, nor would it be detrimental to the special character and integrity of the protected structure and its setting. Accordingly, I consider that the planning authority's refusal Reason 1 would not be warranted in this case.

7.3. Traffic Safety

- 7.3.1. The planning authority's refusal Reason 2 states that having regard to the inappropriate reversing movement through 90 degrees resulting in poor visibility within a car park, the proposed development would give rise to complex and potentially conflicting HGV movements that would endanger public safety by reason of traffic hazard.
- 7.3.2. I note that the CFI site layout differs from that lodged at FI stage, whereby the car parking layout, loading bay arrangement and location of bin cages are amended. Of the 86 no. car parking spaces proposed, 4 no. are disabled and 2 no. are EV charging spaces. 26 no. cycle parking spaces are proposed, most of which are located near the pedestrian entrance at the north eastern corner of the site, with the remainder positioned near the store entrance.
- 7.3.3. A number of internal reports on the FI and CFI responses refer to the views of Traffic and Transport section. However, there is one internal Traffic and Transport report (email) only on file, which recommends FI.
- 7.3.4. A Stage 1 Road Safety Audit was lodged in response to the FI request. Road Safety Issues identified include (at Section 2.2) that HGV access route in car park could lead to conflicts between HGVs and store patrons. It recommends that arrival and departure of HGVs be rigorously managed to occur outside of busy trading hours.
- 7.3.5. The Technical Report (CLV Consulting) lodged with the application states that there will typically be one delivery per 24 hour period and that the delivery could occur at any time, and the separate The Planning Partnership document states also that there is potential for 2 deliveries at peak time (Christmas and Easter).
- 7.3.6. The matter of delivery times is further discussed in the CFI response, whereby the submitted Workplace Risk of Reversing Assessment (Stephen Reid Consulting – Traffic and Transportation) states that peak times for customer activity within the existing car park is weekdays from 17:00 - 19:00 hours, and that deliveries can be scheduled to avoid peak times. It states that the delivery vehicle used at this site is a 16.4m articulated HGV, and that there is typically 1 articulated delivery per day, with an additional smaller bread truck delivery.
- 7.3.7. With regard to risks to members of the public on foot, it states that risks are similar to those for staff working within the car park area, which include tasks that could bring

them into conflict with the delivery HGV. It notes however that there would be a much greater number of pedestrian movements by the public, and that staff would be wearing 'hi-vis'.

- 7.3.8. With regard to risks to customers in vehicles, it states that there is a section of the manoeuvre where the HGV has to travel forward to straighten up and then reverse along the south western circulation aisle for approx. 10m before the rear of the trailer and reversing lights would be visible to a vehicle approaching from the west. With regard to mitigating reversing risks, it is stated (at Section 4.3) that after the delivery vehicle passes a point 10m to the east of the end of the parking row (i.e., where a vehicle approaches around the corner formed at parking spaces 58 and 78), it will be fully visible to others within the car park that it is reversing, and that it will have an audible reversing alarm.
- 7.3.9. Having regard to the HGV manoeuvres outlined above, particularly the partial forward movement followed by a reversing manoeuvre, I consider that it has not been adequately demonstrated, based on the information on file, that the proposed development would not endanger public safety by reason of traffic hazard. In addition to this complex reversing manoeuvre, other elements of the car parking arrangements within the site are further discussed below.
- 7.3.10. The Workplace Risk of Reversing Assessment states that customers will naturally park nearer the trolley bay and store entrance, and that parking spaces adjacent to the substation and at the west end of the double row are likely to be unoccupied for much of the day. However, I note that parking spaces 79 and 80 (located east of the substation) are EV charging spaces, and accordingly, I consider it reasonable to expect that these spaces would be used. In addition, while there may be a customer preference to use parking spaces nearer the store entrance, it nevertheless remains that other parking spaces in the vicinity of the HGV reversing route may be used, including at times of full occupancy.
- 7.3.11. The Reversing Assessment document sets out that employees operating in the car park or loading bay area will be advised/instructed on a range of safe operating procedures. The grounds of appeal includes that this Reversing Assessment is in line with the Health and Safety Authority's (HSA) Workplace Transport Safety – Reversing Vehicles information sheet. I have read this HSA document (accessed online on 24 May 2024), and notwithstanding the emphasis in this document to

workplace transport safety, I note that the subject case relates to a commercial premises, whereby the car park is not limited to staff only, but which is open to members of the public.

- 7.3.12. I have noted in this assessment that the number of HGV deliveries per day will typically be one only, with one other separate delivery, and that the peak hours for customer activity are weekdays from 17:00 – 19:00 hours. The existing Lidl's opening hours are Monday – Saturday 08:00 – 22:00 hours and Sundays and public holidays 09:00 – 21:00 hours. Given that it is stated that deliveries can occur at any time, I consider that it would not be appropriate in this case to seek to address the matter of traffic hazard by way of conditioning a limited timeframe for deliveries to this site.
- 7.3.13. For clarity, I consider that the approx. 348sqm increase in net retail sales area over that currently existing on site would be acceptable in the context of its location on zoned, serviced lands within an existing retail park, and that the key concern regarding traffic safety relates to the detailing of the HGV movements within the redeveloped site, namely the reversing movements required to access the loading bay within the customer car park.
- 7.3.14. Accordingly, having regard to all information on file, and notwithstanding the various changes proposed in the CFI response such as the revised car parking area and loading bay layouts, the extended provision of paladin fencing at the south western corner of the site and the additional pedestrian crossing directly east of the site's vehicular entrance, I consider that the proposed HGV reversing manoeuvres within the overall customer car park would give rise to complex and potentially conflicting HGV turning movements which would endanger public safety by reason of traffic hazard. Refusal of permission is recommended on this basis.

7.4. Other Issues

- 7.4.1. The description of development refers to the existing premises and proposed development as licensed discount foodstore. For clarity, I note that the Retail Planning Guidelines (2012) state that the distinction between 'discount stores' and other convenience goods stores which was contained in the 2005 Retail Planning Guidelines will no longer apply. However, notwithstanding this, having regard to the level of detail set out in the public notices and on file with regard to the nature of the

proposed development, I do not consider that the reference to licensed discount foodstore materially impacts on the assessment of the subject case.

7.5. Material Contravention

- 7.5.1. While the recommendation of this report is to refuse permission on grounds relating to traffic hazard, in the event that the Board was minded to grant permission for the proposed development, the matter of material contravention of the Development Plan with reference to the planning authority's refusal Reason 1 is set out below.
- 7.5.2. The planning authority's refusal Reason 1 states that the proposed development would contravene materially policy objectives HE 16-14, HE 16-2, HE 16-8 and HE 16-6 of the County Development Plan. These objectives are set out in full in Section 5 of this report, and are outlined in brief as follows:

Objectives HE 16-2: Protection of Archaeological Sites and Monuments Secure the preservation of all archaeological monuments and their setting included in the Sites and Monuments Record (SMR) and Record of Monuments and Places (RMP) and of sites, features and objects of archaeological and historical interest generally.

Objectives HE 16-6: Industrial and Post Medieval Archaeology Protect and preserve industrial and post-medieval archaeology and long-term management of heritage features such as penal chapels, dwellings, walls and boundaries. There is a general presumption for retention of these structures and features.

Objectives HE 16-8: Burial Places Protect all historical burial places and their setting and encourage their maintenance in accordance with appropriate conservation principles.

Objectives HE 16-14: Record of Protected Structures includes

- d) Ensure protection of all structures (or parts of structures) contained in the RPS.
- f) Ensure development proposals are appropriate in terms of architectural treatment, character, scale and form to the existing protected structure and not detrimental to the special character and integrity of the protected structure and its setting.
- g) Ensure high quality architectural design of all new developments relating to or which may impact on structures (and their settings) included in the RPS.

7.5.3. I have noted the content of these objectives in full in the assessment of this case as outlined above, and consider that having regard to the overall design, scale, height, bulk and external finishes of the proposed supermarket building, the setback of the front building line and partial removal of the existing northern boundary wall, the context of the site and its relationship to the two recorded monuments to the north, of which the church (in ruins) is also a protected structure, that the proposed development would not adversely impact on the setting of graveyard or church, would not adversely impact on the visual amenities of the area, and would not materially contravene the development plan.

7.5.4. As per my assessment outlined above, I consider that the proposed development would not be a material contravention of the Development Plan. In my opinion the Board should not, therefore, consider itself constrained by Section 37(2)(b) of the Planning and Development Act 2000, as amended (hereafter referred to as 'the Act').

7.5.5. Notwithstanding the matters outlined above, in the event that the Board was minded to grant permission and considers that a material contravention arises in this instance, one or more of the criteria as set out in Section 37(2)(b) of the Act must be met. Section 37(2)(a) and (b) of the Act state the following:

(2) (a) Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.

(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in

the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.5.6. The criteria set under Section 37(2)(b) are assessed as follows:

(i) the proposed development is of strategic or national importance,

Having regard to the nature and scale of the proposed development, this development is not considered to be of strategic or national importance.

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

The subject site and the substantially developed adjoining lands to the south are zoned **Objective ZU 18-17: Town Centre/Neighbourhood Centre** in the Development Plan. This land use zoning objective includes promoting 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, and states that 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. Retail is included as an Appropriate Use under this zoning objective. As outlined elsewhere in this report, the existing retail offering at Ticknock is identified in the Development Plan (at Section 2.5.64; Vol. 4) as a neighbourhood centre.

Having regard to the nature of the proposed development which comprises the demolition of an existing supermarket and the construction of a supermarket on Objective ZU 18-17 zoned lands, I consider that the proposed development would be in compliance with this land use zoning objective.

In terms of detail, the current Development Plan states that Cork County Council will continue to take into account the floorspace potential figures agreed in the 2013 Joint Retail Strategy and included within the 2014 County Development Plan until such time as a new Joint Retail Strategy is finalised. Given that the proposed development would result in an increased net retail sales area of 348sqm only over

that currently provided on site, I do not consider that the proposed development would be in conflict with the current Joint Retail Strategy.

In addition, I note that **Objective TCR 9-3: Retail Hierarchy** seeks to facilitate a competitive and healthy environment for the retailing industry which provides for adequate choice in appropriate locations whilst ensuring that future growth in retail floorspace is broadly (in line) with the identified Retail Hierarchy set out in Table 9-1. This table indicates that Cobh is in the Sub-Regional/ Large Metropolitan Towns category, and further includes **Objective TCR 9-6** which is to support the vitality and viability of the metropolitan towns and ensure that they provide an appropriate range of retail and non-retail functions, with an emphasis on convenience and appropriate comparison shopping.

Accordingly, if the Board consider that the matter of material contravention arises with reference to any of the 4 no. objectives stated in the planning authority's refusal Reason 1, I would highlight to the Board that the land use zoning objective ZU 18-17, and Objective TCR 9-3: Retail Hierarchy and Objective TCR 9-6 of the Development Plan which seek to facilitate adequate retail choice in appropriate locations and to support the viability of Sub-Regional/Large Metropolitan Towns, may be considered conflicting objectives in this regard.

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

The proposed development would not be in conflict with the Regional Spatial and Economic Strategy (RSES) for the Southern Assembly with reference to retail provision in the Cork Metropolitan Area Strategic Plan (MASP) set out therein. The Cork MASP also seeks further preparation of joint retail strategies for Metropolitan Cork between Cork City Council and Cork County Council in accordance with Section 28 Retail Planning Guidelines for Planning Authorities (2012).

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

The grounds of appeal state (at Section 1.3) that a precedent has been set by similar developments in the area which have been granted planning permission since the making of the last Development Plan. However, the applicant has not provided examples of the pattern of development, and permissions granted, in the area since the making of the development plan, to demonstrate how Section 37(2)(b)(iv) of the Act is applicable in this case.

Cork County Development Plan 2022-2028 came into effect on 6 June 2022. With regard to permissions granted in the area since the making of the Development Plan, an online planning search on the planning authority's website (viewed 27 May 2024) does not indicate other permissions in the area subsequent to June 2022.

Accordingly, I do not consider that it has been demonstrated that the proposed development meets the criteria set out under Section 37(2)(iv) of the Act.

- 7.5.7. Having considered the file, and the provisions of the Development Plan, in the event that the Board considers that the matter of material contravention arises, it is considered that the criterion set out under Section 37(2)(b)(ii) of the Act would be grounds for the Board to grant permission, with regard to conflicting objectives in the Development Plan outlined above.

8.0 Appropriate Assessment Screening

- 8.1.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000, as amended.
- 8.1.2. The subject site is located approx. 2.1km to the south of the Great Island Channel SAC (Site Code 001058), and also approx. 2.1km south of the nearest part of the Cork Harbour SPA (Site Code 004030).
- 8.1.3. The proposed development comprises demolition of an existing supermarket and construction of a new, larger supermarket and associated works, all on a 0.69ha site, located on serviced lands within Cobh development boundary.
- 8.1.4. No nature conservation concerns were raised in the planning appeal.
- 8.1.5. No streams/watercourses are identified on site.
- 8.1.6. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European site. The reason for this conclusion is as follows:

- The nature of the works proposed which are located on serviced lands
- The distance to the nearest European sites, and the absence of any hydrological or other pathways

I conclude on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000, as amended, is not required.

9.0 Recommendation

It is recommended that permission be refused for the reason set out below.

10.0 Reasons and Considerations

1. Having regard to the Heavy Good Vehicle (HGV) reversing manoeuvres proposed to serve the proposed development, which would result in poor visibility within the overall customer car park of the proposed redeveloped supermarket premises, it is considered that the proposed development would give rise to complex and potentially conflicting HGV turning movements and would thereby endanger public safety by reason of traffic hazard. The proposed development 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.

Cáit Ryan

Senior Planning Inspector

28 May 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-315981-23		
Proposed Development Summary	Demolition of existing supermarket and construction of new supermarket building, boundary treatments and all associated site works.		
Development Address	Existing Cobh Lidl Foodstore, Ticknock Road, Dean and Chapter Land of Cloyne, Cobh, 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	X
		No	No further action required
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		Class.....	EIA Mandatory EIAR required
No	X		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)
			Conclusion
No		N/A	No EIAR or Preliminary Examination required
Yes	X	Class 10(b)(iv) of Part 2: Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of	The proposed development is for demolition of existing supermarket and Proceed to Q.4

		other parts of a built-up area and 20 hectares elsewhere.	construction of new supermarket on the same site. The site area is 0.69ha, located in a 'business district', and is below the lower threshold of 2ha.	
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-315981-23	
Proposed Development Summary	Demolition of existing supermarket and construction of new supermarket building, boundary treatments and all associated site works.	
Development Address	Existing Cobh Lidl Foodstore, Ticknock Road, Dean and Chapter Land of Cloyne, Cobh, Co. Cork.	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p>	<p>The proposed development comprises demolition of existing supermarket and construction of new supermarket building and associated works. It is located within an existing retail/commercial park. It is not exceptional in the context of the existing environment.</p>	No
<p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The waste, emissions/pollutants generated in the proposed development would be similar to those in the existing development on site.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>The size of the proposed development would be an increase over the existing supermarket building on site. However, the increased size of the proposed supermarket would not be exceptional in the existing environment.</p>	No
<p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>The site is located within an existing retail/commercial area, which has been substantially developed to date. There are no significant cumulative considerations with regard to other existing and/or permitted projects.</p>	No

<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The site is not located on, in or adjoining any Natura 2000 sites. The nearest Natura 2000 sites are The Great Island Channel SAC (Site Code 001058), located approx. 2.1km to the north, and the nearest part of the Cork Harbour SPA (Site Code 004030) is also approx. 2.1km to the north. Having regard to the existing development on site, the site location on serviced lands within the built-up area of Cobh, the distance to the nearest Natura 2000 sites and a lack of a hydrological or other pathway to these sites, the proposed development does not have the potential to significantly impact on an ecologically sensitive site or location.</p> <p>The proposed development does not have the potential to significantly affect other significant environmental sensitivities in the area.</p>	<p>No</p> <p>No</p>
<p>• Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p>

Inspector: _____

Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)