



Development

The demolition of existing single storey discount food store (with ancillary off-licence use) (1596 sqm gross floor space with a net retail sales area of 1165 sqm).

The construction of a single storey discount food store (with ancillary off-licence use) (2560 sqm gross floor space with a net retail sales area of 1652 sqm).

Location

Lidl, Ballinagh Road, Cavan

Planning Authority

Cavan County Council

Planning Authority Reg. Ref.

22/344

Applicant(s)

Lidl (Ireland) GmbH

Type of Application

Permission

Planning Authority Decision

Grant, subject to 30 conditions

Type of Appeal	Third Party -v- Decision Section 48(2)(c)
Appellant(s)	Aiden Smith & Others Lidl (Ireland) GmbH
Observer(s)	None
Date of Site Inspection	12 th September 2023
Inspector	Hugh D. Morrison

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2.0 Site Location and Description

- 2.1. The site is located in the southern outskirts of Cavan some 1.6km from the town centre. It lies between Ballinagh Road (R935), to the west, and Ballyjamesduff Road (L-25008), to the east. The surrounding area comprises housing estates beyond these Roads, and detached dwelling houses along either side of Ballyjamesduff Road to the north. To the south, beyond an unnamed link road (L-25007) between the two aforementioned Roads, lie buildings that are in community and educational uses. Further to the south, in the Riverside Business Park and Moynehall Retail Park, there are buildings in retail and commercial uses.
- 2.2. The site itself is roughly triangular in shape, and it extends over an area of 0.905 hectares. The majority of this site comprises the existing Lidl foodstore site (1596 sqm). The remainder to the north, comprises land that is presently overgrown and vacant. The existing Lidl foodstore is sited on a roughly east/west axis in the northern portion of its site. The existing service access to this site is to the rear of the foodstore off Ballyjamesduff Road. Its use entails vehicular reversing movements down a ramp to a service door. Pedestrian access to the site is available from Ballinagh Road and car borne customer access is available off the link road and Ballyjamesduff Road. The existing customer car park is forward of the existing foodstore.

3.0 Proposed Development

- 3.1. The proposal would entail the replacement of the existing Lidl foodstore with a larger one (2560 sqm), which would be sited on a north/south axis in the north-eastern quadrant of the enlarged site with car parking (122 no. spaces) to the south and west. The service access for HGV deliveries would be on the northern side of the foodstore, and customer access would be consolidated at the existing access point off the link road.
 - The existing single storey discount food store (with ancillary off-licence use), which would be demolished, has a gross floor space of c. 1596 sqm gross floor space and a net retail sales area of c. 1165 sqm.

- The proposed single storey mono-pitch (with flat roof loading bay) discount food store (with ancillary off-licence use) would have a gross floor space of c. 2560 sqm and a net retail sales area of c. 1652 sqm.

3.2. The proposal would also entail the provision and renewal of boundary treatments, free standing and building mounted signage, covered trolley bay, refrigeration and air conditioning plant and equipment, ESB unit sub-station, external lighting, electric vehicle charging infrastructure, roof mounted solar panels, cycle parking, modification of existing drainage, utility and services infrastructure and connections, and all associated and ancillary development works above and below ground level.

4.0 Planning Authority Decision

4.1. Decision

Following receipt of further information, permission was granted subject to 30 conditions, including Condition No. 3, which requires a special contribution of €60,000 “in respect of the provision of Active Travel infrastructure for the Kesh/Oldtown Road (L-25007) to facilitate and promote a diversity of modes of transport between the proposed store and the surrounding residential developments.”

4.2. Planning Authority Reports

4.2.1. Planning Reports

The case planner accepted, in the light of the site’s zoning, established use on the existing operational site, and connectivity, the principle of the proposal. She also accepted the increase in net convenience retail floorspace of 438 sqm that would be entailed in the proposed redevelopment. This increase would be minor in the context of Cavan town and environs, i.e., 3.36%¹. The following further information was requested:

- The western elevation of the proposed building to be enhanced aesthetically.

¹ Refer to Table 1 on Page 4 of the Retail Impact Assessment. I calculate this percentage to be 4.41%.

- The preliminary Construction and Waste Management Plan to be revised in the light of the latest best practice guidelines, and specific points of detail to be clarified/augmented.
- Preliminary Construction Environmental Management Plan to be revised, as appropriate, in the light of an Invasive Species Survey, i.e., suspected Japanese Knotweed in the northern derelict portion of the site.
- Revised NIS to take account of foregoing revised Plans.
- Revised lighting plan to take account of DHLGH comments.
- Re-positioning of proposed cooling plant further from housing to be considered.
- Details of quality boundary treatments to be submitted.

The case planner was satisfied with the applicant's submitted further information, except for its proposed handling of Japanese Knotweed and the proposed treatment of the northern boundary. Conditions Nos. 4, 5 & 27 address these matters.

4.2.2. Other Technical Reports

- Department of Housing, Local Government and Heritage (DHLGH): Specific comments made under the heading of nature conservation with respect to landscaping, e.g., specification of native species and retention/transplanting of hedgerows, outdoor lighting, e.g., less intense lighting, and the proposal as a flagship project, e.g., green roofs and protection/enhancement of stream habitat in the south-east corner of the site.
- IFI: Standard advice.
- Cavan County Council:
 - Waste Management: Following receipt of further information, no objection, subject to conditions.
 - Environment: Following receipt of further information, no objection, subject to conditions.
 - Road Design: No objection, subject to conditions, including ones that require the HGV access to be one-way, extension of 2m wide footpath over

full length of eastern roadside boundary, and payment of special contribution.

5.0 Planning History

Pre-application consultations occurred with respect to possible alternative sites and to undertake a scoping exercise for the submitted TTA.

Existing Lidl site

- 99/473: Erect single storey pitched roof retail supermarket, new road and site entrances, associated car parking, and signage: Permitted.
- Subsequently, applications 10/23, 11/110 & 11/255 were made to extend and modify the supermarket erected under the parent permission: Each was permitted.

Extension of existing site to the north

- The most recent applications 06/61 & 07/1793 were made to redevelop the site for apartments: Both were permitted.

6.0 Policy and Context

6.1. National Policy

- Retail Planning Guidelines
- Development Management Guidelines

6.2. Development Plan

Under the Cavan County Development Plan 2022 – 2028, Cavan Town is a Tier 1 primary retail centre, and the site is zoned neighbourhood centre, wherein the objective is to “Protect, provide for and/or improve local centre facilities.” Retail shops – major and minor are permitted in principle in this zone.

6.3. Natural Heritage Designations

- Lough Oughter and Associated Loughs SAC (000007)

- Lough Oughter SPA (004049)

6.4. EIA Screening

Refer to Appendices 1 and 2 attached to this report.

7.0 The Appeal

7.1. Third Party Grounds of Appeal

The appellants do not object to the principle of the proposed redevelopment of the site. However, they consider that, notwithstanding their submissions to the PA, their specific residential amenity concerns have not been adequately addressed – hence the following grounds of appeal:

Location of the proposed new service vehicle access point

- While the proposed closure of the secondary access point to the site from the appellants' residential cul-de-sac is welcomed, the proposed access point for HGV deliveries would be opposite Pine View, where Aiden and Sheena Smaith reside.
- Existing HGV deliveries occur at night outside opening hours. They result in noise and disturbance to local residents.
- Attention is drawn to the case planner's report, which acknowledges the new situation that would arise for local residents. While the proposed access point would be part of a one-way system through the site for HGV deliveries and so optimum from a traffic management perspective, its amenity impacts have not been addressed.
- The redevelopment of the site presented an opportunity for HGV deliveries to be addressed with residential amenity in mind. This opportunity has not been realised. Instead, a larger store is proposed, which would generate the need for more deliveries. The PA's permission does not condition the timing of deliveries.

Proposed new link from Ballinagh Road to the Old Ballyjamesduff Road

- Attention is drawn to the proposed ungated access for HGV deliveries. Pedestrians could, therefore, use this access to traverse the site between Ballinagh Road and the Old Ballyjamesduff Road. Drivers too could be tempted to use it.
- The appellants report instances of anti-social behaviour in the area, and they express the concern that, under the proposal, this would increase. The link between the two Roads should, therefore, be removed.

Litter

- Appellants report existing instances of litter emanating from the existing food store, and they are concerned that, under the proposal, this issue has not been addressed.

Japanese Knotweed

- Attention is drawn to the PA's dissatisfaction with the applicant's approach to dealing with Japanese Knotweed. While the PA attached Condition No. 4 and an advisory note to its permission, the appellants express concern that any further approach would not be available for their scrutiny.

7.2. Applicant Response

The applicant welcomes the appellants absence of objection to the principle of redevelopment. It notes that this scenario presents an opportunity for residential amenity concerns to be addressed that would not arise under the *status quo*. It also notes that, as its own appeal is under Section 48(2)(c), and the appellants relates to residential amenity concerns that could be addressed by conditions, the Board could elect to treat these appeals as conditions only rather than undertake a *de novo* review of the proposal.

The applicant responds to the appellants grounds of appeal as follows:

Location of the proposed new service vehicle access point

- Under the proposal, existing reversing manoeuvres undertaken by HGV delivery vehicles onto the Old Ballyjamesduff Road would be obviated, and so

effectively half of the current HGV vehicle movements on this Road would cease.

- HGV delivery vehicles would only enter the proposed access in forward gear. While they would reverse to the loading bay from within the site, this would be done along a ramp to a sunken level, accompanied to the north by planting and a 2m high boundary wall.
- The applicant has commissioned a noise report, which considers three scenarios, i.e., the noise contributed by a HGV delivery over 1 hour to (i) the existing store, (ii) the proposed store without a 4m high noise barrier at the delivery ramp, and (iii) the proposed store with a 4m high noise barrier at the delivery ramp. The findings of this report indicate that, under the proposal, noise levels would be likely to be between 7 and 27 dB(A) lower than 55 dB(A), and no appreciable benefit would accrue from the noise barrier.
- Under further information, attention is drawn to the resiting of the proposed plant equipment from roof level to ground level and the specification of a 3.5m high acoustic fence to ensure that it can operate satisfactorily from the perspective of residential amenity.
- Under the proposal, no change in the number of HGV deliveries would occur, as the increase in net retail floorspace would be relatively minor.
- Attention is drawn to the EPA's noise maps associated with Ballinagh Road. These maps indicate that the Old Ballyjamesduff Road experiences daytime and night-time noise levels of 59 dB Lden and 49 dB Lnight, and so its description as a quiet residential cul-de-sac may be aspirational. In this respect, the proposed reorientation of the building on the site would increase its effectiveness as a noise buffer.
- Attention is drawn to the neighbourhood centre zoning of the site and so the expectations for residential amenity need to be seen in this context.

Proposed new link from Ballinagh Road to the Old Ballyjamesduff Road

- The applicant is unclear as to the means of pedestrian access across the site that the appellants are concerned with. It addresses four examples of pedestrian facilities and contends that each is desirable in order to promote

walking as an active travel option. It also contends that these facilities would accord with recognised principles for designing out anti-social behaviour.

- The applicant does not foresee drivers being tempted to use the proposed access point for HGV deliveries.

Litter

- Under the proposal, litter has been addressed. Thus, it would incorporate a dedicated Deposit Return Scheme facility, and waste storage would be sited in the north-western corner of the site in a “bin cage”, which would catch stray litter.
- The applicant’s Preliminary Operations Waste Management Plan would accord with contemporary principles and so it would represent an advance on how packaging is handled at the existing store.

Japanese Knotweed

- With respect to location A, this is outside land in the applicant’s ownership. The instance of Japanese Knotweed appears to be a remnant of a larger stand previously treated presumably by the landowner.
- With respect to location B, attention is drawn to the PA’s Condition No. 4, which the applicant would comply with, i.e., rather than burial on-site, Japanese Knotweed would be removed and transported off-site to an authorised disposal facility.

7.3. **Planning Authority response**

The issues raised by the appellants were addressed in the case planner’s report. Nevertheless, the first issue is addressed further. Attention is drawn to the neighbourhood centre zoning of the site. Accordingly, it is reasonable to expect that commercial uses within this zone will be served by HGVs, which are entitled to use the Old Ballyjamesduff Road. The proposed access point would be part of a one-way system on site, and so no reversing manoeuvres onto the said Road would arise. The PA requests that its decision be upheld by the Board.

7.4. First Party Grounds of Appeal

The applicant appeals Condition No. 3 attached to the PA's permission, which requires that a special contribution of €60,000 be paid "in respect of the provision of Active Travel infrastructure for the Kesh/Oldtown Road (L-25007) to facilitate and promote a diversity of modes of transport between the proposed store and the surrounding residential developments."

The applicant does not normally appeal financial contribution conditions. However, in this case it feels compelled to do so as "neither the value of the contribution, the explanation of the works intended nor the methodology of calculation of the proposed contribution is either available on public file or has been explained in advance to the applicant."

Condition No. 3 is therefore appealed on the following grounds:

(a) The special contribution amounts to double charging

- Under Section 48(2)(c), the PA may "require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development."
- The PA has not shared with the applicant the specific works in question, how they have been costed, and the basis of their apportionment, given the proposal would replace an existing food store and it would exist alongside other commercial development.

(b) The PA's Development Contribution Scheme (DCS) 2017 – 2020 is out of date

- The PA's website does not indicate that its DCS has been extended or replaced.
- Nevertheless, the DCS funds footpaths and cycleways, and so the special contribution, which would fund footpaths and cycleways, would duplicate it.

(c) Works may constitute specific exceptional costs not covered by a DCS

- The Development Management Guidelines advise that "it is essential that the basis for the calculation of the contribution should be explained in the

decision. This includes identifying the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development.”

- The applicant has reviewed the file. The Active Travel Infrastructure that the PA seeks to fund by means of the special contribution is undefined. Likewise, its necessity/relevance to the proposal is unclear, as is the calculation of the amount concerned, and the apportionment of it to the applicant’s project.

In the light of the above, the applicant contends that Condition No. 3 does not come within the ambit of Section 48(2)(c), and so the Board is requested to omit this Condition in its entirety.

7.5. Planning Authority Response

The Road Design Office seeks to justify Condition No. 3 on the following grounds:

- In accordance with the CDP, which includes a LAP for Cavan Town, an Area Based Transport Assessment (ABTA) is presently being undertaken.
- The ABTA is looking to enhance pedestrian and cyclist safety by means of road space reallocation, junction tightening, and pedestrian crossings.
- Infill footpaths and junction tightening have been identified within the catchment of Lidl. These measures would improve the accessibility of Lidl from nearby housing estates. They would also improve the accessibility of the town centre.
- The identified infill footpaths and junction tightening will be brought forward for detailed design.
- The special contribution sought would complement funding from the NTA, which strongly supports the said measures.

7.6. Observations

None

7.7. Further Responses

None

8.0 Assessment

- 8.1. The applicant has made an appeal under Section 48(2)(c) of the Planning and Development Act, 2000 – 2023. By way of response to the third party's appeal, it requests that the Board consider this appeal and its own appeal as conditions only appeals rather than considering the application on a *de novo* basis. I have considered this request and I conclude that, whereas the applicant's appeal could be determined as a condition only one, the nature and substance of the third party's appeal is such that a *de novo* assessment is needed.
- 8.2. I have reviewed the proposal in the light of the Retail Planning Guidelines, the Development Management Guidelines, the Cavan County Development Plan 2022 – 2028 (CDP), relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:
- (i) Zoning, land use, and retailing,
 - (ii) Site layout and residential amenity,
 - (iii) Transport, traffic, access, and parking,
 - (iv) The special contribution condition,
 - (v) Japanese Knotweed,
 - (vi) Water, and
 - (vii) Appropriate Assessment.

(i) Zoning, land use, and retailing

- 8.3. Under Section 2.2.3 of the CDP, the character of Cavan Town is discussed. The following paragraph, in particular, elucidates this character:

Deriving its name from the Irish word for 'The Hollow', Cavan town has difficult topography. This has led to the requirement for innovative design on difficult sites in the town centre, along with the growth of the town with various neighbourhood centres a

further distance from the town core. These have created sustainable smaller community areas within the overall town population. The nature of low lying ground with interspersed drumlins in Cavan Town, provides a significant challenge to development in terms of compact growth, connectivity and density of development.

- 8.4. Under the CDP, Cavan Town is a Tier 1 primary retail centre, and the site is zoned neighbourhood centre, wherein the objective is to “Protect, provide for and/or improve local centre facilities.” Retail shops – major and minor are permitted in principle in this zone. The accompanying vision for neighbourhood centres states the following:

Provide a mix of local community and commercial facilities for the existing and developing communities of the county. The vision is to ensure local centres contain a range of community, recreational and retail facilities, including medical/dental surgeries and childcare facilities, at a scale to cater for both existing residential development and zoned undeveloped lands, as appropriate, at locations which minimise the need for use of the private car and encourage pedestrians, cyclists and the use of public transport. The development will strengthen local retail provision in accordance with the County Retail Strategy.

- 8.5. The site is an amalgam of the existing Lidl foodstore site and adjoining land to the north. Under the former Cavan Town and Environs Development Plan 2014 – 2020, the existing Lidl foodstore site was zoned “existing retail and retail warehousing” and the adjoining land to the north was zoned “existing residential”. Under the current CDP, the entire site is now zoned neighbourhood centre, and this zone extends southwards to encompass the Riverside Business Park and Moynehall Retail Park along Ballinagh Road (R935). Its extension reflects both the lapse of previously extant residential planning permissions for the adjoining land to the north and recognition of “the important role that neighbourhood centres play in the provision of essential retail and social infrastructure.”²
- 8.6. None of the parties to the current appeals object to the principle of the redevelopment of the Lidl site and, by implication, its extension northwards.
- 8.7. Under the proposal the net retail sales floorspace would increase by 487 sqm (41.8%) from 1165 sqm to 1652 sqm. The applicant has submitted a retail impact

² Quotation from the Chief Executive’s report on submissions received to the draft CDP and cited by the applicant on Page 15 of its Retail Impact Assessment.

assessment (RIA), which examines this increase, albeit it is cited as being 438 sqm to reflect a breakdown of 90% and 10% between net retail sales floorspace devoted to convenience goods and comparison goods, respectively, i.e., only convenience goods are deemed relevant to the RIA.

- 8.8. Table 1 of the RIA states that there is presently 4181 sqm of net convenience retail sales floorspace in Cavan town core, 5747 sqm in its suburbs and surrounds, and 7093 sqm in the wider hinterland. If these figures are aggregated, then a total of 17,021 sqm is arrived at of which 438 sqm represents an increase of 2.57%.
- 8.9. The County Retail Strategy (CRS), which is attached as an appendix to the CDP, estimates that, based on current trends, an indicative figure of c. 3000 sqm of net retail sales floorspace would be needed in the County for convenience goods between 2021 and 2028.³ The CRS expresses the view that such floorspace is “most likely to arise in Cavan Town.”⁴ It also acknowledges opportunities for increased floorspace in Cootehill and Ballyjamesduff. Thus, while the continuing dominance of retailing for convenience goods in Cavan Town is accepted, opportunities elsewhere are flagged.
- 8.10. Under Section 3.6 of the applicant’s RIA, the question of additional retail floorspace for convenience goods in Cavan Town is discussed. Reference is made to Tesco permissions, which were extant at the time of writing, for the construction of a new combined convenience and comparison goods store and the amalgamation of its existed convenience goods and comparison goods stores into a single departmental store. While these permissions have expired⁵, a current application (23/8)/appeal (ABP-318406-23) for a new convenience and comparison goods store (2194 sqm + 957 sqm net retail floorspace) is before the Board. (This application does not appear to be paralleled by any application for Tesco’s existing store (gross retail floorspace 3706 sqm) in the town centre). Accordingly, if it is granted by the Board, its net retail floorspace for convenience goods may or may not be additional to that which pertains in its existing store.

³ Page 90 of the CRS.

⁴ Page 91 of the CRS.

⁵ 11/1992 and PL48.240097 expired on 13/01/23 and 11/1993 and PL48.240105 expired on 20/12/23.

- 8.11. Elsewhere, the Board has recently granted permission (ABP-312878-22) for Aldi to provide 1333 sqm of net retail floorspace in Cootehill. If a 90% and 10% split is applied between convenience and comparison goods, then this floorspace would comprise 1200 sqm for convenience goods.
- 8.12. Timewise, the current application comes between the two above cited applications for sites in Cavan town centre and Cootehill. If it is granted, then the aggregation of its net retail floorspace for convenience goods with that of Aldi in Cootehill would come within the 3000 sqm figure cited above. If both are aggregated with the current Tesco application, then depending on what happens to Tesco's existing store, the 3000 sqm figure may or may not be exceeded.
- 8.13. Section 4.6 of the Retail Planning Guidelines advise that the sequential approach to the location of retail development is applicable to proposed extensions in floorspace "where they are of a scale which could have a significant impact on the role and function of the city/town centre."
- 8.14. Under Table 4 of its RIA, the applicant estimates that the trade diversion arising from its proposal from Cavan town centre would amount to only 1.17% in 2025 (the design year). This level of trade diversion would not be a significant impact on the role and function of the town centre. Nevertheless, the applicant summarises, under Section 2.5 of its RIA, the sequential approach to site selection that it undertook. It considered a site on the Dublin Road closer to the town centre than its existing site, and three sites within the town centre. The former site was set aside, as planning issues with it were raised at a pre-application consultation meeting with the PA. The latter sites were set aside, as they failed "the suitability, availability, and viability tests employed under the Retail Planning Guidelines to varying degrees."
- 8.15. The applicant's RIA also comments on vacancy in Cavan town centre, which the CRS cites as running at 13.5% of commercial properties. The view is expressed that such properties tend to be small, i.e., 30 – 100 sqm, and they tend not to be used for the retailing of convenience goods. The existing/proposed Lidl is not/would not therefore be a competitor to the type of retailing/commercial uses suited to these properties, and the opportunity to amalgamate these properties to provide a site suitable for the proposed Lidl would not arise.

8.16. Essentially, the applicant justifies its selection of the current application site by reference to the above considerations and, especially, the rezoning of the land adjoining its existing site to the north by the PA under its recently adopted CDP. Additionally, it draws attention to the following factors:

- The redevelopment and extension of its existing site, as proposed, would reinforce the established pattern of trade at its existing licenced discount foodstore,
- Relocation from its existing site could open the door to reoccupation by another convenience retailer, and
- The scale of the increased net retail sales floorspace for convenience goods is such that a significant impact upon Cavan town centre would not arise.

8.17. During my site visit, I observed that within the zoned neighbourhood centre there is a mix of retail, commercial, communal, and educational uses. Food retailing is represented by the applicant's existing Lidl licensed discount food store, a local butcher's shop and a Spar convenience shop. Within this mix of uses, the proposed redevelopment of the existing Lidl to provide a larger licensed discount food store would complement the other existing uses.

8.18. During my site visit, I also observed the existing settlement pattern of Cavan Town that is acknowledged in Section 2.2.3 of the CDP. Accordingly, in addition to the town centre, significant clusters of retail/commercial uses exist on the eastern and southern outskirts of the town. The CRS identifies the need for an increase in net retail sales floorspace for convenience goods within Cavan Town and elsewhere, and the increase in such floorspace comprised in the current proposal would contribute to meeting this need. The applicant's RIA indicates that the scale of this increase would not significantly impact the town centre, and it has outlined difficulties attendant upon the development of other sites within the town. The applicant emphasises the significance of the rezoning of the adjoining land to the north of its existing site under the CDP. This rezoning sends a clear signal of the PA's acceptance that the neighbourhood centre in question should grow further. That such growth should entail the expansion of Lidl's presence would, as noted above, be appropriate locally and within the wider context of Cavan Town and County.

8.19. I conclude that the proposed replacement of the existing Lidl licensed discount foodstore with a larger one would accord with the neighbourhood centre zoning objective for the site, it would continue to complement the other uses comprised in the neighbourhood centre in question, and it would meet an acknowledged need for additional net retail sales floorspace for convenience goods without significantly impacting upon Cavan town centre.

(ii) Site layout and residential amenity

8.20. The site lies between the Ballinagh Road (R935), to the west, and Ballyjamesduff Road (L-25008), to the east. The regional road joins the N55 further to the south of the site, and so it is the main route into and out of Cavan Town from and to the south. Consequently, this road carries significant volumes of traffic. While the local road was historically a through route, it now forms a cul-de-sac, which serves the O'Raghallaigh Park housing estate and detached dwelling houses.

8.21. The existing Lidl foodstore is orientated on an east/west axis across the northern portion of the existing site. The secondary customer vehicular access to this site is off the local road at a point opposite a row of semi-detached dwelling houses, adjacent to the entrance to the housing estate. The delivery vehicle access lies equidistant between the northern end of this row and the first of the detached dwelling houses further to the north. (The intervening stretch of roadside abuts vacant and overgrown land). This access requires that arriving delivery vehicles reverse into it down a ramp from the local road.

8.22. Under the proposal, the new foodstore would be reorientated on a north/south axis across the north-eastern quadrant of the site, i.e., it would extend into the adjoining land to the north of the existing site. The existing secondary customer vehicular access would be closed, and a new delivery vehicular access would be formed beside the northern side elevation of the foodstore. This new access would be opposite the entrance to the appellant's dwelling house. It would be laid out to allow arriving delivery vehicles to exit the local road in forward gear before reversing within the site down a ramp. Departing delivery vehicles would proceed through the site in forward gear to exit via the existing primary customer access/egress point onto the link road between the aforementioned regional and local roads.

8.23. The appellants draw attention to the above cited changes that would affect them. They express concern that HGV deliveries at anti-social hours would cause noise and disturbance, and the larger foodstore would generate more deliveries. They also express concern that the proposed delivery vehicle access could be used by customers, too, and that it may become a venue for anti-social behaviour. Littering may also be an issue.

8.24. The applicant has responded to the appellants' concerns.

- In relation, to noise and disturbance, it draws attention to favourable changes under the proposal. Thus, the need for delivery vehicles to reverse from the local road into the site access would be obviated, and the reorientated foodstore would serve as a greater noise barrier than the existing foodstore with respect to noise generated by traffic on the regional road. Furthermore, at the appeal stage, it commissioned a noise report, which considers three scenarios, i.e., the noise contributed by a HGV delivery over 1 hour to (i) the existing store, (ii) the proposed store without a 4m high noise barrier at the delivery ramp, and (iii) the proposed store with a 4m high noise barrier at the delivery ramp. The findings of this report indicate that, under the proposal, noise levels would be likely to be between 7 and 27 dB(A) lower than 55 dB(A), and no appreciable benefit would accrue from the noise barrier.
- In relation to increased vehicular deliveries, the applicant states categorically that this would not arise.
- In relation to customer use of the new deliveries access, such usage is not foreseen, and pedestrian facilities on the site would be designed to minimise the risk of anti-social behaviour.
- In relation to litter, waste would be stored in a "bin cage" in the north-western corner of the site. The cage structure would ensure that any inadvertently lost litter is contained within it.

8.25. During my site visit, I observed that the appellants' residential property lies some 15m away from the existing vehicular deliveries access point from the local road. The proposed re-siting of this access point to a position opposite the entrance to their property would thus affect them to a greater extent than occurs at present. While the applicant has not stated when deliveries are typically made, I anticipate

that this may occur outside the normal opening hours of 08.00 to 22.00 hours on Mondays to Saturdays and 09.00 to 21.00 hours on Sundays and public holidays. If deliveries occur/would occur at say 07.00 hours, then the ambient noise level would be lower than later in the day. In these circumstances, the 4m noise barrier along the exposed side of the delivery ramp would, even if at the margin, contribute to noise mitigation and so should be installed. Such mitigation would benefit the appellants' residential property and the adjoining one to the north of the site, should it be renovated and reoccupied in the future.

- 8.26. I have also considered the option of installing an automated acoustic gate at the access point, which could be closed once a delivery vehicle has entered the site. However, I do not consider that, in the presence of the aforementioned noise barrier, such a gate would contribute appreciably to noise mitigation, and it could, unintentionally, worsen the situation, if, for example, it was to be closed when a delivery vehicle was approaching leading to a situation wherein such a vehicle was left idling on the local road while it opened.
- 8.27. I note the applicant's responses to the appellants other concerns, and I consider that these responses adequately address these concerns.
- 8.28. I also note that, under the PA's further information request, the applicant re-sited plant from a proposed rooftop position to a wall mounted position on the rear elevation of the proposed foodstore, in conjunction with the provision of an acoustic fence. It also introduced aesthetic improvements to the principal elevation of the proposed foodstore, which would overlook the regional road.
- 8.29. I conclude that, subject to the installation of an acoustic barrier to the side of the proposed delivery ramp, the proposed site layout would be compatible with the residential amenities of the area.

(iii) Transport, traffic, access, and parking

- 8.30. The applicant has submitted a Traffic and Transport Assessment (TTA) of the proposal. This TTA draws attention to the sustainable transport options that serve the existing Lidl site, and which would continue to serve the proposed site. Thus, the regional road hosts a bus service between Cavan and Ballinagh, which runs at approximately 90-minute intervals throughout the day. This road is laid out with cycle lanes and public footpaths on either side of the two-lane carriageway. Dedicated

pedestrian access points to the site would be available off the regional road, one of which would align with an existing pedestrian crossing of this road. Sixteen cycle spaces would be provided adjacent to the entrance to the foodstore itself. This would represent an increase of 6 no. spaces over the existing 10 no. spaces. While CDP standards in Table 7.4 indicate that 1 no. space per 100 sqm of gross retail floorspace should be provided, i.e., 26 no. spaces in this case, the applicant contends that, given current low levels of cycling demand, this would lead to an oversupply. The PA did not contest this contention, and the appellants have not raised it as an issue. I note that the CDP does not indicate if the standard at issue is a maximum or a minimum. In these circumstances, I am inclined to accept the level of provision as being reasonable.

- 8.31. The TTA examines the additional vehicle movements that would be generated by the proposal, during its weekday and Saturday peak hours. Thus, during the former an additional 122 movements would occur, i.e., 58 in and 63 out, and during the latter an additional 108 movements would occur, i.e., 55 in and 53 out. These movements would approximate to an additional trip every minute during peak hours. No noticeable increase in traffic would thereby ensue.
- 8.32. Under the proposal, customer vehicular access/egress would be consolidated at the existing access/egress point at off/to the link road between Ballinagh Road and the Old Ballyjamesduff Road, i.e., the secondary customer vehicular access point off the latter Road would be closed. As this access point is off a cul-de-sac, it is lightly used at present, and so the proposed consolidation would be in order.
- 8.33. Under the proposal, 122 no. car parking spaces would be provided, including 4 no. for use by mobility impaired drivers, 4 no. for use by “parent and child”, and 2 no. with EV charging facilities. (A further 22 no. spaces are identified for EV charging facilities in the future). The proposed level of provision represents an increase of 10 no. spaces over that on the existing Lidl site. This level of provision falls below the CDP maximum standard of 1 no. space per 20 sqm of gross retail floorspace set out in Table 7.4, i.e., 128 no. spaces in this case. The applicant requests that the shortfall of 6 no. spaces be accepted on the basis that comparable experience in its foodstores in Carrick-on-Shannon and Ballinasloe indicates that car park usage is normally well below the maximum level of provision allowed for. Additionally, these two foodstores are not as well placed for sustainable transport options as the

applicant's site is in Cavan Town. Again, the PA accepted this submission. I note that these standards are expressed as a maximum, and the appellants have not raised this as an issue. I note too that the shortfall in question is a nominal one. In these circumstances, I am prepared to accept the level of provision proposed.

8.34. I, therefore, conclude that the site is/would be well served by sustainable transport options, traffic generated by the proposed larger foodstore would be capable of being satisfactorily accommodated on the public road network, consolidated access arrangements would be appropriate, and parking provision for cycles and cars would be adequate.

(iv) The special contribution condition

8.35. Under Condition No. 3 attached to the PA's permission payment of a special contribution of €60,000 is required "in respect of the provision of Active Travel infrastructure for the Kesh/Oldtown Road (L-25007) to facilitate and promote a diversity of modes of transport between the proposed store and the surrounding residential developments."

8.36. The applicant has appealed Condition No. 3. It draws attention to Section 48(2)(c) of the Planning and Development Act, 2000 – 2023, which states that PAs may "require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development." It states that in this case the PA has not specified the works that would be funded, their cost, or how such cost would be apportioned between the applicant and other businesses that would benefit from them. These are all matters that the Development Management Guidelines advise PAs to be forthcoming about.

8.37. The applicant also draws attention to Active Travel Infrastructure, which typically refers to facilities for pedestrians and cyclists, and to what appears to be the PA's current development contribution scheme (DCS), which allows for the funding of the construction of footpaths and cycleways. Thus, *prima facie*, the special contribution would duplicate the DCS.

8.38. The PA has responded by stating that, under the LAP for Cavan Town, an Area Based Transport Assessment (ABTA) is presently being undertaken, which would enhance pedestrian and cyclist safety by means of road space reallocation, junction

tightening, and pedestrian crossings. Specifically, infill footpaths and junction tightening have been identified within the catchment of Lidl, and the view is expressed that these works would improve the accessibility of the foodstore. The detailed design of these works is to be undertaken, and the special contribution would complement NTA funding of them.

8.39. I note that, under Appendix 2 of the PA's DCS, roads and infrastructure facilities projects are listed, and these include the following:

- *New and improved pedestrian linkages in urban areas*
- *Public footpaths and lights*

These projects would appear to encompass the above cited works, and so, *prima facie*, they would be capable of being funded under the DCS.

8.40. I note, too, that the aforementioned Guidelines envisage special contributions as warranted where they relate to costs "incurred directly as a result of, or in order to facilitate, the development in question and are properly attributable to it." The PA refers to improvements in accessibility that would ensue. However, these improvements would not be exclusive to the applicant's foodstore, i.e., they would be of benefit to the wider neighbourhood centre, too. Insofar as the site presently accommodates the applicant's existing foodstore, they are not necessary for the pedestrian accessibility that pertains at present, and which would be effectively replicated under the proposed foodstore. Thus, under the proposal, the improvements would not be required to facilitate pedestrian accessibility, and so the special contribution is not capable of being properly attributed to the proposal.

8.41. Furthermore, it is clear from the applicant's response that, while the principle of the improvement works in question has been recognised, detailed design work and attendant costings have yet to be undertaken, and so the PA is not in a position to present specific proposals, costings, and their apportionment between businesses in the neighbourhood centre. In these circumstances, even if a more direct link with the current proposal was to be established, a special contribution requirement would be premature.

8.42. I conclude that, in the light of the foregoing discussion, the special contribution required under Condition No. 3 would not be warranted, and so this Condition should be omitted from any permission granted by the Board.

(v) Japanese Knotweed

- 8.43. Under further information, the PA requested that the applicant address the incidence of Japanese Knotweed on the site. By way of response, the applicant submitted an “Invasive plant species survey and management plan”, which identified two incidences, i.e., adjacent to the south-eastern corner of the site on an embankment to a short stretch of stream between two culverts, and along the northern boundary of the site. Insofar as the former incidence (Location B) lies on land outside the applicant’s control, the view is expressed that it is the landowner’s responsibility. The latter incidence (Location A) lies on the site, and so the management plan proposes its removal and buried on site at a depth of 5m.
- 8.44. Under Condition No. 4, the PA’s permission requires the removal of Japanese Knotweed from Location A and its transportation off-site to an authorised disposal facility. An accompanying note recommends that the applicant enter into a written agreement with the landowner concerning the removal and treatment of Japanese Knotweed from Location B.
- 8.45. The appellant critiques the PA’s permission insofar as there would be no further opportunity for public consultation.
- 8.46. I agree with the PA’s precautionary approach in requiring off-site disposal from Location A. I agree, too, with the use of an advisory note with respect to Location B, as the conditioning of lands outside the applicant’s control would be unreasonable. Given that the two options for Location A would be either burial or off-site disposal, and given, too, that an advisory note is the only way of addressing Location B, I do not consider that the public would be disenfranchised by the Board’s replication of the PA’s approach to Japanese Knotweed on and adjacent to the site.
- 8.47. I conclude that the PA’s approach to Japanese Knotweed on and adjacent to the site is appropriate.

(vi) Water

- 8.48. The existing site is connected to the public water mains and the public foul water sewerage system. Under the proposal, these connections would be maintained, albeit some alterations in the routing of the foul water sewer connections would be made.

- 8.49. Under the proposal, a sustainable urban drainage system (SuDS) would be installed to serve all hard surfaces comprised in the development. Stormwater drainage would thus pass through an attenuation tank, which would be sized to cope with a 1 in 100-year storm event plus an allowance of 20% for climate change. This tank would be accompanied by an oil interceptor and a hydro brake, which would limit its outflow to a maximum of 20 litres per second. This outflow would discharge into the south-west flowing Cavan River, which passes close to the south-eastern corner of the site.
- 8.50. An examination of site layout plans submitted under the parent application 99/473 indicates that the existing Lidl site is not served by SuDS, although stormwater does discharge into the aforementioned River.
- 8.51. The OPW's flood maps and the EPA's water maps indicate that the Cavan River and the upstream Lough Green are susceptible to flooding. Reports state that this Lough floods regularly after heavy rain. It is accompanied by a wetland area.
- 8.52. The O'Raghallaigh Park housing estate lies upstream, too. Plans indicate that the first of a series of culverts lies beside this housing estate. As indicated above, the existing site and the proposed site would discharge into this River at a point where it is briefly open between two adjacent culverts under the Old Ballyjamesduff Road and the link road between it and Ballinagh Road. Given these factors and provided the entrance to the culverts are well-maintained, i.e., kept free from debris, future flooding is likely to occur upstream in accordance with historic patterns.
- 8.53. I recognise that the proposal is for a larger extent of hard surfaced areas within a larger site than pertains at present. I recognise, too, that the introduction of SuDS to the site marks a positive step change in the handling of stormwater, which would for the first time control the level of discharge into the adjacent River and thereby mitigate any contribution that the site may make to its flooding. In these circumstances, I do not consider that objection to the proposal is warranted on the grounds of flood risk.
- 8.54. I conclude that the proposal would raise no water issues.

(vii) Appropriate Assessment

- 8.55. 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 had 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 would not adversely affect the integrity of the European site before planning consent can be given.

Screening the need for appropriate assessment

8.56. The applicant has submitted a screening report for appropriate assessment along with its NIS: the combined document is entitled "Appropriate Assessment Screening & Natura Impact Statement – Information for a Stage 1 (AA Screening) and Stage 2 (Natura Impact Statement) AA for a proposed development at Ballinagh/Kesh Road, Co. Cavan", and it is dated 18th January 2023.

8.57. The screening report was prepared in line with current best practice guidance and provides a description of the development and identifies European sites within a possible zone of influence of the development. This report concludes as follows:

An initial screening of the proposed works, using the precautionary principle (without the use of any standard control phase controls or mitigation measures) and the source/pathway/receptor links between the proposed works and European sites with the potential to result in significant effects on the conservation objectives and qualifying interests of the European sites was carried out...

Acting on a strictly precautionary basis, NIS is required in respect of the effects of the project on the Lough Oughter and Associated Loughs SAC (000007) and Lough Oughter Complex SPA (004049), because it cannot be excluded on the basis of best objective scientific information following screening, in the absence of control or mitigation measures, that the plan or project, individually and/or in combination with other plans or projects, will have a significant effect on the named European sites...

8.58. Having reviewed the documents and submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

- 8.59. The applicant provides, on Page 4 of its screening report, a description of the project, the summary of which states that “Planning permission is sought for development at Lidl, Ballinagh Road, Cavan, Co. Cavan, consisting of the construction of a new discount food store supermarket with ancillary off license sales on a site area of 0.905 hectares.”
- 8.60. The applicant identifies, on Page 15 of its screening report, a direct hydrological link via the Cavan River between the site and the European sites Lough Oughter and Associated Loughs SAC (000007) and Lough Oughter Complex SPA (004049).
- 8.61. The Lough Oughter and Associated Loughs SAC has the following qualifying interests, the conservation objectives for which are either to restore (R) or maintain (M) their favourable conservation condition:
- *Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation [3150] – R*
 - *Bog woodland [91D0] – M*
 - *Lutra lutra (Otter) [1355] – M*
- 8.62. The Lough Oughter Complex SPA has the following qualifying interests, the conservation objectives for which are either to restore or maintain their favourable conservation condition:
- *Great Crested Grebe (Podiceps cristatus) [A005]*
 - *Whooper Swan (Cygnus cygnus) [A038]*
 - *Wigeon (Anas penelope) [A050]*
 - *Wetland and Waterbirds [A999]*
- 8.63. The applicant’s screening report states that the distances between the site and the European sites in question are, variously, 4.8km and 4.9km. On Page 15, the following potential significant effects to the above cited conservation objectives and qualifying interests are reported:
- During construction, there is the potential for dust, pollutants (including cement and fuels), and contaminated surface water run-off to enter the Cavan River and the downstream SAC and SPA. During operation...there is an existing connection to the Cavan River, and it is proposed to attenuate surface water drainage and ultimately discharge to this watercourse. Out of an abundance of caution, it is considered that there is the potential for*

pollutants and contaminated surface water run-off to enter into the Lough Oughter and Associated Loughs SAC and Lough Oughter Complex SPA with the Cavan River.

On Page 16, Japanese Knotweed is acknowledged to be on the site, along with its potential to spread downstream via the hydrological pathway.

- 8.64. In-combination effects from other development sites could potentially have arisen. The applicants have interrogated the planning register for information with respect to extant permissions for development within the vicinity of the site. Permissions for a variety of ancillary domestic and communal developments were thereby identified. These would have been screened for AA by the PA.
- 8.65. No measures designed or intended to avoid or reduce any harmful effects of the project on a European site have been relied upon in this screening exercise.
- 8.66. The development was 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 either individually or in combination with other plans and projects could have had a significant effect on European sites No. 000007 & 004049, in view of their conservation objectives, and appropriate assessment is therefore required.

The NIS

- 8.67. The application included a NIS, which bears the same title as the document cited above. The NIS examines and assesses potential adverse effects of the proposed development on the following European sites: Lough Oughter and Associated Loughs SAC and Lough Oughter Complex SPA.
- 8.68. The NIS was prepared in line with current best practice guidance, and it concluded on Page 42 that “Mitigation measures will be in place to ensure that there are no significant impacts on the surface water that leads to Lough Oughter and Associated Loughs SAC and Lough Oughter Complex SPA...No significant effects are likely on European sites, their features of interest or conservation objectives. The proposed project will not adversely affect the integrity of European sites.”
- 8.69. Having reviewed the NIS, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation of the following European sites alone, or in combination with other plans and projects:

- Lough Oughter and Associated Loughs SAC (000007), and
- Lough Oughter Complex SPA (004049).

Appropriate assessment of implications of the proposed development on each European site

8.70. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European site using the best scientific knowledge in the field. All aspects of the project which could have resulted in significant effects are assessed, and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

8.71. The following site is subject to appropriate assessment:

- Lough Oughter and Associated Loughs SAC (000007), and
- Lough Oughter Complex SPA (004049).

The qualifying interests and conservation objectives for these sites are set out above under my screening exercise.

8.72. The main aspects of the proposed development that could adversely affect the conservation objectives of the European sites are the possibility, during the construction and operation phases, that contaminated water could be discharged from the site into the Cavan River. While the presence of Lough Coalpit between the site and the European sites would facilitate settlement and dilution, contaminated water could still reach the European sites, and it could also bear Japanese Knotweed from the site.

8.73. All the qualifying interests in the SAC and SPA could be affected by a deterioration in water quality.

8.74. The applicant's NIS sets out a series of mitigation measures, which would address the above scenario, which could adversely affect the integrity of the identified European sites. These mitigation measures address the following matters:

- Habitat degradation,
- Dust deposition,
- Silt ingress from site run-off,

- Downstream impacts, and
- Negative impacts on the aquatic environment, aquatic species, and qualifying interests.

8.75. The construction phase mitigation measures themselves are set out as follows under the following headings in Table 8:

- The Construction Environmental Management Plan,
- A series of good construction management measures specifically related to the protection of surface water quality,
- A series of measures to protect soil and groundwater,
- A series of best practice water management measures, and
- The Invasive Plant Species Survey and Management Plan.

8.76. The operational phase mitigation measures would entail the attenuation of surface water discharge to the Cavan River and its outflow through an oil interceptor.

8.77. With the above cited mitigation measures in place, no residual impact is foreseen.

8.78. In-combination effects are considered by the NIS. The mitigation measures satisfactorily address any in-combination effects with other development.

8.79. I am therefore able to ascertain with confidence that the project would not adversely affect the integrity of the Lough Oughter and Associated Loughs SAC and the Lough Oughter Complex SPA.

8.80. The project has been considered in light of the assessment of the requirements of Sections 177U and 177V of the Planning and Development Act 2000, as amended.

8.81. Having carried out screening for appropriate assessment, it was concluded that it may have a significant effect on the Lough Oughter and Associated Loughs SAC and the Lough Oughter Complex SPA. Consequently, an appropriate assessment is required of the implications of the project on the qualifying features of this site in light of its conservation objectives.

8.82. Following an appropriate assessment, it has been ascertained that the development, individually or in combination with other plans or projects would not adversely affect

the integrity of the European Sites Nos. 000007 and 004049, or any other European site, in view of the site's conservation objectives.

8.83. The conclusion is based on a complete assessment of all aspects of the 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 the project, including mitigation measures, in relation to the conservation objectives of European Sites Nos. 000007 and 004049.
- An assessment of in combination effects with other plans and projects.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of European Sites Nos. 000007 and 004049.

9.0 Recommendation

That permission be granted.

10.0 Reasons and Considerations

Having regard to:

- The Retail Planning Guidelines,
- The Development Management Guidelines, and
- The Cavan County Development Plan 2022 – 2028,

It is considered that the applicant has demonstrated that the proposed increase in net retail sales floorspace on the extended site would not have a significant impact upon Cavan town centre and it would accord with the advice of the County Retail Strategy. The proposed discount foodstore would be constructed on an extended site, which is wholly zoned as a neighbourhood centre. As a permissible in principle use within this zone, it would fulfil the attendant zoning objective. Subject to compliance with conditions, the revised proposal would be compatible with the visual and residential amenities of the area. Operational and non-operational traffic generated by the proposal would be capable of being satisfactorily accommodated on the public road network. Proposed access and circulation arrangements for

pedestrians, cyclists, and drivers would be satisfactory. Proposed parking provision would, likewise, be satisfactory. The attachment of a special contribution condition towards the funding of improved pedestrian facilities in the surrounding area would not be warranted. No water or Appropriate Assessment issues would arise. The proposal would thus accord with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 30th day of January 2023 and by the further plans and particulars received by An Bord Pleanála on the 19th day of May 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>A 4-metre-high noise barrier shall be installed along the exposed side of the ramp to the loading bay beside the northern elevation of the proposed foodstore.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In order to safeguard the residential amenities of the area.</p>
3.	<p>Prior to the commencement of the use of the foodstore, the noise barrier referred to in Condition No. 2 and the timber acoustic fence shown on drawing no. 06-02 for project no. L265 and received by the Planning Authority on the 30th day of January 2023 shall be installed and, thereafter,</p>

	<p>they shall be retained in-situ for the duration of the use of the foodstore as such.</p> <p>Reason: In order, at all times, to safeguard the residential amenities of the area.</p>
4.	<p>Details of the materials, colours, and textures of all the external finishes to the proposed building and all the surface finishes to the car park shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of the visual amenities of the area.</p>
5.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
6.	<p>(a) The proposed access points, on-site circulation lanes, parking spaces, footpaths, delivery ramp, and lighting shall all be in accordance with the detailed standards of the Planning Authority for such works.</p> <p>(b) The proposed access point from Old Ballyjamesduff Road (L-25008) shall be used exclusively by delivery vehicles and it shall operate as a site entrance point only.</p> <p>Reason: In the interest of driver and pedestrian safety.</p>
7.	<p>Prior to their opening, the proposed pedestrian and vehicular access points to the site from surrounding public roads shall be the subject of a Stage 3 Road Safety Audit, which shall be submitted to and agreed in writing with the Planning Authority. Any recommendations made by this Audit shall be fully implemented and the cost of the same shall be borne by the developer.</p> <p>Reason: In the interest of public safety.</p>
8.	<p>The landscaping scheme shown on drg no. 078722_LP_01_Lidl Cavan shall be carried out within the first planting season following substantial completion of external construction works.</p>

	<p>All planting shall be adequately protected from damage until established. Any plants which die, are removed, or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
9.	<p>Unless otherwise agreed beforehand in writing with the Planning Authority, the construction phase of the development shall proceed in accordance with the Preliminary Construction and Demolition Waste Management Plan, and the Preliminary Construction Environmental Management Plan, and the construction phase mitigation measures set out in the Natura Impact Statement, all of which were received by the Planning Authority on the 30th day of January 2023.</p> <p>Reason: In the interest of amenities, public health and safety.</p>
10.	<p>Prior to the commencement of development, a revised management plan for handling Japanese Knotweed on the site shall be submitted to and agreed with the Planning Authority. This plan shall specify a methodology for the removal of this invasive species from “Location B” on the site, and its subsequent transportation to an authorised disposal facility.</p> <p>Reason: In order to safeguard and promote biodiversity.</p>
11.	<p>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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>

12.	<p>The foodstore shall be open between 08:00 hours and 22:00 hours on Mondays to Saturdays and between 09:00 hours and 21:00 hours on Sundays and Public Holidays.</p> <p>Reason: In order to safeguard the residential amenities of the area.</p>
13.	<p>No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected (on the building/within the curtilage of the site) unless authorised by a further grant of planning permission.</p> <p>Reason: In order to afford the planning authority the opportunity to assess the impact of any such advertisement or structure on the amenities of the area.</p>
14.	<p>The developer shall pay to the planning authority a financial contribution of €24,100 (twenty-four thousand, one hundred euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

Advisory note: The applicant's attention is drawn to any Japanese Knotweed, which may persist at "Location A", i.e., the embankment to the Cavan River beside the south-eastern corner of the site. It is encouraged to agree with the landowner of this embankment on a methodology for the removal of this Japanese Knotweed, and its subsequent transportation to an authorised disposal facility.

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.

Hugh D. Morrison
Planning Inspector

10th January 2024

Appendix 1: EIA Pre-Screening

An Bord Pleanála	ABP-316387-23		
Case Reference			
Proposed Development Summary	Demolition of existing foodstore and construction of a new foodstore on an enlarged site.		
Development Address	Lidl site, Ballinagh Road, Cavan, Co. Cavan		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?		Yes	x
(that is involving construction works, demolition, or interventions in the natural surroundings)		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			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	Conclusion

			(if relevant)	
No		N/A		No EIAR or Preliminary Examination required
Yes		Class 10(b)(ii) of Part 2: The site lies within a business district, the proposal is for a foodstore, which constitutes urban development, and it would be sited on a 0.905-hectare site, i.e., below half the relevant threshold of 2 hectares.		Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	<input checked="" type="checkbox"/>	Preliminary Examination required
Yes	<input type="checkbox"/>	Screening Determination required

Inspector: _____

Date: _____

Appendix 2: EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP- 316387-23	
Proposed Development Summary	Demolition of existing foodstore and construction of a new foodstore on an enlarged site.	
Development Address	Lidl site, Ballinagh Road, Cavan, Co. Cavan	
<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> <ul style="list-style-type: none"> • Is the nature of the proposed development exceptional in the context of the existing environment? • Will the development result in the production of any significant waste, emissions or pollutants? 	<p>Redevelopment of existing foodstore on enlarged site.</p> <p>The existing foodstore has a floorspace of 1596 sqm and the new one would have a floorspace of 2560 sqm. The existing site has an area less than that of the enlarged 0.905-hectare site.</p>	No
	<p>The waste and emissions/pollutants generated by the proposed foodstore would be similar to the existing foodstore.</p>	No
<p>Size of the Development</p> <ul style="list-style-type: none"> • Is the size of the proposed development exceptional in the context of the existing environment? • Are there significant cumulative 	<p>The existing foodstore has a floorspace of 1596 sqm and the new one would have a floorspace of 2560 sqm. The existing site has an area less than that of the enlarged 0.905-hectare site.</p>	No
	<p>The only cumulative consideration is inherent to the project, which would entail the</p>	No

<p>considerations having regard to other existing and/or permitted projects?</p>	<p>replacement of a smaller foodstore with a larger foodstore.</p>	
<p>Location of the Development</p> <ul style="list-style-type: none"> • Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? • Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area? 	<p>A tributary of the Cavan River flows past the site. This River flows into the Annalee River and onwards into the Lough Oughter and Associated Loughs SAC (000007) and Lough Oughter SPA (004046) at distances of 4.8km and 4.9km from the site. The resulting hydrological link is the subject of the applicant's NIS and AA in my report.</p> <p>No</p>	
<p>• Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment. EIA not required.</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment. 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. EIAR required.</p>

Inspector: _____

Date: ____