



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317632-23

#### Development

Discount foodstore supermarket with ancillary off-licence sales and all other associated site development works (including foul sewer link from the proposed development site at Rocksborough to connect to existing infrastructure to the south, including within the curtilage of a protected structure). A Natura Impact Statement will be submitted to the planning authority with the application.

#### Location

Kerloge/Rocksborough, Wexford.

#### Planning Authority

Wexford County Council

#### Planning Authority Reg. Ref.

20230487

#### Applicant(s)

Lidl Ireland GmbH

#### Type of Application

Permission

#### Planning Authority Decision

Grant Permission

#### Type of Appeal

Third Party

#### Appellant(s)

David Bowe

**Observer(s)**

None

**Date of Site Inspection**

15<sup>th</sup> of February 2024

**Inspector**

Angela Brereton

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Appendix 1 – Form 1: EIA Pre-Screening

Appendix 2 -Form 2: EIA Preliminary Examination

## 1.0 Site Location and Description

- 1.1. The site is located on the southern edge of the settlement boundary of Wexford Town in excess of 2km from the town centre. It is located on the western side of the R730 (Rosslare Road). The site is greenfield and in agricultural use. It slopes down gradually from the road. It is bordered to the east by the R730, to the north and west by agricultural lands, and to the south by Kerlogue Nursing Home.
- 1.2. In addition, within the redline boundary, shown as a narrow strip for a wayleave for the proposed new sewer line which is to the south of the site. This goes through the eastern edge of the nursing home site, crosses Coolballow Road to the south and traverses through the grounds of an unoccupied, derelict house (Protected Structure) towards a watercourse to the south of this site.
- 1.3. There are c.73 dwellings recently completed on the opposite side of the road. The site appears out of town and is some distance from other shops or commercial premises. Rocklands Service Station is c.1km to the north, also accessed via the R730. There is one off housing to the north of the site. Strandfield Business Park and a waste water treatment plant lie further to the southwest. While not in the immediate area, there are car showrooms, bulky goods retailers, an employment/business centre further to the south along the R730.
- 1.4. The site is within the urban speed limits. This is a fast busy road and there is a bus stop to the south of the proposed access, and on the opposite side of the road. There is a pedestrian crossing to the north of the proposed access and a footpath and cycleway along the site frontage and along the opposite side of the R730.

## 2.0 Proposed Development

- 2.1. Lidl Ireland GmbH have applied for permission to construct a Discount Foodstore Supermarket with ancillary off-licence sales, on the subject site. The proposed development is to consist of the following:
  - 1) The construction of a single storey (with mezzanine plant deck) mono-pitch Discount Foodstore (with ancillary off-licence use) measuring 2,209sqm. g.f.s with a net retail sales area of 1,420sq.m;

- 2) Construction of an access road from Rosslare Road serving the proposed development and facilitating the future development of adjoining lands and associated and ancillary works, and pedestrian access to the Foodstore site from Rosslare Road; and,
- 3) Provision of associated car parking (including electric car charging facilities), free standing and building mounted signage, trolley bay cover/enclosure, refrigeration and air conditioning plant and equipment, roof mounted solar panels, hard and soft landscaping, cycle parking, boundary treatments, electricity sub-station, drainage infrastructure and connections to services/utilities (including foul sewer link from the proposed development site at Rocksborough to connect to existing infrastructure to the south in the townland of Kerloge, including within the curtilage of a Protected Structure), and all associated and ancillary development and works above and below ground level.

Documents submitted with the application include the following:

- Appropriate Assessment Screening & Natura Impact Statement – ALTEMAR Marine & Environmental Consultancy.
- Traffic & Transportation Stephen Reid Consulting
- Retail Impact Assessment for LiDI Ireland GMBH
- Design Statement – The Planning Partnership
- Archaeological Impact Assessment – John Cronin & Associates
- Technical Report – CLV Consulting
- Preliminary Construction & Demolition Waste Management Plan – SDS Design Engineers
- Services Design Report – SDS Design Engineers
- Preliminary Construction Environmental Management Plan – SDS
- Preliminary Operations Waste Management Plan – SDS
- Glint & Glare Assessment Report – Lawlor Sustainability
- Lighting Impact Assessment – Lawlor Consulting

The proposed development site as presented in the documentation submitted comprises the following:

<b>Development Areas Schedule</b>	
Application Site Area	12,175sq.m (1.22Ha/ 3.01 acres)
Proposed Development G.F.S	2,209sq.m
Total N.F.A (Excluding Internal Walls)	2,132sq.m
Proposed Net Retail Sales Floor Area	1,420sq.m
Proposed ESB Sub-Station	24sq.m

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

On the 30<sup>th</sup> of June 2023, Wexford County Council granted permission for the proposed development subject to 16no. conditions. In summary these conditions concern compliance with the plans and documents submitted including the NIS and RIA, access and road design, connection to adjoining lands, development contributions, infrastructure and servicing, drainage connections, public lighting, construction and environmental management, restriction on hours of opening and deliveries, archaeological monitoring, noise and dust limitations, undergrounding of services and landscaping.

#### 3.2. **Planning Authority Reports**

The Planner had regard to the locational context of the site, planning history and policy, to the internal reports and the submissions made. Their Assessment included the following:

- The site is not currently zoned and is therefore assessed under the Wexford CDP 2022-2028. They refer to Section 5.10 of the plan (Volume 2) as regards to retail policy.

- They note that a Retail Impact Statement has been submitted with this application. They have regard to the County Wexford Retail Strategy and to the Retail Planning Guidelines and make note of the sequential approach.
- They are satisfied that adequate consideration has been given to vacant sites in the town centre.
- They note significant new residential developments in the area and that this proposal will create linkages.
- They consider the proposed design and layout of the site to be acceptable and would provide a quality elevation to the public road.
- They note that the applicant has provided a Stage 1 Road Safety Audit, Workplace Travel Plan Statement and a Traffic and Transportation Assessment.
- They have regard to pedestrian and cycle linkages in the vicinity. Also, to parking layout and public transport options.
- The development would provide a new road along the southern boundary which would provide future linkage to the lands to the west and northwest of the site.
- They note the Transportation Section concerns and recommend that the final design of the access be agreed before the development commences.
- They consider that the submitted plans clearly show that the development would not have any significant adverse impact on the traffic volumes and would result in improved facilities for pedestrians and cyclists.
- They have regard to lighting, issues relative to glint and glare, consider the proposals put forward to be acceptable and can be conditioned.
- They refer to noise limitations and to opening hours and consider these can be conditioned.
- They have regard to public services, noting that a new foul sewer pipeline is to be provided. That a Confirmation of Feasibility has been provided for this development by Irish Water. They also refer to water supply connections.

- They note that in this case a flood risk assessment is not considered to be necessary.
- They have regard to the Construction and Waste Management Plan and to Recycling.
- They considered the Archaeological Assessment to be acceptable and that the development could proceed subject to monitoring.
- Having reviewed the NIS and supporting documentation they consider that mitigation measures are provided and it to be satisfactory.
- They concluded that the development would be acceptable and recommended that planning permission be granted subject to conditions.

### 3.3. Other Technical Reports

#### Roads Department

They had regard to the new entrance/access road off the R-730-36 noting the proposed entrance is within the urban speed limits and that sight lines are achievable. They also noted proposals to remove the uncontrolled pedestrian crossing at the Wexford Town side of the proposed new junction and recommended a new controlled pedestrian crossing.

That elements within the surface water layout plan submitted are acceptable and welcomed as part natura SUDS based plan but a revised layout plan is requested showing proper and adequate connectivity between all the different elements and to indicated capacities and outfall rates for all.

They recommended that F.I be sought on a number of infrastructural issues. These included access, roads layout, pedestrian crossing and drainage issues.

### 3.4. Prescribed Bodies

#### Department of Housing, Local Government and Heritage

They have regard to the Archaeological Assessment submitted and provide that the National Monuments Service of the Department concurs with the findings and

recommendations outlined in this report. They recommend that archaeological monitoring be carried out and include conditions.

#### Department of the Environment, Climate and Communications

They recommend the use of their data. Their records show that there is a County Geological Site (CGS) adjacent to the proposed commercial development. They refer to Wexford Harbour. They provide that with the current plan, there are no envisaged impacts on the integrity of current CGSs by the proposed development.

They note that the Groundwater Data Viewer indicates that the aquifer underlying the site is classed as a 'Regionally Important Aquifer'. That the Groundwater Vulnerability maps indicates the range of groundwater vulnerabilities within the area covered is variable. They have regard to the Groundwater Protection response.

### **3.5. Third Party Observations**

A Submission has been received from David Bowe of Rocklands Service Station who objects to the proposal for a number of reasons. These include the locational out of town context, issues relative to the Retail Impact Assessment and lack of adherence to the sequential approach to retail development and unsustainable transport patterns. These concerns are raised subsequently in the context of the third-party appeal and reference is had to the Assessment below.

### **4.0 Planning History**

The Planner's Report has regard to the following:

- Reg.Ref. 20221085 – Permission refused to Lidl Ireland GmbH for a discount foodstore supermarket with ancillary off-licence sales. This was for a similar type development to that currently proposed on the subject site. This was refused for the following reasons:
  1. The proposed car parking layout fails to comply with Section 6.3.3 Car Parking Design and Layout. Volume 2 of the Wexford CDP 2022-2028, which requires that 20% of the car parking area to provide recharging points for electric vehicles. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

2. The proposed connection to the public sewer network is considered to be premature in the absence of a suitable agreed connection with Irish Water. The proposed development would therefore be contrary to public health and contrary to the proper planning and sustainable development of the area.
3. The proposed development is considered to be premature in advance of the completion of the archaeological testing on the site which was identified as necessary in the request for further information. In the absence of test trenching it cannot be determined if the proposal can proceed as set out in the submitted plans and the development may be contrary to the proper planning and sustainable development of the area.

Reg.Ref. 20220264 – Permission granted by the Council subject to conditions to Philip Stafford for the construction of a new foul sewer pipeline and all associated site works. The proposed development involves the carrying out of works within the curtilage of a protected structure. In summary conditions include the following:

Condition no. 2 – restricts the development to within the redline boundaries of the site.

Condition no. 3 – refers to Archaeological monitoring.

Condition no. 4 – refers to the sewer remaining as a private sewer until such time as it is connected to the proposed new Irish Water strategic sewer on the R730 with the agreement of Irish Water.

Copies of these decisions are included in the Planning History Section of this application.

#### Other Lidl Store in Wexford referred to in application

Reg.Ref. 2023/0497 – Permission granted, subject to conditions to Lidl Ireland GmbH for development which in summary will consist of modifications to the ground floor layout and shop façade, alterations to the car parking and all ancillary works. Whitemill North, Wexford Rural.

Reg.Ref. 2022/0136 - Permission granted, subject to conditions to Lidl Ireland GmbH for development which in summary is to consist of: 1) the demolition of existing single storey discount foodstore supermarket (with ancillary off-licence use); 2)The

construction of part single part two storey mono-pitch part flat roof Discount Foodstore Supermarket (with ancillary off-license use) measuring approx.2,509 sq.m g.f.s with a net retail sales area of approx. 1,670sq.m); 3) The construction of a single storey (part mono-pitch part flat rood) café unit measuring approx. 185sq.m; 4) Redevelopment/reconfiguration of existing site layout and car parking (excluding existing adjoining commercial units); 5) Provision and renewal of boundary treatments and pedestrian access from Clonard Road (adjacent Whitemill Road junction); 6) signage and all associated site works.

These permissions are on the Council's website and relate to the existing Lidl store at Whitemill Road, Wexford.

## **5.0 Policy Context**

### **5.1. National and Regional and Guidelines**

- National Planning Framework – Project Ireland 2040 Our Plan
- Southern Region Spatial and Economic Strategy 2020
- Retail Planning Guidelines (2012) and Retail Design Manual (2012)
- Framework for Town Centre Renewal 2017
- Design Manual for Urban Roads and Streets (2019).
- Traffic and Transport Assessment Guidelines (2014)
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009).
- Development Management Guidelines for Planning Authorities (2007).
- The Architectural Heritage Protection Guidelines for Planning Authorities (2011).

## **6.0 Wexford County Development Plan 2022-2028**

### **Volume 1 – Written Statement**

This Plan sets out the overall strategy for the proper planning and sustainable development of County Wexford for the plan period and beyond. It relates to the whole functional area of Wexford County Council including the areas previously under the jurisdiction of Wexford Borough Council, New Ross Town and Enniscorthy Town. Local Area Plans are to be prepared for these towns.

### Chapter 3 sets out the Core Strategy

The Core Strategy includes regard to Compact growth and liveable sustainable settlements. This notes in Table 3-2 that Wexford along with Gorey are designated the Level 1 Key Towns in the County. Section 3.6.1 refers to Wexford Town which is designated as Key Town in the RSES.

In order to fulfil its designation as a Key Town in the RSES and in line with RPO 11 and RPO 16, the Development Approach recommends a number of criteria.

*A set of strategic objectives for the town is set out at the end of this chapter (WT01-WT10). The spatial planning framework for the town will be set out in the new Wexford Town and Environs Local Area Plan.*

Core Strategy Objective CS05 applies to compact development.

Objective CS15 seeks to: *To prepare new local area plans for Wexford Town, Enniscorthy Town and New Ross Town and to ensure all future local area plans are prepared in accordance with the relevant aspects of the Development Plan Guidelines for Planning Authorities (2007), the Local Area Plan Guidelines for the Planning Authorities (2012) and all other relevant Section 28 Guidelines or any updated version of these guidelines.*

### Chapter 5 – Design and Place-making in Towns and Villages

Section 5.5 refers to the Strategic Objectives TV01 – TV12 refer.

Objective TV10 includes: *To prepare Urban Regeneration Framework plans for the four main towns which provide a clear vision, context, rationale and goals for urban renewal and regeneration in each town.*

### Chapter 6 - Economic Development Strategy

Objective ED50 seeks: *To ensure retail development is located in accordance with the objectives contained in the Retail Strategy in Volume 8.*

Objective ED58 refers to Key Towns and Large Towns Objectives and seeks: *To include an economic development spatial strategy in the Local Area Plans for each town to ensure that (and includes):*

*(iii) The sequential approach is utilised in selecting land for economic development purposes to ensure that urban consolidation and brownfield regeneration is encouraged over greenfield development.*

*The preparation of the spatial strategy shall have regard to the principles of Health Place Audits and the guiding principles for the location of employment development as set out in the RSES.*

Chapter 8 provides the Transportation Strategy

Section 8.4.4 refers to Modal Shift.

Section 8.4.5 to Design of Urban Roads and Streets.

Strategic Objectives include:

*Objective TS01: To implement the principles and objectives of the Design Manual for Urban Roads and Street (Department of Transport, Tourism and Sport, Department of the Environment Community and Local Government, 2013 and 2019) and the Spatial Planning and National Roads, Guidelines for Planning Authorities (Department of Environment, Community and Local Government, 2012) and the National Sustainable Mobility Policy 2022 and the other guidance listed in Section 8.3 Policy Context and any updated version of these documents.*

Section 8.5 refers to and encourages Walking and Cycling.

Section 8.6 refers to Public Transport, which includes regard to Bus and the Rail Network.

*Objective TS36: To ensure the provision of public transport stops and routes are coordinated with developments through liaising with public transport providers and coordinators including Iarnród Éireann, Bus Éireann, Wexford Link and private operators.*

Section 8.7 refers to Roads. Section 8.7.2 to Regional Roads. Table 8 -11 Regional Roads identifies the R730 Wexford - Killealy as a Class 2 Regional Road. Objectives TS72 - TS76 refer to Regional Roads.

Objective TS43: *To ensure that the public safety of all road users, including pedestrians and cyclists, has the highest priority in the design of development and vehicular access points and in the exercise of traffic management functions. Road Safety Impact Assessments, Road Safety Audits and other road safety reports shall be sought where appropriate to inform planning decisions.*

It is of note that Objective TS76 which refers to the criteria for new accesses or the intensified use of an existing access to the regional road network within towns and villages where a speed limit of less than 60kmh applies.

Section 8.10.3 refers to Road Safety Impact Assessment. Objective TS81 refers to the need for Traffic and Transportation Assessments (TTA) to be undertaken for development listed in Section 6.2.1 of Volume 2 Development Management Manual.

### Infrastructure Strategy

Chapter 9 provides that: *This strategy is focused on the provision of high quality water, wastewater and waste management facilities and telecommunications infrastructure that will facilitate and sustain the planned growth of the county over the lifetime of the Plan and beyond.*

Strategic Objectives IS01 – IS07 refer.

Section 9.5 refers to Water Supply. Table 9-1 to Irish Water Public Water Supplies and Capacities. (Source: Irish Water March 2022). This provides that there is capacity available in the main networks to cater for population targets.

Section 9.5.4 to Water Conservation. Objectives WS01 – WS14 refer.

Section 9.6 to Wastewater. Table 9-3 provides an ‘Overview of Public Wastewater Infrastructure in Level 1- Level 4 Settlements. (Source Irish Water Capacity Register 29<sup>th</sup> of April 2020 – noting this is subject to change). This includes that Wexford Town has capacity.

Wastewater Objectives WW01 – WW14.

WW08: *To facilitate the connection of existing developments to public wastewater services wherever feasible and subject to connection agreements with Irish Water and to ensure that any future development connects to the public wastewater infrastructure where it is available.*

Section 9.11 refers to Flood Risk and Surface Water Management.

#### Volume 2 – Development Management Manual

Section 5 refers to Enterprise and Employment Developments.

Section 5.10 refers to and provides the criteria relative to the consideration of Retail and Commercial Uses. This includes that a Retail Impact Assessment will be required for proposed retail developments out of the town centre greater than 1000sq.m of net floor space for both convenience and comparison type developments in the four main towns.

*The RIA shall include, at minimum, the criteria set out in the Retail Planning Guidelines (2012) and that referred to in Volume 8 Retail Strategy.*

#### Volume 8 provides the County Wexford Retail Strategy 2021-2027

*This Retail Strategy and along with the County Development Plan 2021-2027 has consideration for the existing retail strategies within the above-referenced Wexford Town, Enniscorthy Town, New Ross Town and Gorey Town Development Plans, however it will sit above all of the local town plans, taking precedent in terms of policy weighting. The retail related provisions in the above-referenced local town plans and the successor local area plans must therefore be read together with the County Development Plan 2019-2025 and this Retail Strategy.*

### **6.1. Wexford Town and Environs Development Plan 2009-2015**

The Council provides that the Wexford Town and Environs Development Plan 2009-2015 (as extended) has expired and until such time as they make a new plan for the town, all policies, and objectives (as relevant) of the Wexford County Development Plan (WCDP) 2022-2028 will be used to assess any proposals/planning application in the town. It is noted that there is no zoning for Wexford town in the current WCDP.

However, as it is referred to in the context of this application, regard is had to the zoning relative to the subject site of this now expired Plan below.

## Land Use Zoning

The site is located within the southern boundaries of Wexford Town and is shown within Zone 15 - Mulgannon. It is within the 'Mixed Use Residential Zoning' where the objective is: *To make provision for mixed uses and residential development.*

*The purpose of this zoning is to provide for mixed uses including residential, commercial, office, retail type development. While housing and small corner shops will also be considered by the Council, offices, workshops, a creche, small convenience stores, or café are all envisaged in this zone. New residential areas should be developed in accordance with a comprehensive plan detailing the layout of services, roads, links to existing facilities and the landscaping of open space. Residential development shall only take place in conjunction with the provision of the necessary physical, social, community and recreational services/facilities being provided. Where there is evidence of a lack of physical, social, community and recreational services/facilities, the developer will provide for same.*

## Masterplan Zones

Requirements for Phased Future Development within Zone 15 included:

- Formalized open space along the ridge of the rocks to create a new pedestrian link from Trespan Roads to Coolballow.
- Water – Upgrade of Mulgannon reservoir required.
- Roads – New linkages required to reduce dependency on Mulgannon Road.
- Stormwater – Further assessment needed.

Future Development (Map 15) - Mulgannon: *Medium residential development with low density adjacent to existing housing. Formalised open space along the ridge of the rocks to create a new pedestrian link from Trespan Rocks to Coolballow.*

The land is shown within the 'Mixed Use/Residential' land use zoning map. It is not zoned for a 'Neighbourhood Centre'.

The road to the east is indicated as part of a 'Link Road'.

## Neighbourhood Centres

Section 3.6 of the Plan provides: *It is intended that the Neighbourhood Centres are not merely to facilitate the standard suburban expansion, but rather be at the heart of*

*stimulating economic and commercial growth whilst working in synergy with the Town Centre on the one hand facilitating the amenity of the existing environment on the other. The Neighbourhood Centres identified will serve a local shopping function providing retail and service outlets within walking distance of the surrounding catchment area. They should also contain a range of community services such as childcare etc.*

Policy NC1 – *To provide for an adequate and appropriate scale of retail and other services within the existing and proposed residential areas.*

Section 3.7 – Land Use Zoning includes: *Uses other than the primary use for which an area is zoned may be permitted provided they are not in conflict with the primary land use zoning objective (see all Chapter 11, Volume 2 Development Management Standards).*

Section 4.9 (b) refers to Developing Patterns relative to Neighbourhood Centres. This includes: *It is envisaged that as the population of Wexford grows, the town may experience an increasing demand for a designated District Centre and additional Neighbourhood Centre facilities.*

Chapter 4 refers to Economic Development and Section 4.6 to the Retail Strategy. Section 4.7 to the Sequential Approach and Section 4.8 to the Core Retail Area. Section 4.9 to Development Patterns which include District Centre, Neighbourhood Centres and Local Shops.

## **6.2. Natural Heritage Designations**

The site (wayleave area) is within 35m of the Slaney River Valley SAC and the site is within 300m of the Wexford Harbour and Slob SPA.

An AA Screening & NIS have been submitted.

## **6.3. EIA Screening**

The scale of the proposed development is well under the thresholds set out by the Planning and Development Regulations 2001 (as amended) in Schedule 5, Part 2(10) dealing with urban developments (500 dwelling units; 400 space carpark; 2 hectares extent), and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that the need for environmental impact assessment

can, therefore, be excluded at preliminary examination and a screening determination is not required, see Appendices 1 and 2.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

A Third Party Appeal has been submitted by Ian Doyle, Planning Consultant, on behalf of David Bowe, Rocklands Service Centre, Rosslare Road, Wexford Town. The Grounds of Appeal are summarised under the headings below and include regard to the following:

#### Background and Context

- The peripheral location of the subject site, in excess of 2km from the edge of town centre and 3km from the retail core in the town centre as identified by the County Retail Strategy.
- Rocklands Service Station is located 1km north of the application site and is closer to the town centre. The appellant purchased this in 2017 and has since invested in upgrading facilities to a mini-mart with groceries/convenience and alcohol sales. Impact on trade diversion.
- They note that the applicant was refused permission for a similar development under Reg.Ref. 20221085.
- Road safety and accessibility issues relevant to the locational context.

#### Planning Policy

- The location of the site as defined by Annex 1 of the Retail Planning Guidelines, 2012, would be described as out of centre.
- The Wexford Town & Environs Development Plan lapsed in 2019 and as a result the Town currently has no functioning development plan. The site is currently not zoned for development.
- In the absence of a Local Area Plan, the subject proposal should be assessed under the provisions of the CDP 2022-2028. They have regard to the Retail Strategy and objectives therein.

- The redevelopment of vacant and brownfield sites and the consolidation and promotion of Wexford Town Centre should be the focus for all new retail development.
- The proposal would be contrary to policy and constitutes uncoordinated haphazard development of a greenfield 'out of centre' site.

#### Local Authority Decision

- They note the Local Authority decision to grant and provide a Review of their concerns regarding the Planner's Report and assessment.
- The proposed development is stand alone and of a larger scale and not of a neighbourhood scale to cater for surrounding residents only.
- The existing levels of residential development do not exist to justify the sites edge of town location.
- The proposal has the potential to divert trade from the established retailers within the town centre and existing edge of centre retailers.
- It will promote unsustainable transport patterns and impact on the vitality and viability of the town centre.
- The retail planning guidelines make no provision for a 'discount foodstore'.
- They note that the wider area is currently well served by supermarket and mini-market type retail development. That it is difficult to see how the existing offer can be enhanced by the subject proposal.
- They consider it is difficult to comprehend how the proposed development was granted permission in the context of the Planner's Assessment.

#### No supporting Policy Context

- The Wexford CDP 2022-2028 does not include provisions for Wexford Town & Environs and as a result the subject site and surrounding land is not zoned.
- They refer to Section 10(8) of the Planning and Development Act 2000 i.e:  
*There shall be no presumption in law that any land zoned in a particular development plan (including a development plan that has been varied) shall remain so zoned in any subsequent development plan.*

- All, references to the surrounding zoned lands by the submitted RIA as justification for the location of the proposed development are not valid.
- To justify the location of the proposal by referencing previous development objectives and landuse zoning associated with the previous development plan as a justification to grant permission is invalid.
- They refer to a recent decision by the Board to refuse 222 residential units in Crosstown, Wexford (ABP -316019-23) in this respect.
- In terms of the extent of zoned land under the lapsed Wexford Town & Environs DP, the potential de-zoning of lands and the zoning of only sequentially preferable lands, will have significant implications for the future development strategy of the town.
- The future housing strategy for Wexford Town will have a significant impact on the future retail strategy and associated location of lands zoned for retail/neighbourhood centre use.
- Granting permission for the proposal on un-zoned lands in such a peripheral location in the absence of development strategy is contrary to the Retail Planning Guidelines core requirement *Ensure that development is plan-led.*

#### Retail Impact Assessment

- Assumptions made by the RIA are fundamentally flawed in the absence of a functioning development plan.
- There is no reference to the 15 minute city concept within the CDP or associated Retail Strategy.
- They note that significant new residential development in the vicinity has not been constructed.
- All development in Mulgannon/Rocksborough is suitably served by existing supermarkets within 10-15 minutes walking time including the recently completed 73 dwellings opposite the subject site (not 225 as stated by the applicant).
- The proposed development has the potential to result in an out-of-town supermarket with no surrounding development to support it.

- The proposed development is premature pending the establishment of an immediate population within walking distance to support it in its supposed neighbourhood function and should be refused as such.
- There is no guarantee that the lands that this link road would unlock will be zoned under the future Town and Environs Development Plans.

#### Unrealistic Catchment Definition and Assumptions

- The identification of catchment area approach appears to be based on a large area and lacking in consideration of locational characteristics, ease of access particularly by car and possible trade diversion from existing retailers.
- The location of the proposed development would render it the most convenient and accessible retailer for people accessing Wexford Town from the south and west of the County for the purpose of convenience shopping.
- They note the extent of trade diversion from the town centre, and other nearby suburbs the impact on other existing retailers in the vicinity.
- The proposed development cannot be justified as providing a neighbourhood centre function as claimed by the submitted RIA.

#### Sequential Test is Flawed

- The sequential test rules out a number of sites identified by the retail strategy and they provide reference to these.
- Allowing the applicant to take up valuable retail capacity completely undermines the viability of developing the town centre sites identified and reduces the potential to achieve critical mass in terms of vitality and viability. This would be contrary to the RPG.
- It is reasonable for the applicant to wait until development opportunity sites are brought forward for development and for the planning authority to refuse permission for an out-of-town location.
- The proposal is by no means exceptional or supported by exceptional circumstances. The proposal should be refused on the basis that the site location is not justified sequentially.

- It should be refused on the basis that it has not been proven that the proposal would not have an adverse effect on the vitality and viability of the town centre.

#### Contrary to the Retail Planning Guidelines

- The proposed development is contrary to the core policy objectives of the RPG including relative to plan-led development.
- It has no legal basis and the site is not zoned for development. Its out-of-town location would be contrary to the Retail Strategy of the CDP.
- It is not of a neighbourhood centre scale and is only justified in the context of the entire retail catchment for Wexford Town.
- It should be located on lands identified by the County Retail Strategy for the town centre redevelopment.
- The overriding consideration in this instance is the out-of-town location of the proposed development, the lack of surrounding development to justify the location and the potential impact on the town centre and associated established retailers.

#### Encouraging Sustainable Transport

- The RIA makes little attempt to justify the proposed development in terms of sustainable travel modes reinforcing instead the fact that most food shopping journeys are currently made by car.
- The compact growth of settlements for residential development and the provision/redevelopment of our town centres to become a focus of all retail functions including food shopping will ultimately drive the change to more sustainable modes of transport.
- Accessibility - the proposed site is not located within walking or cycling distance of the town core which is located over 3km from the site.

#### Retail Development and Urban Design

- They note that the RPG seek to promote strong urban design. The proposed design is that of a standard big box retail format. While not celebrated for its architectural merits its precedent is long established.

## Conclusion

- It is not the role of a single planning application to pre-empt the development plan making process and make assumptions with regard to future land use zoning.
- The proposal presents uncoordinated development and is premature pending the publication of the Wexford Town & Environs Development Plan.
- In the event that the subject lands are zoned for neighbourhood centre, the proposed development is not a neighbourhood centre scale and should be encouraged to locate in the town centre.
- The proposed development is contrary to the RPG and County Retail Strategy which favour the redevelopment of brownfield town centre sites over out of town greenfield sites. They ask the Board to refuse permission.

## **7.2. Applicant Response**

Planning Partnership have submitted a response to the Third Party Appeal on behalf of Lidl Ireland GmbH. They submit that the Grounds of Appeal would not warrant the refusal of permission, and that their response addresses each of the grounds in detail. Their response is summarised under the headings below:

### General

- They note the potentially competition related reasons for the Appeal.
- They refer to the documentation submitted which, sets out a robust rationale for the principle and detail of the proposed development.
- They consider that the proposal represents a major positive addition to the subject site area to deliver a needed service whilst also acting as a catalyst for further positive development, building on an existing and active pattern of construction activity in the vicinity of the subject site. That it will provide a focal point and necessary local services for the area that is poorly served.

### Scope and Rationale for Proposed Development

- They refer to the scope of and provide a rationale for the proposed development.

- Details are given of the proposal and of opening hours and deliveries.
- Discount food stores now account for over 25% of the convenience market. Noting that Lidl is a long-established presence in Wexford Town.
- Lidl have invested significant time and resources to progressing a second store, analysing numerous locations around the town and environs that may be suitable for same.
- The Southern Environs emerges as the optimal in terms of balancing various commercial and planning and development considerations.
- The subject development represents a timely and proportionate expansion of the Discount Foodstore/convenience sector not represented in the Southern Environs.
- The supposed arrangement is preferred to the delivery of expansive housing without any supporting facilities.
- There are numerous opportunities for linked and sustainable trips as a result of the population and public transport links.
- The location of the store on the subject site will facilitate cycle and public transport links.
- The proposed development will lead to job creation.

### Executive Summary

This refers to the following and the detailed response made on behalf of the applicant to the Grounds of Appeal are summarised under the Headings below:

#### Acknowledged need for a neighbourhood centre

- They submit that such a need is supported by planning policy.
- That the applicant's objection to the subject proposal relates not to the principle of Neighbourhood or distributed shopping but rather the location and scale of same.
- The applicant provides no compelling evidence as to what impact the proposed development could have on the town or other retail centres in the area which is the core test of any retail development.

- This proposal will benefit increased innovation and competition in the town.
- The proposed development is consistent with the proper planning and sustainable development of the town and should be permitted.

#### Withering of Existing Zoning

- They note the appellant's concerns that the Wexford & Environs DP 2009-2015 (as varied and extended) has lapsed. They submit that unless and until a new Local Area Plan is adopted for the Town, the provision of Section 11c of the Planning and Development Acts 2000 – 2023 apply as the Planning Authority have not yet 'replaced' the pre-existing and continuing Wexford Environs DP.
- They note the importance of the Wexford CDP 2022-2028 and submit that the WEDP remains in effect, in conjunction with the CDP.
- There is no procedural obstacle to a positive outcome on the subject proposal irrespective of the status of the WEDP.

#### Potential for Future Dezoning

- They note that the applicant makes issue of the potential for dezoning to occur in the Wexford environs, thus undermining the need/rationale for a well distributed neighbourhood centre network.
- Figure 1 provides the Wexford Southern Environs Alternative Site Analysis (Outlined in Red and numbered 1-5). This shows existing Aldi and Lidl stores in the Wexford area (source – Wexford & Environs DP).
- The area contains a significant day time population along the Rosslare Road which would benefit from convenient access to food shopping facilities.
- The southern environs represent an emerging area for residential expansion and will benefit from the early provision of services, where such services and associated infrastructure (such as the initiation of a link road) can serve as a catalyst for further development.

#### Compliance with County Development Plan

- The documentation submitted and the Planning Authority Assessment demonstrates that the proposed development is compatible and consistent

with the CDP and Retail Strategy both in terms of retail and the overall settlement strategy for the town.

- They have regard to the catchment area and note that in primarily serving the southeastern environs (with existing Lidl store in Whitemill Road serving the Central part), the proposed store is appropriate to this location given the strategic accessibility of the site to this catchment including connectivity to public transport.
- This non-town centre location is consistent with the pattern of the majority of Large Convenience operators in the town. They also consider that it is consistent with the objectives of the Planning Authority under the existing CDP and refer to neighbourhood centre strategy.
- In relation to zoning, they reiterate that the Board can and should have regard to the WEDP, and in any event there is no shortfall in terms of public policy to enable a positive decision on the proposed development.

#### The 'Centre' and the Sequential Assessment

- They note that the majority of commercial outlets in the town centre relate to other activities and half of the supermarkets in the town as a whole are outside the town centre. That the 'town centre' is therefore not the relevant benchmark in terms of optimal location for convenience retail use.
- Whilst the subject site is not presently designated as a Neighbourhood Centre, it has a compatible zoning and the DP has identified in broad terms a need for neighbourhood functions in this area on the Rosslare Road.
- The settlement retail hierarchy for the town has a clearly expressed strategy of distribution of food shopping to a wide network of neighbourhood centres and not towards the town centre.
- The applicant did undertake a sequential assessment of town centre sites for completeness which the Board are invited to review.
- This site in the southern environs is considered optimal for a second Lidl store in the town.

### Trade Diversion & Retail Impact

- They refer to the RPG and submit that the scale of the proposed foodstore is at the lower end of supermarket scale.
- Part of the promotion of healthy urban centres relates to the creation of centres where appropriate such as neighbourhood and district centres in areas of expansion, as the subject scheme proposes.
- They contend that there is no material risk of retail impact or trade diversion arising from the proposed development, as supported by the application documentation.

### Catchment Size Assumptions

- They submit that that the appellant misinterprets the catchment issue in general and conflates same with separate issues of the sequential approach and retail impact.
- The RIA adopted a more conservative capacity assessment than that of the County Retail Strategy as regards projection of capacity.
- It sought to represent the actual pattern of shopping trips that the applicant has direct evidence of, which illustrates that their existing (neighbourhood located) store serves both the local neighbourhood and also a wider area.

### Unsustainable Travel

- They refer to surveys carried out regarding modal split and provide that the site is well accessed/served by a variety of travel modes in this regard as detailed at application stage.
- The subject proposal fully aligns with promoting compact development and promoting sustainable travel, by improving the distribution of food shopping opportunities to currently underserved areas, namely the southern environs.
- The southern environs has an extant population which is set to grow significantly, as such it is appropriate that this area be catered for.

### Definition of Foodstore

- Whilst Discount Foodstores fall into an overall category of 'large convenience goods stores', it remains a valid descriptive term.
- They note that the RPG specific distinction between discount foodstores and other supermarkets no longer applies.
- They consider this issue raised in the appeal should be disregarded.

### Plan Led Development/Timing /Planning Gain

- Whilst they consider that the issue of the status of the WEDP (and the CDP) has been addressed they reiterate that there is a clear and current policy framework supporting the principle of the proposed development.
- The proposed development is fully plan led in terms of aligning with the overall strategy for the town at macro level.
- The technical and other merits and characteristics of the proposed development have been considered by the planning authority.
- The recently adopted CDP provides a clear and direct encouragement for significant expansion of Wexford Town settlement, projecting 45% growth by 2040 compared to the 2016 population.
- The town requires significant expansion of residential landbanks and a commensurate of supporting services.
- The frontloading of retail services even if considered in advance of a critical mass of housing is not a negative. The early delivery of housing with the absence of supporting facilities is contrary to the interests of orderly development.
- Planning gain and the catalytic potential of the proposed development, should be recognised. This includes the provision of linkages to facilitate the future development for adjoining lands and the creation of an access road on the subject site.
- In the absence of the delivery of the subject scheme such enabling infrastructure would be less viable and thus less likely to be delivered thus

likely delaying the much needed and plan-led expansion of the town in the short term.

### Conclusion

- They submit that the grounds of appeal cannot be upheld as a valid reason to overturn the Council's grant and conditions for the proposed development.
- They consider that their response to the appeal has addressed each of the issues raised by the Third Party.

### **7.3. Planning Authority Response**

There is no response from the Planning Authority to the Grounds of Appeal on file.

### **7.4. Observations**

None noted on file.

## **8.0 Assessment**

### **8.1. Introduction**

- 8.1.1. The subject site (site area c.1.21ha) is greenfield and is c.2 to 3kms to the southeast of Wexford Town Centre and core shopping area. There is a housing scheme opposite the site, and ribbon type housing to the north and Kerlogue Nursing Home to the south. This application relates to the proposed development of a licenced Discount Foodstore and associated site development including an access road and infrastructural linkages.
- 8.1.2. 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/national policies and guidelines, I consider the substantive issues in this appeal to be considered are as follows:
- Planning Policy Considerations
  - Retail Impact Assessment

- Design and Visual Impact
- Access and Traffic
- Impact on the Character and Amenities of the Area
- Archaeology
- Drainage issues
- Construction and Environmental Management
- Appropriate Assessment

## 8.2. Planning Policy Considerations

- 8.2.1. It has been noted on the Wexford County Council website that the Wexford & Environs Development Plan 2009-2015 (as extended) has now expired. The site is not zoned within the current CDP and the Wexford Town Local Area Plan is pending. Core Strategy and Settlement Objective CS15 refers. Therefore, the principle of the development shall be considered on its own merits, and in accordance with the Wexford County Development Plan 2022-2028 and also having regard to the zoning in the former Wexford & Environs Development.
- 8.2.2. Section 3.6.1 of Volume 1 of the Wexford CDP refers to Wexford as a Key Town. This includes that it is a significant regional centre including for retail. Section 5.10 of Volume 2 refers to Retail and Commercial Uses. This includes that applications for new retail development shall accord with the Retail Planning Guidelines (2012) and the requirements outlined in Volume 8 Retail Strategy. The County Wexford Retail Strategy 2021-2027 as included in Volume 8 of the CDP provides The Retail Hierarchy (Table 6.1 refers). Wexford is a Key Town at Level 1 Regional Town and as a primary retail centre in the County is appropriate for major convenience and comparison retail. Issues of accessibility, vitality and viability of town centres are considered to be important. Hence, the focus of town centres is to develop and consolidate with an appropriate mix of commercial, recreational, cultural, leisure and residential uses, in accordance with the principles of urban design and sustainable development. The development plan also talks about good placemaking underpinned by urban design, that leads to vibrant and active streetscapes.

- 8.2.3. The Retail Planning Guidelines (RPG) 2012 support plan-led development and require that a Retail Impact Assessment (RIA) examine the potential retail impact and cumulative impact of new retail development on the vitality and viability of existing centres to identify any adverse impacts. The Guidelines support the sequential approach and require that a number of criteria relative to the impact of proposed new retail development be addressed. An Executive Summary is provided relative to compliance with the criteria outlined in the RPG in the RIA submitted.
- 8.2.4. The Third Party Appellant considers that the periphery location of this greenfield site on what are unzoned lands would be contrary to the sequential approach in the Retail Planning Guidelines 2012 and to retail policies and objectives in the Wexford CDP and the County Retail Strategy. They consider that the proposed discount foodstore to be an out-of-town standalone retail outlet and is not consistent with the definition of a neighbourhood centre. That this proposal does not comply with the sequential approach and is premature pending the adoption of a new Local Area Plan for Wexford. That the site is not zoned and does not represent 'plan-led development' and the proposal would impact adversely on the vitality and viability of the city centre. They also have concerns about accessibility.
- 8.2.5. The First Party submit that the proposed development is compatible with the zoning of the subject site and will give effect to the settlement, town centre and retail planning objectives of the adopted County Development Plan 2022-2028, and also to the zoning in the Wexford Town & Environs Development Plan. That the expansion strategy is wholly in line with the strategic planning objectives for the town in retail and neighbourhood terms, with local food retailing outside the town centre being the primary focus for expansion. They provide that the subject site been selected after a comprehensive sequential analysis by the applicant in the RIA, where a number of sites have been reviewed and considered. They also submit that the Town Centre should not be prioritised above all other locations in respect of convenience shopping and that nor has it been in recent and current retail planning strategies.
- 8.2.6. They consider that this proposal will provide the Wexford town and the environs areas of Rocksborough/Kerloge/Mulgannon with an enhanced retail offer, serving the area with an appropriate level of food shopping facilities, currently absent locally, whilst not disturbing the existing pattern of trade in the town. That, the proposed development will provide a positive contribution to the character of the area acting as

a catalyst for future development and providing access leading to the opening of adjoining landbanks, in keeping with Development Plan Policy.

8.2.7. It must be noted that as shown in the Wexford & Environs Plan the site is within Zone 15 - Mulgannon. It is within the 'Mixed Use Residential Zoning' where the objective is: *To make provision for mixed uses and residential development*. While small scale retail such as corner shops or convenience stores are permitted within this zoning, the site has not been zoned as a neighbourhood centre. It is noted that the store will be a standalone facility, that is not proximate to the town centre and other retail/commercial and will not provide for linked trips to other facilities, such as would be found at a neighbourhood centre. That the proposal is not plan led in that the site was not formerly zoned as a neighbourhood centre.

8.2.8. Regard is had further to the documentation submitted, including the issues raised in the Third Party grounds of appeal and the First Party response. This Assessment below includes regard to the Retail Impact Assessment, also to design and layout and infrastructure relative to access and the provision of services and linkages relative to the proposed development. It is of note that an NIS has been submitted. It needs to be established as to whether the proposed development would be in the interests of the proper planning and sustainable development of the area.

### 8.3. Retail Impact Assessment

#### Locational Context

8.3.1. Regard is had to the Retail Planning Guidelines 2012. The aim of the guidelines is to ensure the planning system continues to play its role in supporting competitiveness and choice in the retail sector commensurate with promoting the vitality and viability of city and town centres. Note is had, among other issues to compliance with the sequential approach, the requirement for both a retail impact assessment and a town centre health check and the impact on the existing convenience retail in the town.

8.3.2. The Retail Impact Assessment submitted provides, that the proposed development will result in the expansion of the footprint of operators in the Wexford environs area, serving the southern environs which are currently not well catered for. This is despite a newly emerging residential neighbourhood developing, in addition to a long-

standing substantial day time population. That this will provide competition and choice for customers, using sustainable and linked trips including public transport.

- 8.3.3. That the proposal is intended to become a focal point for emerging residential and established day time population of the area, on the Rosslare Road at a natural confluence of circulation routes, existing and future. In this regard the RIA provides that the proposal will link with the existing network of similar centres in the wider urban area, filling a current absence in the southern environs.
- 8.3.4. They note that the Wexford CDP 2022-2028 relates to the longer-term delivery of adequate floorspace to provide adequate facilities for the emerging population on a localised basis. That the subject scheme is intended to serve the needs of the Rocksborough/Kerloge/Mulgannon area, in keeping with the objectives of the Development Plan, with the application having invested significant time and resources into site selection and acquisition.

#### Qualitative Assessment

- 8.3.5. The RIA provides that the total net area of the proposed licenced Discount Foodstore is some 1,420sq.m (compared to contemporary typical scale of 1,700sq.m and Supermarket scale of up to 2,500sq.m). That the net 'convenience' sales area @90% of total net sales area (i.e. 1,278sq.m) is the primary figure of relevance, given that the remaining 10% sales area (142sq.m) is devoted to ancillary comparison sales which are not of a scale to warrant RIA as discussed.
- 8.3.6. Annex 1 of the Retail Planning Guidelines 2012 provides a Glossary of Terms to cover forms of retail development and types of retail location. Stores such as that proposed do not closely fit into the 'types of retail defined'. It is noted that the distinction between 'discount stores' and other convenience goods stores which was contained in the 2005 RPG no longer applies.
- 8.3.7. The RIA considers that they fall within the 'umbrella' of large convenience foodstores/supermarkets as defined in the RPS 2012. Also, noting that Discount Foodstores have rapidly expanded their share of the market. In referring to the proposal as a Discount Foodstore and acknowledging its position within the '*large convenience goods store*' category of the RPG they seek to distinguish it in terms of its smaller size, i.e being a medium sized supermarket and not in the same realm as a large superstore or hyper store.

- 8.3.8. Section 4.4 of the Retail Planning Guidelines refer to the Sequential Approach to the Location of Retail Development. This has regard to the order of priority relative to location and to the suitability, availability and viability of the site. The proposed site would fit into an Out-of-Centre location as defined in the RPG i.e. *A location that is clearly separate from a town centre but within the town development boundary, as indicated in a development plan or local area plan.* It is not an Edge-of-Centre location in that it is c.3kms from the town centre and not within easy walking distance i.e. 300-400m. Therefore, it is submitted that it will be a destination in its own right, separate from the town centre and other retail.
- 8.3.9. The RIA provides that Wexford is not currently susceptible to material vacancy, as confirmed by the Retail Strategy. Convenience retailing occupies only 5% of town centre floorspace hence they submit that this proposal has little role in influencing vacancy positively or negatively. That the out of centre neighbourhood location is in keeping with the Strategy. Furthermore, the subject proposal is purpose built and cannot be accommodated in existing vacant buildings.

#### Sequential Approach

- 8.3.10. Section 5.10 of Volume 2 of the CDP includes: *The RIA shall include, at a minimum, the criteria set out in the Retail Planning Guidelines (2012) and that referred to in Volume 8 Retail Strategy.* I would note that Objectives ED50 and ED58 of Volume 1 of the Wexford CDP 2022-2028 refer to Retail and Key Towns and Large Town Objectives seeks to include an economic development spatial strategy in LAPs for each town to include: *The sequential approach is utilised in selecting land for economic development purposes to ensure that urban consolidation and brownfield regeneration is encouraged over greenfield development.*
- 8.3.11. Section 5.12 of the County Wexford Retail Strategy 2021-2027 (Volume 8 CDP). refers to *Vacant Floorspace* and notes level of vacancy in town centres. This includes: *Where possible additional retail floorspace will be targeted within existing vacant floorspace. For large scale retail applications, the onus will be on the applicant to demonstrate as part of the sequential test assessment that existing vacant units within the retail core are not suitable, viable and available to accommodate a development.* Regard is also had to the Specific Retail Objectives which are included in Section 6.3 of the Strategy In particular Objective WXC08:

*Retail development on the edge of centre or out of centre sites will not generally be supported.*

- 8.3.12. The RIA provides that the non-town centre location is consistent with the pattern of the majority of Large Convenience operators in the town (Figure 2 illustrates). They include Section 2.4 which refers to Wexford Neighbourhoods Context. They consider that it is also consistent with the objectives of the Planning Authority under the Wexford and Environs Development Plan. It is noted that these refer to a Neighbourhood Centre, rather than to a standalone discount foodstore.
- 8.3.13. That that as illustrated on Fig.2 the entire area south and east of the town and the existing supermarkets are unserved by any convenience offering of note. They include a number of Figures showing the distribution of retail in the Wexford Environs area. Fig. 5 shows the distribution of Neighbourhood Centres and Fig.6 - supermarkets. Figure 7 shows the distribution of supermarkets & residential landbanks (shaded yellow). Fig. 8 the distribution of convenience retail across Wexford Town & Hinterland. They provide that their findings show that convenience retailing is distributed across the Settlement, its environs and hinterland, with such use not being a focus or priority for the town centre or core retail area.
- 8.3.14. Section 2.6 of the RIA considers the proposal appropriate in terms of the sequential approach. That the applicant confirms that they have reviewed a number of potential site locations, a non-exhaustive list is illustrated in Figure 9. Details are given of Site nos. 1-5 as shown. Each of these sites, other than Site 4 is discounted having regard to viability. Site 4 references the subject site and it is confirmed that it is available. This Figure also shows in yellow (Future Potential Links to be initiated by the proposed development).
- 8.3.15. The RIA refers to the town centre, *opportunity sites within the town centre*. These are shown in Section 6.2.1 (Figure 6.1) of the County Wexford Retail Strategy 2021-2027 and included in Appendix A of the RIA. They are referred to in the attached table and are all discounted in the RIA as not being suitable nor viable. Many of the sites being described as too small and below the scale of viability for a store. That the subject site emerges, as the only suitable available and viable location having regard to the criteria in the Retail Planning Guidelines, and the proper planning and development of the area.

### Quantitative Assessment

- 8.3.16. This is included in Section 3.0 of the RIA to address the quantitative aspects of the potential impact of the proposed development including the capacity/requirement for additional floorspace in the catchment area, and the retail impact and trade diversion of the proposed development on retail centres in the area. Noting that these emerging neighbourhood centres are based on figures available e.g. in terms of population, spending power and also a number of assessments, planning policy etc. That a 15-minute drivetime was applied to determine the split between those locations most convenient to the existing or proposed Lidl stores.
- 8.3.17. The applicants also refer to trends from the Lidl store at Whitemill Road Reg.Ref.2022/0136 refers (to be redeveloped and expanded independently of the subject proposal). They note also that this relates to a larger store at 1,670sq.m net sales area vs. 1,420sq.m proposed herein). It is noted that this is located in the built-up area of Wexford town and replaces another discount store on the site. Therefore, while another Lidl it presents a different scenario to the current scenario, for an out-of-town store located on a greenfield site.
- 8.3.18. The Third Party queries the assessment of the catchment area as being too broad. They also note that they have not referred to the impact on their mini-market at Rocklands Service Centre which is closer i.e. c.1km south of the town centre. The First Party response considers the issue of the catchment area and that of the core consideration of the strategic suitability of this location for a discount foodstore, which suitability is primarily informed by a long-established principle promoting the distribution of food shopping outside of the town centre to neighbourhood areas.
- 8.3.19. They have regard to the criteria, noting the five main steps in the Methodology provided in Annex 5 *The Assessment of Retail Impact* of the RPG, 2012. They refer to the Catchment Area – Figure 10 relates. This seeks to identify the general area from which the proposed development and retail outlets in Wexford town, will derive their custom and it notes should not be interpreted as definitive. The RIA notes that the turnover can be determined by multiplying the *Net Convenience Retail Sales Area* (1,278sq.m) by the appropriate turnover ratio for new floorspace. They note that the Retail Strategy provides assumptions for a turnover ratio/sales density for convenience floorspace. They submit that Discount Foodstores operate on a

typically lower cost model, hence their widespread success in recent years, and that a lower turnover ratio is appropriate in line with available data on price differences. They refer to Turnover and note the emphasis on own brand and lower price goods in 'discounters' compared to 'mainstream' stores.

- 8.3.20. In summary that as evident from their assessment of available expenditure and floorspace capacity, they submit that this level of turnover would not be of significance in retail planning terms, representing only 4.4 % of the overall unadjusted 2026 available expenditure in the catchment. They refer to Quantitative Capacity for Additional Convenience Floorspace and provide details on Expenditure Estimates and Available Expenditure. Table 4 provides an estimate of Catchment Existing Floorspace Turnover. This estimates the extent of overtrading/leakage occurring in the catchment. Estimates are given of Gross Additional Turnover Potential and it is stated that even allowing for unforeseen developments in the town and catchment (should such arise, e.g reuse of vacant floorspace etc) there is significant capacity for additional floorspace, as confirmed by the Retail Strategy.
- 8.3.21. They note Extant and Vacant Floorspace in the town and provide that as noted in the Retail Strategy it is not a particular cause for concern in Wexford, whilst convenience retailing only accounts for 5% of commercial floorspace in the town centre which is insignificant in terms of the occupation of commercial units. Nonetheless the Retail Strategy allows for the allocation of floorspace capacity towards the reuse of vacant floorspace. Table 5 refers to capacity for additional floorspace.
- 8.3.22. The RIA submits that there is significant quantifiable need for additional convenience floorspace such as that proposed herein in the catchment area. Noting that the proposed development has little impact on 'capacity' for retail floorspace in the catchment area, i.e there remains a *minimum* demand for significant convenience floorspace. That the delivery of additional competition, can act as a catalyst to indirectly encourage the enhancement of convenience retailing in the catchment, as a multiple effect to the benefit the store would provide directly.
- 8.3.23. Reference is had to Table 5.21 of the County Wexford Retail Strategy 2021-2027: *Indicative Future Retail Floorspace Potential (Cumulative) - Adjusted for Vacancy and Assumed 50% of Pipeline Supply*, which refers (2027) to the 5,483sq.m figure for convenience goods in Wexford.

8.3.24. The RIA notes that after the proposed 1,278sq.m is taken into account, there would be capacity/requirement to accommodate a *minimum* of an additional 1,823sq.m of 'mainstream' floorspace or 3,332sq.m of lower turnover 'discount' floorspace. They submit that this is a particularly conservative assessment, considering the Retail Strategy projects a capacity/need for 5,483sq.m of convenience retail floorspace up to 2027 in the Wexford town catchment. They submit that there is a significant capacity and need for floorspace in the Wexford town area in the short term.

#### Trade Diversion and Retail Impact

8.3.25. Section 3.6 of the RIA sets out the potential retail impact of the convenience element of the proposed development on the key surrounding retail centres with which the subject proposal would in some way compete. They note that a 10-15% retail impact on any centre is not normally considered to be significant. Their methodology in assessing retail impact follows the format of Annex 5 of the RPG, 2012. This uses current/baseline trading levels as a benchmark against which the effects of trade diversion can be identified. This approach enables the effects of projected growth in sales to be taken into account. In terms of competing centres, the RIA provides that there would be no particular centre materially affected, with the adjacent centres of the Central Environs, Town Centre and Rosslare/Kilrane being of relevance.

8.3.26. They contend that the key issue is that the diversion would not be of sufficient scale to materially affect those existing centres. That in summary, as illustrated under Table 6 it is considered that the proposed development would not generate a material level of retail impact on the centres within the catchment area or wider area. That principally the turnover for the proposed store will derive from the centres/clusters which are of a large scale such that the subject proposal could not materially affect the viability of ongoing trading therein. In addition, they do not consider that Convenience Trade Diversion and Retail Impact on other centres will be significant.

#### Conclusion regarding the RIA

8.3.27. It is submitted that the proposal would not lead to significant or material retail impacts on the Wexford catchment area, and the retail centres therein. In addition, that the proposed development is a significant investment by a major multi-national retailer and would lead to economic benefits in term of employment and

enhancement of shopping facilities in the town, frontloading investment in an emerging residential district.

- 8.3.28. That the RIA has demonstrated that there will be limited anticipated trade diversion and retail impact and have regard to a quote from the Competition Authority and the RPG 2012. It is of note that in this respect Annex 5 includes: *The assessment of retail impact is not intended to prevent competition or prevent trade diversion in itself, but its purpose is to promote healthy urban centres in the public interest. This must be borne in mind when carrying out these assessments.*
- 8.3.29. That the current Retail Strategy confirms that significant additional floorspace is required in the medium term to match anticipated growth in population growth and spending as detailed in the submitted Retail Impact Assessment (RIA). That the delivery of a modern format store in the town will enhance the overall offer provided across the town as a whole, which is currently under served.
- 8.3.30. I would consider that has been demonstrated in the RIA, this proposal will provide for a significant amount of convenience retail in the proposed Discount Foodstore for this area of the southern environs of the Wexford Town and Environs catchment area, which has not been previously supplied. As has been noted above the area has not been zoned for a 'Neighbourhood Centre' in the former Wexford Town and Environs DP 2009-2015, which has now lapsed. Rather it was zoned for 'Mixed use/Residential' where small convenience stores were considered acceptable. I would not consider that the scale of the proposed discount foodstore would fit into this category.
- 8.3.31. This is a greenfield undeveloped site, c.3kms and distant from the town centre core retail area. The First Party emphasise the favourable location of the southern environs and the subject site relative to land banks, much of which are significantly remote from the built-up area of the town. I noted that there is an existing residential development of c.73 newly constructed residential units on the opposite side of the road. Otherwise, there is no additional new housing or construction works for same seen currently in the vicinity. There is ribbon development type housing to the north of the site and Kerlogue nursing home to the south. The site currently appears as within a largely undeveloped area of agricultural land, distant from the town centre and other retail. It is currently not known whether extant permissions (many of which

are no longer current) will be enacted or what future development will take place. Therefore, I would consider that this proposal has to be considered on its merits as a stand-alone retail development in an out-of-town location detached from and to the south of Wexford Town Centre.

- 8.3.32. The concerns of the Appellant regarding the size of the catchment area and the lack of adherence to the sequential approach have been noted. The Board may look at the out-of-town location of this proposal as not following the sequential approach or alternatively as provided by the First Party frontloading i.e providing retail development services prior to the development being delivered in the area.
- 8.3.33. Taking all the issues into consideration, I am not convinced that the RIA has shown with clarity that the sequential approach to the location of retail development has been adhered to in accordance with retail planning policy and guidelines. I would not consider that the proposal for retail in this out-of-town location, on greenfield lands that were not zoned for a 'Neighbourhood Centre' in the former Wexford and Environs Development Plan, would comply with the sequential approach in the Retail Planning Guidelines 2012, Policies ED50 and ED58 of Volume 1 or Section 5.10 of Volume 2 of the Wexford CDP 2022-2028 or the specific retail planning objectives including WXC08 of Section 6.3 of the County Wexford Retail Strategy 2021-2027. I am concerned that the subject proposal would be disconnected from the town centre and runs counter to a plan led approach that would lead to positive outcomes in terms of placemaking and sustainable transport. That the proposed development would not be seen as plan led and would be premature pending the adoption of the Wexford Local Area Plan.

#### **8.4. Design and Layout**

- 8.4.1. The Site Location Map delineates the area within the applicant's ownership as shown in blue and the subject site 12,175sq.m. It is noted that the blue line area shows the extensive ownership by the applicant of adjoining lands including those required relative to the sewer line to the south of the site. An element of regrading of site levels will be involved to achieve a workable site layout, having regard to the topography of the site.

- 8.4.2. As shown on the Site Layout Plan the proposed Lidl store is to be located on the northern part of the site. The area for the proposed Lidl store is shown as 7,872sq.m. The existing public road in charge by WCC is shown as 1050sq.m, the public road access area for future development lands (in blue) as 1,822sq.m and the proposed wayleave for the new sewer line (in yellow) within the redline boundary to the south of the site as 1,455sq.m. Details submitted provide that this link involves a foul sewer to be constructed across lands in the ownership of the vendor and also by the Council as illustrated by the drawings.
- 8.4.3. The vehicular access is to be from the southern part of the site from the R730 and regard is had to the circulation areas and parking layout, including that for e-cars to the northwest of the site. It is provided that the access road would be intended to be retained in the ownership of the vendor, with Lidl obtaining a right of way over same. Lidl would obtain full ownership of the extent of the site only.
- 8.4.4. The details submitted provide that the store will be set back from the Rosslare Road, creating a focal point. The building is shown as single storey, rectangular standard discount foodstore type design. It is a functional building and regard is had to the proposed external finishes. Contextual Elevations have been submitted. The height of the mono-pitch roof varies from c.5m – c.6.75m. The floor plan shows the g.f.a of the ground floor area is 2209sq.m. and a net sales area of 1,420sq.m. This includes the sales area, freezer area, bakery preparation, storage areas and secure storage area, plant room and the delivery area, staff facilities and toilets. The building is to provide a high-quality elevation to the southern façade, whilst to the west and north the proposed finishes are relatively passive. Solar panels are to be included. The Construction and Environmental Management Plan has regard to construction methods for the proposed buildings and to external finishes. I would recommend the inclusion of a condition regarding External Finishes should the Board decide to permit.
- 8.4.5. An MV Substation building is to be provided as part of the proposed development to provide electrical capacity at the site in this regard. The plans show this to the north of the proposed Lidl store, close to the access ramp. Therefore, it will be seen within the wider context of the proposed development site. The loading bay to the proposed delivery area is shown to the northwest of the building.

8.4.6. I note that the site is to be taken off the larger field area so that boundary treatment will need to be established. The proposed Lidl is shown close to the northern site boundary and the house to the north of the site, albeit within the landholding shown blue. Landscaping plans have been submitted which have regard to boundary treatment. It is proposed to provide a paladin fence c.1.8m high inside the existing hedge. There is a low stonewall boundary and a row of roadside trees alongside the road frontage with the Rosslare Road, which as shown on the Site Plans (excepting where needed to facilitate vehicular and pedestrian access) is to be retained. I would recommend this as they add to the character of the streetscape. That it be conditioned that proposed landscaping and boundary treatment as shown on the drawings be implemented should the Board decide to permit.

8.4.7. Lidl signage both attached to the building and freestanding is shown on the drawings submitted. This includes proposed flagpole signage, shown 6m high to the front of the building so that it can be seen from the road. I would recommend that a condition on signage be included, to avoid an over proliferation of signage on the subject site.

## 8.5. **Impact on the Character and Amenities of the Area**

### Visual

8.5.1. The site is bordered to the north by a couple of residential properties, to the east by a number of residential dwellings on the opposite side of the R730 and to the south by Kerlogue Nursing Home, and to the west by farmland. While it is provided that these lands will one day be further developed, there appears to be no definite plans for this at present. Other than the residence to the north, which is shown within the applicant's landholding, in view of distance, I would consider provided there is not proliferation of signage, and appropriate landscaping and boundary treatment conditions are implemented that visually the proposal, would not adversely impact on residential development. Regard is had to the impact of Noise and Lighting below.

### Noise

8.5.2. A Noise and Vibration Impact Assessment has been carried out of the impact of the proposed development on the surrounding environment. This provides that the proposed opening hours are as follows:

- Mon - Sat 8am – 10pm

- Sun & Bank/Public Holidays 9am – 9pm.

I would note that these hours appear to be similar to those of the existing Lidl at White Mill Industrial Estate, Wexford.

- 8.5.3. A discussion is had of Noise & Vibration Criteria relative to Construction and Operational Phase Noise Criteria. Regard is had to the receiving environment and to the Environmental Noise Survey carried out. Details are given of the nearest noise receptors (Figure 1 relates), noting that the property to the north is 11m away and those on the opposite side of the R730 c.35m. The northern boundary of Kerlogue Nursing Home (c. 80m to the south) is also used as a receptor. No significant impact on vibration is expected on any adjacent noise sensitive locations during the construction or operational phases. Daytime and Night-time measurements were carried out and details of measurement results are noted in the tables submitted. This was having regard to traffic along the R730 for the locations of the 3no. noise receptors. No significant source of vibration was noted during the survey periods.
- 8.5.4. It is submitted that the building services plant for the proposed development is to be located along the northern façade of the building (adjacent to the delivery bay - Figure 4 relates). In order to minimise noise emissions from the external plant area as much as possible, a 2m high solid timber noise barrier fence is to be provided around the full extent of the external plant area.
- 8.5.5. There is also to be an electrical substation proposed to be located approximately 20m to the south of this plant area but it is to be fully enclosed within a concrete enclosure. The layout of the proposed building services external plant area and the electrical substation is provided. The proposed plant for these areas and the noise levels for each is listed in Table 11. Details are given of the noise levels at the receptors and it has been found that they are within the appropriate levels for noise emissions criteria - day and night time. It is provided that no ground borne vibration of any significance will be generated by the selected equipment.
- 8.5.6. Regard is had to noise levels from delivery truck events and they note that the frequency will typically only be once a day and a maximum of two and that these deliveries typically last of the order of one hour of duration. Delivery unloading will occur at the northern side of the building, which they consider the optimum location. Taking into account, the delivery noise level as well as the distance between the

loading bay and various receivers and the attenuation afforded by the retail building itself, the resultant noise levels at the facades of the nearest noise sensitive locations are given. No significant ground borne vibration will be generated by a delivery truck event. No mitigation measures are required in respect of delivery truck events. They provide details of noise levels relative to surface parking at the nearest noise sensitive receptors, noting the hours of operation. No mitigation measures are required in respect of carparking noise.

8.5.7. They refer to the proposed new main access road that is to run through the southern part of the site and is provided to access to the carpark and delivery area, and possible future access to adjoining lands (now in agricultural use) to the west. They note that the Traffic and Transportation Report estimates development vehicular traffic movements (each way) during the course of the daytime period. Details are given of predicted noise levels and it is provided that no mitigation measures are required in respect of additional vehicular traffic on the new internal road. Noting that it is not possible for a future analysis to be carried out on the impact of vehicular traffic from this road that takes into account vehicular flow from future developments, they provide that the traffic flow volumes would have to effectively double before the established criterion is exceeded in the vicinity of the nursing home. They note that the proposed development will introduce some small levels of additional traffic on public roads in the locality of the site. They provide that no mitigation measures are required in respect of noise from additional vehicular traffic on public roads.

8.5.8. A cumulative assessment of potential noise levels is made. Noting that the total level of combined noise emissions from the proposed development noise sources can be determined by summing together all of the individual contributions. The total level of each is summarised and totalled in the Noise Assessment Report. They submit that as can be seen from these tables, the expected levels of noise emissions from the proposed development are within the established criteria at all adjacent noise sensitive receptors during both day and nighttime periods. That therefore no significant noise impacts are expected from the proposed development on any of the identified noise sensitive receptors. Whilst all of the noise impacts described fall within the adopted criteria, that best practice measures are recommended to minimise the potential for disturbance due to noise (Section 6). A list is given of such recommendations relative to the construction and operational phases.

- 8.5.9. Section 7.0 provides a Summary of Resultant Noise & Vibration Impact during Construction and Operational phases. This includes that during the construction phase of the project, there will be the potential for noise impact on nearby residential properties. However, noise emissions are predicted to be within appropriate limits. That since the development site is located along a primary access road to Wexford town and in a relatively high noise environment, that it is expected that the various noise sources will not be excessively intrusive. That during operational phase the predicted noise levels associated with building services is within the criteria at all adjacent noise sensitive locations. In this respect they have regard to Building Services Plant, Delivery Truck Events, Car Parking, Vehicular Traffic on New Internal Road, Additional Vehicular Traffic on Public Road, and Vibration.
- 8.5.10. They provide that the development will impact no perceptible vibration to any adjacent noise sensitive locations. If the Board decides to permit, I would recommend the inclusion of a condition relative to limiting the hours of operation for construction works. Also, that a noise restriction condition be included to include hours of opening.

#### Lighting

- 8.5.11. A Lighting Impact Assessment Report has been submitted. This assessment has regard to the impact that the design of the lighting will have on the surrounding area and residential properties whilst seeking to ensure that the proposed lighting scheme is suitable for the intended use and that all applicable regulatory requirements are achieved. It makes recommendations and concludes that the light spill and glare from the car park, pathways and roadways within the development boundaries will have minimal impact on the surrounding area. If the Board decides to permit, I would recommend, that a condition regarding lighting be included.

#### Glint and Glare

A Glint and Glare Assessment Report has been submitted. The description of development includes reference to roof mounted solar panels – solar photovoltaic array proposal. This Report assesses the potential for glare on the surrounding properties and roads around the Lidl site. Details are given of the methodology and note is had of possible mitigation measures including to reduce the impact of glare. It was concluded that due to local landscape screening there is an insignificant risk of

glare along the route receptor (Rosslare Road) and on residential in the area. Regard is had to the Appendices are included.

## 8.6. Archaeology

- 8.6.1. An Archaeological Impact Assessment (AIA) has been submitted with the application. As noted in the Planning History Section above, the Council included an archaeological reason for refusal in their previous application Reg.Ref. 20221085. This concerned the absence of archaeological testing on the site. The AIA provides that targeted archaeological testing was undertaken on this site in January 2023. That nothing archaeological was identified.
- 8.6.2. They note that the proposed new sewer wayleave in the townland of Kerloge encroaches slightly within the Zone of Notification (ZoN) for the parish of Kerloge and associated graveyard and holy well (reference nos. of these Recorded Monuments are given). These features are also listed in the Record of Protected Structures (RPS) for County Wexford. That some disturbance of ground has occurred on these lands and that there is no clear evidence of archaeological activity associated with these recorded monuments extends into the proposed wayleave area. In addition, the proposed new sewer wayleave is shared with an already permitted section of pipe, which has been archaeologically assessed and approved (Ref. 20220264) – Section 5 of the AIA refers. That construction phase mitigatory measures in the form of archaeological monitoring are recommended to ameliorate any potential impacts on subsurface archaeological monitoring are recommended to ameliorate any potential impacts on subsurface archaeology in this portion of the proposed development (Section 6 of the AIA provides details).
- 8.6.3. The AIA provides details of the Methodology which includes a desktop study of the vicinity of the site and refers to Archaeological fieldwork. Table 1 provides a list of Recorded Archaeological sites within 500m of the site (Figure 2 shows locations). It is noted that there are no National Monuments in State Ownership or Guardianship located within the study area. Appendix 4 of the AIA provides details of archaeological excavations carried out in the wider area.
- 8.6.4. A cartographic review was carried out. This includes reference to the wayleave for the proposed new sewer extending southwards. Noting that it encroached slightly

within the ZoN as described above. It also refers to the farmhouse and attendant buildings (NIAH reg. no. 15704267) which currently occupy the site of the southern portion of the proposed sewer wayleave. Aerial views are provided showing the route of the wayleave including through the grounds of the Protected Structure. On site I noted that this farmhouse (P.S) is no longer occupied and appears to have been vacant for some time and is not in good condition. They note more recent groundworks in the former farmyard area and that such disturbance may have removed potential archaeological deposits and can have the effect of lowering the likelihood of archaeological material remaining *in situ* subsurface. The application does not impact on the P.S.

- 8.6.5. Regard is had to Geophysical survey results which notes some areas of disturbance. A programme of archaeological testing was undertaken across the main site area to target the anomalies identified in the geophysical survey and to test representative samples of greenfield site at Rocksborough. They note that a testing programme was carried out under an Excavation Licence and provide details of test trenching. They provide that nothing of archaeological significance was identified during the testing programme (Appendix 1 and 2 refers). That nothing was noted during the review of both the historic maps and more recent aerial images that would give an indication of previously unrecorded archaeological features.
- 8.6.6. Section 5 of the AIA provides an Assessment of Impact. This notes that the main site area comprises a greenfield field which contains no recorded archaeological sites or monuments. That this portion of the proposed development was subject to archaeological investigations in the form of (a) geographical survey and (b) archaeological testing. That nothing archaeological was identified within the main site area during these investigations. That the development of this portion of the site is unlikely to result in any direct or indirect impact on recorded monuments or previously unrecorded archaeology.
- 8.6.7. The proposed new sewer wayleave extends through brownfield areas that include the gardens associated with Kerlogue Nursing Home, landscaped areas, the alignment of a former road, and a hardstand within a former farmyard. That due to previous disturbance, development and ground reduction, this portion of the proposed development site is considered to have a reduced potential to contain subsurface archaeological deposits. Noting that the southernmost portion of the

proposed sewer wayleave encroaches slightly within the ZoN for the aforementioned recorded monuments. That this location is also within the curtilage of two protected structures (Church and graveyard). That a recent archaeological excavation for a watermains development within the western portion of the ZoN (Excavation Licence no. given) noted that much of the area was made ground and nothing archaeological was identified.

- 8.6.8. Regard is had to the planning application for the development of a new foul sewer (Reg.Ref. 20220264). That the footprint of the eastern portion of this proposed foul sewer adjoins with a portion of the proposed sewer wayleave within the ZoN described in the AIA. They note that archaeological assessment was carried out. This development was granted permission in October 2022 subject to conditions. Condition no.3 requires archaeological monitoring (under licence) of groundworks associated with the development of the new foul sewer.

#### Conclusion and Recommendations

- 8.6.9. They note that a portion of the proposed sewer wayleave within the ZoN has the potential to have a direct impact on archaeological deposits associated with the recorded medieval church and graveyard. That there is no clear indication on the historic mapping sources that the graveyard extended this far to the east. Recent archaeological excavations and ground disturbance works have occurred. That given the potential for impact on previously unrecorded subsurface archaeology within the ZoN, measures to mitigate this impact must be implemented and should be consistent with permission Reg.Ref. 20220264.
- 8.6.10. The AIA recommends that a programme of archaeological monitoring by a suitably qualified archaeologist be undertaken during groundworks associated with the proposed new sewer development. They provide details relative to archaeological recording and monitoring. In addition, that a preliminary report detailing the results of the excavation and the proposed post excavation works required to bring the report to final stage be issued to the National Monuments Service within one month of completing the on-site phase of the work. After post excavation has been completed, that a final report be furnished to the NMS and the planning authority at the completion of this work.

8.6.11. I note condition no.10 of the Council's permission relative to the subject site concerns archaeology. If the Board decides to permit. I would recommend that a condition regarding archaeological monitoring be included. Also, that this take account of condition no.3 of Reg.Ref.20220264.

## **8.7. Traffic, Access and Parking**

- 8.7.1. The area is primarily serviced by the R730 which runs generally in an orbital route around the east side of the town from the N11 at Ferrycarrig Bridge (northern end) to the N25 Rosslare Road roundabout (southern end). The R730 Rosslare Road is subject to a 60km/h speed limit in the site's vicinity and passing the Retail Park/Commercial development areas to the south of the Rocksborough area. While currently a greenfield site, it is proposed to provide an entrance road to serve the Lidl store proximate to the southern site boundary.
- 8.7.2. The proposed development includes a new main access road that runs along the southern boundary of the development. This road is being provided in order to access the proposed development car park and delivery area. It could also serve potential development lands further to the west of the application site in the future. That the proposed development seeks to provide a focal point in the area, along with a section of access road intended to: 1) open up development to the immediate rear of the site; and, b) to create links to other residential areas (e.g. Mulgannon) currently disconnected from the Rosslare Road.
- 8.7.3. While the site appears greenfield and rural it is within an area that has been partially developed. The locational context notes the construction of residential units on the opposite side of the R730. That a future development comprising a further 71 units is identified to be constructed on the lands to the east of the completed of the completed Phase 1 Tuath development. That the access to both phases of residential development is located south of the proposed access to the Lidl development.
- 8.7.4. The proposed development would provide a new road along the southern boundary which would provide future linkage to the lands to the west and northwest of the site. The Third Party are concerned that there is no guarantee that the connection to Mulgannon road will be realised as this was envisaged to be developer led by the

previous plan. In this respect the Planners Report while generally supportive of the proposal, notes that the development site is not on zoned land and there is no guarantee that adjoining lands will be developed. This would be frontloading in that there are currently no planning permissions being enacted to develop these lands for residential etc. However, I would note that the development of adjoining lands is not part of the current application which is being considered on its merits.

- 8.7.5. The documentation submitted provides that the proposed development has been designed to accommodate all forms of traffic/access, from pedestrians to large delivery vehicles. That the site is well served by footpaths and cycle lane links to surrounding residential and employment areas, with new links envisaged connecting a broader area to the west in particular. Also, noting that the site is also on the local public transport network.

#### Traffic and Transportation Assessment

- 8.7.6. A TTA report has been submitted with the proposal and its purpose is to consider the key traffic and transport issues relating to the proposed development of the site, as required by Objective TS81 of the Wexford CDP 2022-2028, and as set out in Section 8.10.3 (in Volume 1 of the Plan). I would note that Table 6-1 refers to Mandatory Thresholds for Traffic and Transport Assessments. Table 6 -2 refers to Advisory Thresholds for Traffic and Transport Assessments – National Roads. This includes Retail.
- 8.7.7. A separate independent Stage 1 Road Safety Audit has been prepared and some road safety issues have been identified. The RSA seeks to address Section 6.2.2 of the Volume 2 of the Wexford CDP, with a Workplace Travel Plan prepared to address Section 6.2.4 of the said Plan. The TTA provides that both of these supporting documents have been used to inform the TTA. That current traffic volumes passing the proposed site access and entering/exiting the development access on the opposite side of the Rosslare Road have been obtained from weekday termtime traffic counts. Section 5.0 has regard to Trip Generation Development and Methodology and in Section 6.0 to the impact of the proposed development.
- 8.7.8. It is submitted in the TTA that as a result of the proposed development, there would be effects on traffic link flow/level of service passing the site. The additional traffic generated by the proposed development would represent a maximum 4.5% increase

in traffic on the R730 Rosslare Road to the north of the access road junction (AM peak house), and a 9% increase in traffic on the R730 to the south of the Kerlogue Manor access junction (PM peak hour), during the 2024 opening year. That there would be no measurable change in environmental impacts due to changes in traffic resulting from the development proposals.

- 8.7.9. That due to future year traffic growth on the R730 and to accommodate traffic on the access road to/from the zoned lands to the west, it is considered that there may be a requirement to implement traffic signal control at the R730/access road junction in future years. That this would also ensure that there is pedestrian and cyclist accessibility between the east side of the R730 and the access road/Lidl site and accessibility for bus passengers using the stops on each side of the Rosslare Road.

#### Development Access

- 8.7.10. The TTA provides that adequate sightlines can be provided to the left and right of the Lidl access onto the proposed shared access roadway in accordance with DMURS 50kph requirements (45m x 2.4m each way), and adequate sightlines can be provided from the shared access road onto the R730 Rosslare Road, being in accordance with DMURS 60kph bus route requirements (65m x 2.4m each way). The Roads Department noted that the proposed entrance is within the speed zoned of 50kph, sightlines of 45m can be achieved in both directions with setback 2.4m from the edge of the road.
- 8.7.11. It is noted that the Kerlogue Cross junction is approx. 75m to the south of the existing field gate, and the L3039 Coolbarrow Road terminates on the western side of the R730 at this junction (the Nursing Home is accessed from the Coolbarrow Road, c.96m west of the R730 junction), and there is a footpath on the north side of Coolbarrow Road from the R730 to the Nursing Home entrance.

#### Parking

- 8.7.12. Section 6.3.1 and Table 6-7 of Volume 2 of the Wexford CDP provides the Car Parking Standards. Shopping (general retail floor space) is included in Commercial and parking for general retail floor space (open to the public) – 1 space per 20sq.m. i.e. As noted in the Retail Impact Assessment the net convenience retail sales area 1,420sq.m i.e. (1,278sq.m) and (142sq.m) is to be devoted for ancillary retail sales. This would imply that 71 car parking spaces should be provided on the subject site to

cater for the proposed development. It is proposed to provide 105 car parking spaces. As shown on the plans this includes 21 EV parking to be sited to the northwest of the proposed building and mobility parking to be sited in front of the store. Section 6.3.5 of the current CDP requires that at least 20% of parking spaces should be equipped with EV charging points. This appears to have been achieved in the parking layout submitted. It is submitted that parking, including EV parking is provided in line with current Development Plan standards.

8.7.13. Disabled and parent and child parking has been provided as part of the scheme, along with regular car parking and cycle parking. That the proposed store also provides modern changing/showering facilities for all staff to encourage non-motorised trips to work.

8.7.14. A loading bay is shown located on the west end of the Lidl building, with tracking assessment of swept paths for an articulated truck informing the layout of the car parking layout.

#### Pedestrian and Cyclist Accessibility and Modal Shift

8.7.15. On site I noted that there are footpaths and cycleways on either side of the Rosslare Road (R730) including along the site frontage and street lighting. There is an uncontrolled pedestrian crossing to the north of the site and a bus stop to the south of the site and on the opposite side of the road. The TTA notes that WCC Active Travel are progressing upgrades to the existing provision on Rosslare Road, and note details of design options being discussed, including relative to cycleways. I would note that these do not form part of the subject application.

8.7.16. The TTA provides that pedestrian access points into the site from the Rosslare Road footpath will be at the shared access road with addition ramped and ambulant stepped access provision on the Rosslare boundary of the site to provide interconnectivity and access to the residential development.

8.7.17. Cycle paths are proposed on the shared access road which the TTA provides are to connect to the future residential development lands to the west of the site and will tie-in to the proposed WCC Active Travel upgraded segregated cycle paths on Rosslare Road. They submit that cycle parking is proposed with regard to Development Plan requirements.

- 8.7.18. The TTA recognises that retail supermarket trips (in areas outside of city centre cores) are primarily made by car. It provides that to encourage sustainable travel, particularly for staff and customers who live in Wexford Town area, customer cycle parking is to be provided within the site carpark, close to the trolley bays and Lidl store access. Staff cycle parking is to be covered and secure. Cargo bike parking spaces are also to be provided. There is a local bus service which travels north south then on a looped route back into Wexford Town. There are recessed bus stops on either side of the road in proximity to the site.
- 8.7.19. The details submitted with the application note that Sustainable Travel is a key objective of the planning authority and regard is had to the planning policy objectives. The issue of car dependency is of some concern in respect of the location of the site relative to existing population areas. In this respect they provide that notwithstanding the immediate positives in terms of a) providing for the albeit smaller current population which is currently unserved; b) facilitating linked worker trips (which are already largely car based); c) the extant public transport corridor along, and bus stops at, the subject site; and d) the planning gain derived from frontloading of necessary services, that the proposed development would not in any event materially alter the existing car dependency in Wexford.
- 8.7.20. A Workplace Travel Plan Statement has been submitted Table 2.1 provides Guidance for Workplace Travel Plan thresholds based on the Wexford CDP. It is submitted that on the basis of the floor area and expected employment of 25 persons, the WTP Statement would be appropriate in this case. If the Board decides to permit it is recommended that it be conditioned that a Workplace Travel Plan/Mobility Management Plan be implemented.

### Conclusion

- 8.7.21. I note that the Council's Roads Department recommended that further information be provided on a number of issues. This includes agreement for the layout of the junction with the R730 and access to the site from the proposed new road. That junctions be designed in accordance with DMURS and to incorporate new Active Travel Plans. Regard is also had to footpaths and pedestrian access and to road safety signage, including the provision of a Stop sign and Stop road markings to be provided at the junctions with the public road.

8.7.22. They also noted proposals to remove an existing uncontrolled pedestrian crossing on R-730-36 at Wexford Town side of the proposed new junction. In this respect, I would concur with the Roads Department and would consider that it would be preferable to have a controlled pedestrian crossing in the vicinity of the site to facilitate pedestrians from the residential on the opposite side of the road using the Lidl/discount store. This option does not appear to have been explored in the context of the current application.

8.7.23. Having regard to the proposed access and future access to adjoining lands, I note condition no. 5 of the Council's permission i.e.

*The access road, including the connection to the adjoining lands to the west shall be completed prior to the opening of the store.*

*Reason: To ensure future connection to the adjoining lands in the interests of traffic safety and to ensure the proper planning and sustainable development of the area.*

8.7.24. I would recommend that if the Board decides to permit that such a condition be included. I note that the Planner's Report recommends in this case that the final design of the access be agreed before the development commences (Condition no.2 refers). If the Board decides to permit, I would recommend that conditions relating to access, road design and the inclusion of a pedestrian crossing. While I note the issues presented, I am concerned that there appear to be some access and pedestrian issues to be resolved and that the proposal is not plan led and as regard access including to adjoining lands is premature pending the Local Area Plan for Wexford.

## 8.8. **Drainage issues**

### Overview

8.8.1. Currently there are no services to this greenfield site. Details submitted provide that groundwater is present throughout the site, as stated in the Causeway Geotech Investigation Report, where water strikes were seen to be found between 2m and 3m. The only hydrological feature in the area is the existing drainage ditch running from west to east along the north-eastern boundary. This ditch is culverted in part and discharges to the drain to the south-west of the site along Rosslare Road. The

Rathaspick Stream is further to the south of the site. The site location is some distance from the nearest watercourse.

- 8.8.2. The main development area is located in the townland of Rocksborough and includes the proposed discount foodstore and access road while a wayleave for the proposed sewer extends southwards into the townland of Kerloge. The description of development/project details includes for drainage infrastructure and connections to services/utilities (including foul sewer link from the proposed development site at Rocksborough to connect to existing infrastructure to the south in the townland of Kerloge, including within the curtilage of a Protected Structures, and all other associated and ancillary development and works above ground level.
- 8.8.3. The Site Location Map shows the location for the proposed wayleave for the new sewer line, (in yellow within the redline boundary) which runs to the south of the site. For the most part, this runs through lands shown in blue (i.e. within the ownership of the applicant) and through the site frontage of Kerlogue Nursing Home and further to the south through the grounds of the P.S which is within the blue line boundary. The area of this wayleave is given as 1,455sq.m and the strip is shown as running c.215m from the subject site.
- 8.8.4. A Site Layout Plan showing proposed drainage services has been submitted. This shows a connection to the private foul sewer granted under planning application 2022064. A copy of the Council's decision to grant subject to conditions is included in the History Appendix to this Report.

#### Surface Water Drainage

- 8.8.5. A Services Design Report has been submitted which includes regard to surface water disposal, noting that currently there is no existing surface water system serving the proposed site. The proposed surface water network is to be connected into an existing surface water network to the southern end of the site. Details of surface water drainage are given and drawings referred to. Discharge from the proposed development is proposed via an existing 300mm diameter storm sewer to the south-west corner of the site. A new manhole is to be constructed at the proposed outlet location on the existing pipe.
- 8.8.6. Details are given of surface water attenuation design (Appendix A), and the SUDS elements proposed. This is to include a series of rainwater gardens, a voided stone

subbase, a swale, and a StormTech System (Appendix B) attenuation tank with a HydroBrake flow control device to reduce the outflow from the Lidl store/carpark area and the site access road and cumulative discharge from the site. Appendix C provides details of Bypass Petrol/Oil Interceptor. It is provided that the proposed design achieves compliance with the regulations.

- 8.8.7. It is also noted that Section 3.6 of the Preliminary Construction Environmental Management Plan has regard to surface water drainage. This notes that the proposed development is to be completed with a new surface water collection network, inclusive of new gullies. This network will collect all surface water from the hardstanding surfaces and discharge through the new designed pipe network to a new petrol. Oil interceptor located on the inlet side of the surface water attenuation tank. This attenuation tank has been designed for a 1 in 100 year storm event + 20% climate change allowance. An additional attenuation tank for the access road is included in this development, with the access road, providing access to future developments. Discharge rates are given noting control by Hydro-Brakes fitted in the outlet manhole to discharge at 2 l/s to the adjacent open drainage culvert.
- 8.8.8. The Council's Roads Department notes that elements within the surface water layout plan submitted are acceptable and welcomed as part of the natura SUDS based plan but that a revised layout plan is requested showing proper and adequate connectivity between all the different elements and to indicate capacities and outfall rates for all. They make a number of recommendations relative to revisions to the surface water drainage layout. It is noted that further information was not requested by the Council.

#### Foul Effluent

- 8.8.9. There is no existing foul sewer network on site, with the proposed foul sewer network to be connected into an existing foul sewer network, to the existing public foul sewer located along the Rosslare Road. A new foul sewer pipeline is proposed to be provided located to the south-western end of the site. The Services Report notes that there is no viable existing foul network sewer network located within proximity of the site, with the closest foul sewer connection point being located on the lands of Kerloge Manor.
- 8.8.10. They note that a temporary connection has been proposed to the existing private foul sewer, as granted under Reg.Ref. 20220264. Also, that consent for this connection

has been provided by the landowner, to Lidl Ireland GmbH. A foul sewer pipeline measuring 225mm in diameter, is also to be provided within the site access road, running along the south-western site boundary, providing a future connection point for the lands to the north-west of the site. They refer to the drawings illustrating the proposed foul sewer system. It is noted that these show that it is proposed to connect to a private foul sewer some distance to the south of the site.

- 8.8.11. Details are provided of daily wastewater loading and peak flow. They note that the proposed foul sewer system will be connected to the existing public foul sewer network along the Rosslare Road via a new connection in the public road. It is provided that the connection to the existing public foul sewer will be agreed with Irish Water. They (Appendix E) note that it will be some years before a new gravity sewer on the R730 in front of the site will be complete. They recommend that the applicant ensure that the internal wastewater network within the proposed site be at level so that it can feed into this new sewer. Condition no.6 of the Council's permission relates to connection agreements.

#### Water Supply

- 8.8.12. The proposed development is to be connected to the existing public watermain along the adjacent public road (Rosslare Road) along the south-eastern boundary of the application site. Details are given of the volume of water required. It is noted that a drawing has been provided showing the location of the new watermains network and fire hydrants proposed for this new site layout. It is provided that all works to this service will be carried out in accordance with Irish Water's requirements and details.

#### Flood Risk Assessment

- 8.8.13. The Planner's Report notes that the OPW Flood Map Category C for the majority of the site but the services connections may run through the flood risk area associated with the stream. They provide that in this case due to the locational context that a flood risk assessment is not considered to be necessary.

#### Conclusion

- 8.8.14. In summary water supply and foul wastewater services are to be provided via future connections to Irish Water Infrastructure. Surface Water drainage is to be discharged to the local surface water network at the site and the use of SuDS is included. The

Foul sewer connections are as shown on the drawings and as proposed in the documentation submitted. If the Board decides to permit, I would recommend that appropriate drainage conditions be included, including relative to surface water drainage and connections to the foul sewer and water supply.

## **8.9. Construction and Environmental Management**

- 8.9.1. A Preliminary Construction Environmental Management Plan (CEMP) has been submitted with the application. This describes the proposed works and defines the environmental measures that should be implemented for the construction to manage, minimise, or mitigate any potential environmental impacts that may arise because of the proposed development. Noting that it will be updated to include more site-specific information provided permission is granted for the proposed development and a quality site management system will be implemented. This includes that a Main Contractor will be appointed for the works. That legislation relevant to Environmental Management will be complied with.
- 8.9.2. The CEMP provides the environmental management framework to be adhered to during the pre-commencement, construction and operational phases of the proposed development and it incorporates the mitigating principles to ensure that the work is carried out in a way that minimises the potential for any environmental impacts to occur. Note is had to the Objectives and the Scope of the Preliminary CEMP.
- 8.9.3. It is a 'live' document and it is stated that the following plans, and any others considered relevant will be incorporated into the Final CEMP:
- Construction Traffic Management Plan
  - Noise and Vibration Management Plan
  - Dust Management Plan
  - Construction Compound Management Plan
  - Emergency Incident Response Plan.
- 8.9.4. Below is a summary of some of the issues presented as part of the Preliminary CEMP, relevant to the impact of the project on the environment. Monitoring of various environmental impacts is to be undertaken during construction phase.

## Surface Water Drainage

- 8.9.5. Regard is had to General Construction Operations, Site Preparation and Clearance, Enabling Works and to Surface Water. This includes that the existing open surface water ditch along the northeastern boundary of the site will be pipe in a new 300mm diameter culvert. They note some diversion of the ditch to accommodate the proposed new site access to the northeast whilst maintaining the ditch servicing the retaining site to the south. That the ditch that flows along the north-eastern boundary in west to east direction is the only hydrological feature in the area. The existing 300mm culvert will be re-routed through the site and a headwall will be installed to minimise flood risk. The existing spring and its connection to the culvert will be maintained within the proposed development.
- 8.9.6. Flooding is not expected due to the low water table and the site not being in a flood risk area. Mitigation measures are noted during excavation and construction phases. Regard is had to the proposed new surface water collection networks, inclusive of all new gullies and to onsite attenuation/storage capacity proposals. That the discharge rate will be controlled with an inline Hydro-Brake fitted in the outlet manhole from the new attenuation tank and will control flow to discharge at 2 l/s to the adjacent open culvert.
- 8.9.7. They provide details of measures to be implemented during construction stage, including appropriate protection bunds, materials to be stored away from low lying areas, installation of a temporary surface water settling lagoon/holding pond that can be pumped from the excavation areas to retain and settle any excess surface water for a minimum period of 24 hours on site. The CEMP provides that the settlement lagoon/pond will ensure that all surface water run-off from the active working areas will be discharged to these to allow for all silt and solids to settle before being allowed to discharge to the adjacent water course. That this will mean that the temporary settlement system can be maintained by the appointed Main Contractors to remove all silt from any discharges from site during construction stages.
- 8.9.8. They note onsite attenuation proposed and that all works will be carried out in accordance with Irish Water's requirements and details. That the proposed development will be completed with a new surface water collection network that will

include a new on-site attenuation system that has been designed in accordance with the requirements of the SuDS Manual.

#### Foul Sewers

- 8.9.9. They note that there are no existing services on the site and the new store will be serviced with a new foul sewer collector line that is proposed to be connected to the existing public foul sewer located along the Rosslare Road. The discharge volumes from the proposed development are provided in the Services Design Report. That all works will be carried out in accordance with Irish Water's requirements and details. That the connection to the existing public foul sewer will be agreed with Irish Water.

#### Watermain

- 8.9.10. They have regard to connections to the existing public watermain infrastructure, noting that all works to this service will be carried out in accordance with Irish Water's requirements and details.

#### Environmental Management Policy

- 8.9.11. This includes implementing good environmental practice as part of design and preventing pollution activities through a system of operation controls. The CEMP refers to the appointment of competent experts such as project ecologist, archaeologist, noise and vibration specialist, air quality and dust specialist and lands, soils and contamination specialist etc. Reference is had to site environmental awareness and to environmental management procedures. This includes the Environmental impacts during construction will be mitigated or reduced where possible.
- 8.9.12. The CEMP will deal with issues such as noise and dust mitigation measures, hours of operation traffic management, waste management, environmental management (including debris from construction traffic, noise, dust, air quality etc), demolition, protection of trees, works to protected structures etc. That compliance with the environmental conditions and the proposed control/mitigation measures will be included in the next version of the CEMP once they are known.
- 8.9.13. Reference is had to Monitoring, Audits and Inspections, Keeping of Records etc. Section 6 deals with General Requirements. Note is had of Hoarding and Fencing to be a minimum of 2.4m high to provide a secure boundary for the construction works.

That this also performs an important function in relation to minimising nuisance and effects including relative to noise emissions (by providing a buffer), visual impact (screening plant and equipment), dust minimisation (by providing a buffer).

- 8.9.14. In general working hours on the site shall be restricted to normal core construction hours. Details are given of on-site parking during construction, noting that no site vehicles will be permitted to park along the public roads or outside the working site boundary. Section 6.7 provides details of Vehicle Movements during construction and of mitigation measures. Regard is had to emergency access, materials storage, site lighting and concrete/mortar washout. Also, to the use of a mobile crane.
- 8.9.15. Section 7 refers to Environmental/Operational Control Measures. This includes regard to contaminated lands, materials and disposal of waste. Section 7.8 refers to Noise and Vibration and to best practice and mitigation measures. Regard is had to control of noise generation and to noise and vibration monitoring.

#### Archaeology

- 8.9.16. Section 7.15 has regard to Archaeology, noting that the development is not identified as an area of archaeological significance/interest. They refer to excavations during construction works and monitoring should any archaeological materials be uncovered during excavation works. That following completion of monitoring on site, a report detailing the findings must be prepared and submitted to the National Monuments Service and the local authority.

#### Biodiversity

- 8.9.17. Section 7.16 of the CEMP provides a list of construction management measures specifically related to the protection of surface water. This includes that the risk of water pollution will be minimised by the implementation of good construction practices and details are given of such. Environmental protection measures (of relevance in respect of any potential ecological effects) will be implemented throughout the project, including the preparation and implementation of detailed method statements.
- 8.9.18. The Protection of Habitats and to Ecology, includes that mature trees, particularly over mature trees with the potential to provide bat roost will be avoided. That any hedgerows/scrub habitat disturbed during construction will be replanted using a

suitable mix of native species. Note is had of protection of flora and fauna. Also, to protection against invasive species such as Japanese knotweed, including should it be found to occur on the site. Knotweed Codes of practice principles are included.

8.9.19. Reference is had to Bird Migration Measures. It is recommended that vegetation be removed outside of the breeding season. Also, that retention of native treelines, hedgerows and woodland along the site boundaries will reduce the loss of breeding and nesting habitat for birds. That NRA guidelines on the protection of trees and hedges prior to and during construction should be followed (NRA 2006).

8.9.20. They also refer to the Appropriate Assessment Screening that has been completed for this development site and provide that all that all recommendations from this report will be implemented by the appointed Main Contractor.

#### Protection of Soil and Groundwater

8.9.21. This notes that surface water and groundwater can be impacted by construction activities if measures to contain materials and run off are not implemented. That adequate measures to prevent contaminating sediment entering watercourses should be included to reduce the risk of contaminating sediment entering watercourses. The use of temporary settlement lagoons with outflow control measures should be used for all surface water exiting the works area to the existing drainage network or adjacent watercourse if required. Protective fencing is to be used. If disposal to the public sewer is required, then the necessary approval and licence should be sought from Irish Water. Material storage and handling measures will be implemented to contain potential sources of soil/groundwater pollution. A detailed list is given of best practice measures to be implemented.

A summary of all measures related to hydrology is provided as follows:

- Construction compound to be located in areas that are at minimal risk of flooding (outside 1: 100 year flood zone)
- A monitoring regime/programme for water quality will be put in place;
- There will be no tracking of machinery within watercourses;
- Silt fences/swales are to be provided at all locations where surface water run-off may enter/leave the working areas, and adjacent to the haul roads.

- All works undertaken will be fully consolidated to prevent run-off of silt.
- Access/haul roads shall be set back from watercourses by at least 10m where possible.

#### Construction & Demolition Waste Management Plan

8.9.22. The Preliminary C&D WMP includes regard to the legal and policy framework for C&D waste to be generated by the proposed development and makes recommendations for management of different waste streams. It refers to compliance with the requirements of the Environmental Management System. It is noted that this is a greenfield site, so while regard is had to construction works, demolition works of any existing buildings will not be relevant. Details are given of general construction operations and requirements. Also, of hoarding and fencing, fuel, oil and chemical storage and spill control measures etc.

8.9.23. Section 6.3 provides Mitigation Measures for Waste, and this includes that all wastes will be segregated at source on site. Waste materials generated will be segregated on site, wherever practical. All waste materials generated on site are to be handled by an approved waste contractor holding a current waste collection permit. All waste arising's requiring disposal off-site will be reused, recycled, recovered, or disposed of at a facility holding the appropriate registration, permit or licence, as required.

#### Preliminary Operations Waste Management Plan

8.9.24. The purpose of this OWMP is to ensure that wastes arising during the normal operation of this facility are managed and disposed of in a way that ensures compliance with the relevant waste management legislation and plans. It is also to ensure that optimum levels of waste reduction, re-use and recycling are achieved. This includes that Lidl Ireland GmbH are participating in the Deposit Return Scheme.

## **9.0 Appropriate Assessment**

### **9.1. Stage 1 - Screening**

#### **Compliance with Article 6(3) of the Habitats Directive**

- 9.1.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.
- 9.1.2. In accordance with the obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a European site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment. The first stage of assessment is 'screening'.
- 9.1.3. The methodology for screening for Appropriate Assessment as set out in EU Guidance and the Department of Environment, Heritage and Local Government is:
- 1) Description of the plan or project and local site or plan area characteristics.
  - 2) Identification of relevant European sites and compilation of information on their qualifying interests and conservation objectives.
  - 3) Assessment of likely significant effects-direct, indirect, and cumulative, undertaken on the basis of available information.
  - 4) Screening Statement with conclusions.

### **Project Description**

- 9.1.4. In summary the proposed development is for the provision of a discount foodstore with ancillary off-licence sales and all other associated site development works (including the provision of a foul sewer link from the proposed development site to connect to existing infrastructure to the south, including within the curtilage of a protected structure). The greenfield site is at Kerloge/Rocksborough is to the south of Wexford Town.
- 9.1.5. A Habitats Directive Assessment was submitted with the application. The purpose of this report is to examine the development for possible impacts on the integrity of the Natura 2000 network, in particular on the adjacent SAC – the Slaney River SAC (Site Code: 000781) and also the Wexford Harbour and Slobbs SPA (Site Code: 004076). Details are given of the sources of the data, having examined the available files and online sources of information for the local Natura 2000 sites.

- 9.1.6. In this case an Appropriate Assessment Screening Report and subsequent Natura Impact Statement by Altamar Marine & Environmental Consultancy was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development.
- 9.1.7. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:
- Construction related such as uncontrolled surface water/silt/ construction related pollution.
  - Habitat degradation resulting from emissions to surface water and/or groundwater.
  - Habitat loss/ fragmentation
  - Habitat disturbance /species disturbance/or displacement of qualifying species within or outside European Sites (construction and or operational).

### **European Sites**

- 9.1.8. The AA Screening notes that there are thirteen European Sites within 15k boundary of the site comprising of four SPAs and nine SACs. These are shown listed on Table 1 of the Screening Report and are as follows:
- 1) Slaney River Valley SAC (site code:000781)
  - 2) Wexford Harbour and Slobs SPA (site code: 004076)
  - 3) Raven Point Nature Reserve SAC (site code: 000710)
  - 4) Screen Hills SAC (site code: 000708)
  - 5) Long Bank SAC (site code: 002161)
  - 6) Tacumshin Lake SAC (site code: 000709)
  - 7) Carnsore Point SAC (site code:002269)
  - 8) Lady's Island SAC (site code: 000704)
  - 9) Blackwater Bank SAC (site code: 002953)

10)Saltee Islands SAC (site code: 000707)

11)The Ravan SPA (site code: 004019)

12)Tacumshin Lake SPA (site code: 004092)

13)Lady’s Island Lake SPA (site code: 004009)

9.1.9. Table 2 provides an initial screening of European Sites within the Zone of Influence of the Project. The majority of these Natura 2000 sites (nos. 3 - 13 listed above) have been screened out in the Screening Report. It has been stated that these ten European Sites (and their associated qualifying features of interest/special conservation interests) are adjudged to be located outside the zone of influence of the project. No impact pathways link the project to any of these ten European Sites occurring in the wider area surround the project site. No significant effects are likely.

9.1.10. Two European Sites were identified as having hydrological pathways and being at risk of likely significant effects from the project. These sites are the Slaney River Valley SAC and the Wexford Harbour and Slobbs SPA (collectively referred to as the Wexford Harbour European Sites).

9.1.11. The Qualifying Interests and General Conservation Objectives of these two Designated Natura 2000 sites at risk are as shown on Table 1 below:

<b>European Site (code) and distance from proposed development</b>	<b>List of Qualifying interest/Special Conservation Interest</b>	<b>General Conservation Objectives</b>	<b>Connections (source, pathway receptor)</b>	<b>Considered in further screening Y/N</b>
Slaney River Valley SAC 000781 c.35m east	Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]	To maintain or restore the favourable conservation condition of the Annex I habitats(s)	There is source – pathway-receptor connectivity between the proposed development	Yes

	<p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Alosa fallax fallax</i> (Twaite Shad) [1103]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p> <p><i>Phoca vitulina</i> (Harbour Seal) [1365]</p>	<p>and/or the Annex II species for which the SAC has been selected.</p>	<p>and the Slaney River Valley SAC</p> <p>This is within c.35m of the southern part of the site (wayleave area) and the SAC is hydrologically connected.</p>	
<p>Wexford Harbour and Slobs SPA 004076</p>	<p>Little Grebe (<i>Tachybaptus ruficollis</i>) [A004]</p> <p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]</p>	<p>To maintain or restore the favourable conservation condition of</p>	<p>There is source – pathway – connectivity between the</p>	<p>Yes</p>

<p>c.300m to east</p>	<p>Cormorant (Phalacrocorax carbo) [A017]</p> <p>Grey Heron (Ardea cinerea) [A028]</p> <p>Bewick's Swan (Cygnus columbianus bewickii) [A037]</p> <p>Whooper Swan (Cygnus cygnus) [A038]</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Teal (Anas crecca) [A052]</p> <p>Mallard (Anas platyrhynchos) [A053]</p> <p>Pintail (Anas acuta) [A054]</p> <p>Scaup (Aythya marila) [A062]</p> <p>Goldeneye (Bucephala clangula) [A067]</p> <p>Red-breasted Merganser (Mergus serrator) [A069]</p> <p>Hen Harrier (Circus cyaneus) [A082]</p> <p>Coot (Fulica atra) [A125]</p> <p>Oystercatcher (Haematopus ostralegus) [A130]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Lapwing (Vanellus vanellus) [A142]</p>	<p>the bird species for which the SPA has been selected.</p>	<p>proposed development site and the Wexford Harbour and Slobs SPA. This is within c.300m of the site and is hydrologically connected.</p>	
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	Knot ( <i>Calidris canutus</i> ) [A143] Sanderling ( <i>Calidris alba</i> ) [A144] Dunlin ( <i>Calidris alpina</i> ) [A149] Black-tailed Godwit ( <i>Limosa limosa</i> ) [A156] Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157] Curlew ( <i>Numenius arquata</i> ) [A160] Redshank ( <i>Tringa totanus</i> ) [A162] Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) [A179] Lesser Black-backed Gull ( <i>Larus fuscus</i> ) [A183] Little Tern ( <i>Sterna albifrons</i> ) [A195] Greenland White-fronted Goose ( <i>Anser albifrons flavirostris</i> ) [A395] Wetland and Waterbirds [A999]			
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**Assessment of likely Effects (Direct/Indirect)**

9.1.12. This has regard to the direct, indirect, and cumulative effects undertaken on the basis of available information (as submitted). It is noted that the development site is not located within or adjacent to a Natura 2000 site. The project is not directly connected with or necessary for the future conservation management of any European Site. Therefore, no Habitat loss/ fragmentation will occur.

Slaney River Valley SAC

9.1.13. Note is had in the Table above of the qualifying interests and conservation objectives relative to this SAC. The overall Conservation Objective for the qualifying features of

interest of the Slaney River Valley SAC is to maintain or restore the favourable conservation status of these features of interest.

9.1.14. The Screening Report provides a note of these features and to each of the qualifying species and their habitats in Table 2 and notes the potential impacts. This notes that given the nature of the proposed works, the proximity of the subject site to this SAC (35m) and the Rathaspick Stream (5m), and that surface water drainage will be directed to an existing surface water network that outfalls to the marine environment via an existing pond and the Rathaspick Stream, it is considered that there is a direct hydrological pathway to this SAC. That in the absence of mitigation, there is the potential for silt, dust, and contaminated surface runoff to enter the Rathaspick Stream with the potential for downstream impacts on the qualifying interests of the SAC. That settlement will occur within the existing pond (Figure 11), which is located within the Wexford tidal flood event. There is a risk of silt and pollutants entering the Rathaspick Stream during a tidal flooding event. Therefore, extensive mitigation measures are required to ensure that dust, pollution and contaminated surface water runoff does not enter the Rathaspick Stream. That mitigation measures will need to be in place to prevent silt, hazardous materials and petrochemicals entering the Rathaspick Stream which has a direct pathway to the SAC.

9.1.15. Having regard to the precautionary principle, it has been concluded that significant effects on the Slaney River SAC are likely, in the absence of mitigation measures, from the proposed works primarily as a result of works proximate to the Rathaspick Stream, the risk of dust entering this SAC/watercourse and the direct hydrological connection to the SAC from the proposed project to this SAC via the Rathaspick Stream. That therefore it is necessary to proceed to an NIS on the effects of the project on this site in view of its conservation objectives.

#### Wexford Harbour and Slobs SPA

9.1.16. Wexford Harbour is the lowermost part of the estuary of the River Slaney. The overall Conservation Objective for the qualifying features of interest of the Wexford Harbour and Slobs SPA is to maintain or restore the favourable conservation status of these features of interest. Table 2 of the Screening Report refers and notes potential impacts.

- 9.1.17. This notes that given the nature of the proposed works, the proximity of the subject site to this SAC (300m) and the Rathaspick Stream (5m), and that surface water drainage will be directed to an existing surface water network that outfalls to the marine environment via an existing pond and the Rathaspick Stream, it is considered that there is a direct hydrological pathway to this SPA. In the absence of mitigation, there is the potential for silt, dust, and contaminated surface runoff to enter the Rathaspick Stream with the potential for downstream impacts on the qualifying interests of the SPA. That settlement will occur within the existing pond, which is located within the Wexford tidal flood event. Therefore, there is a risk of silt and pollutants entering the Rathaspick Stream during a tidal flooding event.
- 9.1.18. As outlined in Appendix 1 roosting and foraging located for the qualifying interests in the SPA are not located on site. In addition, the site is over 300m from the proposed development on the far side of the main Rosslare Road (R730). Noise from construction would not impact on the qualifying interests of the site.
- 9.1.19. Having regard to the precautionary principle, it has been concluded that significant effects on the SPA are likely, in the absence of mitigation measures, from the proposed works primarily as a result of works proximate to the Rathaspick Stream, the risk of dust entering this SPA/watercourse and the direct hydrological connection to the SPA from the proposed project to this SPA via the Rathsapick Stream. Therefore, it is necessary to proceed to an NIS on the effects of the project on this site in view of its conservation objectives.

#### In-Combination Effects

- 9.1.20. The Screening Report notes that there are a number of proposed developments in the area immediately surrounding the subject site. They provide a list of planning applications in close proximity to the subject site – Table 3 refers. They note that in relation to three of these applications i.e. Reg.Refs. 20181772, 20181216, 20181215 accompanying Natura Impact Statements were prepared by Cluain Ecology Ltd. These concluded with Statements of no significant effects. The subject Screening Report provides that no projects in the vicinity of the proposed development would be seen to have a significant in combination effect on Natura 2000 sites.

## **Screening Statement Conclusion**

9.1.21. This concludes that the AA Screening Report has resulted in a Finding of Significant Effects relative to the Wexford Harbour and Slobbs SPA and the Slaney River Valley SAC and as such a Stage II Appropriate Assessment and preparation of a Natura Impact Statement (NIS) is required. It is noted that 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.

## **Conclusion – Stage I AA**

9.1.22. In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude in the Screening for Appropriate Assessment of the project, that the proposed development could have a significant effect on European Site Nos.000781 and 004076, in view of the sites Conservation Objectives. It has been determined that an Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is required on the basis of the effects of the project.

## **9.2. Stage II Appropriate Assessment**

9.2.1. The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- The Natura Impact Statement and associated documents
- Appropriate assessment of implications of the proposed development on the integrity each European site.

## **Compliance with Article 6(3) of the EU Habitats Directive**

9.2.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the

management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

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

### **The need for AA**

- 9.2.4. Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded on the basis of the objective information submitted in the Screening Report for AA and as updated that the proposed development on the subject site, for the following sites:

- Slaney River Valley SAC (site code 000781)
- Wexford Harbour and Slobs SPA (site code 004076)

Measures intended to reduce or avoid significant effects have not been considered in the screening process.

### **The Natura Impact Statement**

- 9.2.5. The Stage 2 NIS submitted examines and assesses potential adverse effects of the proposed development on European Sites, and regard is had to the Site Synopsis (details from the NPWS website) below:

#### Slaney River Valley SAC (site code 000781)

- 9.2.6. The Site Synopsis relevant to the River Slaney SAC details the general attributes and qualifying interests of the site. This includes that Wexford Harbour is an extensive, shallow estuary which dries out considerably at low tide exposing large expanses of mudflats and sandflats. Within these habitats four biological community complexes have been recorded and details are given of these. The harbour is largely sheltered by the Ravan Point to the north and Rosslare Point to the south.

9.2.7. Section 1 has regard to the Wexford harbour area and details are given of estuarine mud habitats and to species including in sandflats etc. Figure 20 shows the proximity to the site. Figure 21 includes Map 5 which shows the site relative to the Slaney River Valley Marine Community Types.

The Objective seeks: To maintain the favourable conservation conditions of Estuaries and Mudflats and sandflats not covered by seawater at low tide in the Slaney River Valley SAC, which is defined by a list of attributes and targets. Details of these are given in the NIS.

9.2.8. Annex II species referred to include the Harbour Seal, which in the Slaney River Valley SAC occupy both aquatic habitats and intertidal shores. It is noted that this is a successful aquatic predator which feeds on a wide variety of fish, cephalopod and crustacean species. Current sites described in this SAC are broadly as follows: '*Tern island*' off Rosslare Point and sandbanks within the central and eastern areas of Wexford Harbour.

The Objective seeks in summary to maintain the favourable condition of the harbour seal in the Slaney River Valley, and a list of attributes and targets are given. These include: *Human activities should occur at levels that do not adversely affect the harbour seal population at the site.*

Figure 23 - Map 7 of the NIS shows the site relative to the Slaney River Valley Conservation Objectives for the Common Harbour Seal.

Wexford Harbour and Slobs SPA (site code 004076)

9.2.9. The Site Synopsis relevant to the Wexford Harbour and Slobs SPA details the general attributes and qualifying interests of the site. This notes that Wexford Harbour is the lowest part of the estuary of the River Slaney, a major river that drains much of the south-east region. That the site is divided between the natural estuarine habitats of Wexford Harbour, the reclaimed polders known as the North and South 'Slobs' and the tidal section of the River Slaney. The Wexford Harbour and Slobs SPA is of international importance for several species of waterbirds and is described as one of the top three sites in the country for numbers and diversity of wintering birds. The Site Synopsis provides a detailed description of qualifying interests including waterbird species within the SPA. The wetland habitats contained within Wexford Harbour and Slobs SPA are identified to be of conservation importance for

breeding and non-breeding (wintering) migratory waterbirds. Table 2.1 of the NIS provides a Designation Summary: *Species listed for Wexford Harbour and Slobs SPA*. The wetland habitats are considered to be of an additional Special Conservation interest. Details are given of bird counts relevant to the various species (some of date from the early 2000's).

#### Status of Qualifying Interests & Conservation Objectives

- 9.2.10. Table 4 of the NIS refers separately to both of the aforementioned sites and to the Qualifying Interests, Conservation Status, Management Objectives, Conditions underpinning the integrity for these Natura 2000 sites. This includes current conservation status and trend, noting relative to the Wexford Harbour and Slobs SPA the qualifying interest birdlife within the red, amber, and green lists.
- 9.2.11. Table 4 relative to the Slaney River Valley SAC includes regard to the current conservation status and trend of the qualifying interests noting these in the range of inadequate, bad or favourable.
- 9.2.12. Table 5 refers to Site Specific conservation objectives for both the Slaney River Valley SAC and the Wexford Harbour and Slobs SPA. General details are provided relative to the Attributes, Measure and Targets relating to the qualifying interests and conservation objectives within the wider areas of both Natura 2000 sites, rather than being more proximate to the location of the proposed development project.

#### **Analysis of Potential Impacts on Natura 2000 sites**

- 9.2.13. The proposed development is not within a designated conservation site. The nearest Natura 2000 site is the Slaney River Valley SAC (35m) downstream of the works. Given the scale of the proposed development and recognising that the proposed development site (foul sewer connection) is located 5m from a watercourse (Rathaspick Stream), that feeds directly into a marine environment, there is a direct hydrological pathway to the Slaney River Valley SAC and Wexford Harbour and Slobs SPA. There is potential for dust, pollution and contaminated surface water runoff to enter the Rathaspick Stream during construction and operation and impact on the integrity of Natura 2000 sites located immediately downstream.
- 9.2.14. The Potential for Adverse Effects on the Natura 2000 sites are discussed in Table 6. Noting that the proposed clearance and construction works would impact on the

ecology of the site and the surrounding area. In the absence of mitigation, this could lead to the transportation of dust, pollution and contaminated surface water runoff to the proximate Rathaspick Stream with the potential for downstream impacts on the Slaney River Valley SAC and Wexford Harbour and Slobs SPA.

9.2.15. In summary the main aspects of the proposed development that could adversely affect the conservation objectives of European sites include:

- Impacts to water quality and wetland habitats through construction related pollution events and /or operational impacts.
- That the discharge of contaminated surface water from the project during either the construction phase or operation phase would be as a result in a deterioration in water quality, as a result of pollution or silt which could alter sediment regime within the marine/coastal habitats and impact directly on features of interest or indirectly on the species by impacting on their prey or habitat.

#### **Appropriate Assessment of the implications of the proposed development**

9.2.16. The Screening for AA identified that the potential impacts that could (without mitigation) cause a significant effect on the qualifying interests and thereby undermine the conservation objectives of the Slaney River Valley SAC and the Wexford Harbour and Slobs SPA during the proposed construction works, including any impacts on water quality resulting from the construction phase of the proposed development. Uncontrolled runoff could enter into the adjacent riparian and aquatic habitats adversely affecting the quality of these habitats and the aquatic species they support within these Natura 2000 sites. That the application of preventive measures will ensure that impacts do not reach the SAC and the SPA and that adverse effects on the relevant qualifying interests can be avoided.

9.2.17. Construction and operational phase mitigation measures are required on the project site particularly as clearance of the site is proposed which will remove all existing terrestrial habitats and in the absence of mitigation would lead to silt laden and contaminated runoff entering existing surface water drainage network, Rathaspick Stream, and the marine environment. The 2no. Natura 2000 sites are considered in Table 6 of the NIS and potential for Adverse Effects are summarised below.

## Slaney River Valley SAC and Wexford Harbour and Slobs SPA

- 9.2.18. Given the nature of the works these effects would be expected to be localised in nature restricted to the immediate vicinity of the site. However, without the presence of mitigation measures there is a potential for downstream effects if significant quantities of pollution or silt were introduced into the existing surface water drainage network and the Rathaspick Stream, with potential for downstream impacts on the Natura 2000 sites. Habitats of conservation interest are not on the subject site.
- 9.2.19. Construction works, drainage networks on site, surface water run-off, haulage, storage of topsoil or works in the vicinity of the drainage networks onsite could lead to dust, hazardous material, soil or silt laden runoff entering the marine environment. Surface water runoff on site during construction may lead to silt or contaminated materials from site entering the Rathaspick Stream with downstream impacts on the SAC and SPA. Cement works or concrete production carried out in the vicinity of watercourses have potential for contamination. The use of plant and machinery, as well as the associated temporary storage of construction materials, oils, fuels and chemicals could lead to pollution on site or in adjacent watercourses.

### **Mitigation Measures**

- 9.2.20. Table 7 of the NIS provides the Mitigation Measures to Prevent Impacts on the aforementioned Natura 2000 sites. A detailed list of these measures is provided relevant to potential impacts on the Slaney River Valley SAC and the Wexford Harbour and Slobs SPA and precautionary measures to be taken during construction in summary include the following:

#### Construction Mitigation

- A project ecologist to be appointed to oversee works from prior to commencement of works on site to the completion of all drainage elements. To be consulted in relation to all onsite drainage, including those proximate to watercourses that involve surface water drainage connection works during construction works.
- Consultation with the project ecologist will not involve the formulation of new mitigation measures for the purposes of protecting any European Site and shall relate only to the implementation of those mitigation measure

already stated in the submission or the formulation of mitigation for other purposes.

- Local silt traps to be established throughout the site. During the construction works silt traps will be put in place in the vicinity of all runoff channels to prevent sediment entering the public network.
- Maintenance of any drainage structures (e.g. de-silting operations) will not result in the release of contaminated water to the surface water network.
- Mitigation measures on site to include dust control, stockpiling away from drains. Stockpiling of loose materials a minimum of 20m from drains.
- Fuel, oil and chemical storage will be sited in a bunded area at least 50m away from drains, ditches, excavations and other locations where it may cause pollution.
- Details are provided on measures for bunded areas. Petrochemical interception and bunds in refuelling area.
- Sufficient onsite cleaning of vehicles prior to leaving the site and on nearby roads, will be carried out.
- The Site Manager will be responsible for the pollution prevention programme and will ensure that at least daily check is carried out to ensure compliance. A record of these checks will be maintained.
- Concrete related works including cement mixers or drums/bins are only permitted to wash out in designated wash out area greater than 50m from sensitive receptors including drains.
- Spill containment equipment to be available for use in the event of an emergency and checked on a scheduled basis.

### Air & Dust

Dust may enter the surface water network or watercourse via air or surface water with potential downstream impacts. Mitigation measures to be carried out to reduce dust emissions to a level that avoids the possibility of adverse effects on downstream biodiversity. The main activities that may give rise to dust emissions during construction include the following:

- Excavation of material;
- Materials handling and storage;
- Movement of vehicles (particularly HGV's) and mobile plant.
- Contamination surface run-off.

Details are given in Table 7 of the NIS of mitigation measures to be put in place, site management and monitoring. Reference is also had to preparing, monitoring and maintaining the site, operations, waste and protection from dust. Measures Specific to Earthworks which include revegetation are given. It is provided that the Contractor will be required to consult with an ecologist prior to the beginning of works to identify any additional measures that may be appropriate and/or required. Regard is had to best practice for the storage/use of materials, plant & equipment. Also to monitoring and operations.

Operational Mitigation

Drainage works are to be inspected by the project ecologist post construction. Drainage networks are to comply with Water Pollution Acts.

**Table 2 – AA summary matrix for the Slaney River SAC (Tables 6 & 7 of the NIS refers)**

<p><b>Slaney River Valley SAC (Site Code 000781)</b></p> <p>Summary of Key issues that could give rise to adverse effects</p> <ul style="list-style-type: none"> <li>• Potential water pollution - Water Quality and water dependant habitats</li> <li>• Potential sedimentation from surface water runoff - Water Quality and water dependant habitats.</li> </ul>					
		<b>Summary of Appropriate Assessment</b>			
<b>Qualifying Interest feature</b>	<b>Conservation Objectives</b>	<b>Potential adverse effects</b>	<b>Mitigation measures</b>	<b>In-combination effects</b>	<b>Can adverse effects on integrity be excluded?</b>
	Targets and attributes (as listed in detail in the Conservation Objectives in the NPWS website for	Habitat degradation  Dust deposition  Pollution	Mitigation measures required and detailed in		

	the Slaney River Valley SAC: (site code: 000781)	<p>Silt Ingress from site runoff</p> <p>Downstream impacts</p> <p>Negative impacts on the aquatic environment, aquatic species and qualifying interests.</p> <p>If this were to occur during construction, it could lead to a localised degradation of habitat quality.</p>	full in Table 7 of the NIS		
<b>The following Qualifying interests of the Slaney River Valley SAC are present in the SAC (as stated in Table 6 of the NIS as having the potential for adverse effects):</b>					
<b>Estuaries</b>	<p>To maintain the favourable conservation condition of Estuaries in the Slaney River Valley SAC, which is defined by a list of attributes and targets.</p> <p>No decline, subject to natural processes</p>	As above	As above	None	Yes
<b>Mudflats and sandflats not covered by seawater at low tide</b>	<p>To maintain the favourable conservation condition of Mudflats and sandflats not covered by</p>	As above	As above	None	Yes

	<p>seawater at low tide in the Slaney River Valley SAC, which is defined by a list of attributes and targets.</p> <p>No decline, subject to natural processes</p>				
<b>Atlantic salt meadows</b>	<p>To maintain the favourable conservation condition of Atlantic salt meadows which is defined by a list of attributes and targets.</p> <p>No decline, subject to natural processes</p>	As above	As above	None	Yes
<b>Brook Lamprey</b>	<p>To restore the favourable conservation condition of Brook Lamprey in the Slaney River Valley SAC, which is defined by a list of attributes and targets.</p> <p>No decline, subject to natural processes.</p>	As above	As above	None	Yes
<b>River Lamprey</b>	<p>To restore the favourable conservation of River Lamprey in the Slaney River Valley SAC, which is defined by a list</p>	As above	As above	None	Yes

	<p>of attributes and targets.</p> <p>No decline, subject to natural processes</p>				
<b>Atlantic Salmon (only in freshwater)</b>	<p>To restore the favourable conservation condition of Salmon in the Slaney River Valley SAC, which is defined by a list of attributes and targets.</p> <p>No decline, subject to natural processes</p>	As above	As above	None	Yes
<b>Twaite shad</b>	<p>To restore the favourable conservation condition Twaite shad in the Slaney River Valley SAC, which is defined by a list of attributes and targets</p> <p>No decline, subject to natural processes</p>	As above	As above	None	Yes
<b>Otter</b>	<p>To restore the favourable conservation condition of Otter in the Slaney River Valley SAC, which is defined by a list of</p>	As above	As above	None	Yes

	attributes and targets.  No significant decline, subject to natural processes				
<b>Harbour Seal</b>	To maintain the favourable conservation condition of the Harbour Seal in the Slaney River Valley SAC, which is defined by a list of attributes and targets.  No decline, subject to natural processes	As above	As above	None	Yes
<b>Other Qualifying interests of the Slaney River Valley SAC that are not listed as having the potential for being impacted by the proposed development (Table 6 of the NIS) - include the following:</b>					
Freshwater Pearl Mussel	The status of the freshwater pearl mussel (as a qualifying Annex II species for the Slaney River Valley SAC is currently under review.	None – Table 6 provides that this is a freshwater species that is not located downstream of the works and would not be impacted by the proposed development.	None	None	Yes
Water courses of plain to montane levels etc.	To maintain the favourable conservation condition	None - Absent	None	None	Yes
Mediterranean salt meadows	To restore the favourable conservation condition	None - Absent	None	None	Yes

Sea Lamprey	To restore the favourable conservation condition	None - Absent	None	None	Yes
Alluvial forests	To restore the favourable conservation condition	None - Absent	None	None	Yes
Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles.	To restore the favourable conservation condition	None - Absent	None	None	Yes

### Wexford Harbour and Slobs (Site Code 004076)

#### Summary of Key issues that could give rise to adverse effects

- Potential water pollution - Water Quality and water dependant habitats
- Potential sedimentation from surface water runoff - Water Quality and water dependant habitats.

(Note: Appendix 1 of the NIS provides details of Waterbird Distribution Discussion Notes 2009/10)

		Summary of Appropriate Assessment			
Qualifying Interest feature	Conservation Objectives  Targets and attributes (as listed in detail in the Conservation Objectives in the NPWS website for the Wexford Harbour and Slobs SPA: (site code: 004076)	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
		Habitat degradation Dust deposition Pollution Silt Ingress from site runoff Downstream impacts Negative impacts on the	Mitigation measures required and detailed in full in Table 7 of the NIS		

		<p>aquatic environment, aquatic species and qualifying interests.</p> <p>If this were to occur during construction, it could lead to a localised degradation of habitat quality.</p>			
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**The following Qualifying interests of the Wexford Harbour and Slobs SPA are present in this part of the SPA (as stated in Table 6 of the NIS as having the potential for adverse effects):**

<p>Little Grebe (Tachybaptus ruficollis) [A004]</p> <p>Great Crested Grebe (Podiceps cristatus) [A005]</p> <p>Cormorant (Phalacrocorax carbo) [A017]</p> <p>Grey Heron (Ardea cinerea) [A028]</p> <p>Bewick's Swan (Cygnus columbianus bewickii) [A037]</p> <p>Whooper Swan (Cygnus cygnus) [A038]</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Teal (Anas crecca) [A052]</p>	<p>To maintain the favourable conservation condition of qualifying interest birdlife in the Wexford Harbour and Slobs SPA, which is defined by a list of attributes and targets.</p> <p>No decline, subject to natural processes</p>	As above	As above	None	Yes
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Mallard ( <i>Anas platyrhynchos</i> ) [A053]					
Pintail ( <i>Anas acuta</i> ) [A054]					
Scaup ( <i>Aythya marila</i> ) [A062]					
Goldeneye ( <i>Bucephala clangula</i> ) [A067]					
Red-breasted Merganser ( <i>Mergus serrator</i> ) [A069]					
Hen Harrier ( <i>Circus cyaneus</i> ) [A082]					
Coot ( <i>Fulica atra</i> ) [A125]					
Oystercatcher ( <i>Haematopus ostralegus</i> ) [A130]					
Golden Plover ( <i>Pluvialis apricaria</i> ) [A140]					
Grey Plover ( <i>Pluvialis squatarola</i> ) [A141]					
Lapwing ( <i>Vanellus vanellus</i> ) [A142]					
Knot ( <i>Calidris canutus</i> ) [A143]					
Sanderling ( <i>Calidris alba</i> ) [A144]					
Dunlin ( <i>Calidris alpina</i> ) [A149]					
Black-tailed Godwit ( <i>Limosa limosa</i> ) [A156]					
Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157]					

<p>Curlew (Numenius arquata) [A160]</p> <p>Redshank (Tringa totanus) [A162]</p> <p>Black-headed Gull (Chroicocephalus ridibundus) [A179]</p> <p>Lesser Black-backed Gull (Larus fuscus) [A183]</p> <p>Little Tern (Sterna albifrons) [A195]</p> <p>Greenland White-fronted Goose (Anser albifrons flavirostris) [A395]</p>					
<p>Wetland and Waterbirds A999</p>	<p>To maintain the favourable conservation condition of wetland habitat in the Wexford Harbour and Slob SPA, which is defined by a list of attributes and targets.</p> <p>No decline, subject to natural processes</p>	<p>As above</p> <p>In the absence of mitigation there is the potential for impacts on the wetland habitat.</p> <p>Mitigation measures are required to remove the potential of impacts on the SPA from direct hydrological pathway.</p>	As above	None	Yes

## Evaluation of Mitigation Measures

9.2.21. The NIS provides that a robust series of mitigation measures are proposed. Noting that these would ensure that surface water runoff from the proposed works site is

clean, uncontaminated and that dust from the works would not significantly impact on the Rathaspick Stream and downstream Natura 2000 sites. That the early implementation of ecological supervision on site will be at the initial mobilisation and enabling works. That this is seen as an important element to the project particularly in relation to the implementation of surface water runoff mitigation strategies and mitigation to protect the watercourse from proximate works.

9.2.22. That with successful implementation of the mitigation measures to limit surface water impacts on the Rathaspick Stream, including mitigation/supervision, no significant impacts are foreseen, from the construction and operation of the proposed project. The residual impacts of the proposed project will be localised to the immediate vicinity of the proposed works and would not impact on the integrity of proximate Natura 2000 sites.

9.2.23. The NIS considers that the construction and operational mitigation proposed for the development satisfactorily addresses the mitigation of potential impacts on the Slaney River Valley SAC and the Wexford Harbour and Slobs SPA, through the application of the standard construction and operational phase controls as outlined. They note that in particular, the mitigation measures to ensure compliance with the Water Pollution Acts, Inland Fisheries Ireland guidance and to prevent silt and pollution entering the Rathaspick Stream will satisfactorily address the potential impacts on downstream Natura 2000 sites.

9.2.24. The NIS provides that no significant adverse impacts on the conservation objectives of Natura 2000 sites are likely following the implementation of the mitigation measures outlined. These measures are to protect surface water, which is the primary vector of impacts from the site, and to ensure that it is not impacted during construction and operation. That it is essential that these measures are complied with, to ensure that the proposed development does not have 'downstream' environmental impacts.

### **Conclusion of the NIS**

9.2.25. It has been concluded in the NIS that significant effects on the integrity of the Slaney River Valley SAC and Wexford Harbour and Slobs SPA are likely from the proposed works in the absence of mitigation measures, primarily as a result of direct hydrological connection to the site via dust pollution and surface water runoff to the

existing surface water drainage network and the Rathaspick Stream. For these reasons an NIS was carried out to assess whether the proposed project, either alone or in combination with other plans or projects, in view of best scientific knowledge and in view of the site's conservation objectives will adversely affect the integrity of the said European sites. All other aforementioned Natura 2000 sites had no direct links and were screened out.

9.2.26. Construction works will create localised noise disturbance that will not impact on the Natura 2000 sites. Mitigation measures will be in place to ensure that there are no significant impacts on the surface water that leads to the marine environment.

9.2.27. The NIS provides that following the implementation of the mitigation measures outlined, the construction and operation of the proposed development would not be deemed to have a significant impact on the Slaney River Valley SAC and the Wexford Harbour and Slobs SPA.

9.2.28. The NIS concludes that no significant effects are likely on Natura 2000 sites, their qualifying features of interest or conservation objectives. That the proposed project will not adversely affect the integrity of European sites. That no significant adverse effects are likely on Natura 2000 sites, alone or in combination with other plans and projects based on the implementation of mitigation measures.

### **Appropriate Assessment Conclusion**

9.2.29. Therefore, based on the information provided in the NIS, it can be concluded that the proposed development to provide a discount store and all ancillary works, has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

9.2.30. Having carried out Screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Slaney River Valley SAC and the Wexford Harbour and Slobs SPA. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those European site Nos. 000781 and 004076 sites in light of their conservation objectives.

9.2.31. It has been concluded in the NIS that subject to the implementation of the mitigation measures outlined that there are no significant likely negative effects on the aforementioned Natura 2000 sites. Potential impacts from construction and operation

will be removed with the prevention measures built-in to the project and the mitigation measures as set out in Table 7 of the NIS. Therefore, it may be concluded, in light of best scientific knowledge that the project will not have any significant effect on the integrity of the Natura 2000 site network, in particular on the Slaney River Valley SAC and the Wexford Harbour and Slobs SPA. That neither will it have any influence on the attainment of the site conservation objectives

9.2.32. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site Nos. 000781 and 004076, or any other European site, in view of the site's Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

## 10.0 Recommendation

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

## 11.0 Reasons and Considerations

1. This proposal to provide a discount foodstore and associated ancillary works in this out of town location, on greenfield lands that were not zoned for a 'Neighbourhood Centre' in the former Wexford and Environs Development Plan 2009-2015 (as extended), would not comply with the sequential approach to retail in plan-led development as noted in Objectives ED50 and ED58 of Volume 1, Section 5.10 (Retail) of Volume 2 of the Wexford County Development Plan 2022-2028 or the specific retail planning objectives (in particular Objective WXC08) in Section 6.3 of the County Wexford Retail Strategy 2021-2027 (Volume 8: of the said Plan). In addition, it would not have due regard to the sequential approach or plan led development as outlined in the Section 28, Retail Planning Guidelines 2012. The subject proposal would be disconnected from the town centre and run counter to the plan led approach that would lead to positive outcomes in terms of placemaking and sustainable transport. It would be seen as piecemeal and

premature pending the adoption of the Wexford Local Area Plan. It would 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.

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Angela Brereton  
Planning Inspector

29<sup>th</sup> of May 2022

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP-317632-23		
<b>Proposed Development Summary</b>	Discount foodstore with ancillary off-licence sales and all other associated site development works (including foul sewer link from the proposed development site at Rocksborough to connect to existing infrastructure to the south, including within the curtilage of a protected structure). An NIS has been submitted with this application		
<b>Development Address</b>	Lands at Kerloge/Rocksborough, Wexford		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓
		<b>No</b>	
<b>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?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	✓		Proceed to Q.3
<b>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]?</b>			
	<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>	10. Infrastructure projects, (b) (ii) Construction of a car-park providing more than 400 spaces, other than a car-park provided as part of, and incidental to the primary purpose of, a development.	Construction of a discount foodstore and ancillary works at an out of town centre location,	No EIAR or Preliminary Examination required

		<p>And</p> <p>(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.</p>	<p>parking for 105 cars.</p> <p>Scale of car parking development is less than 400 spaces, on a site of 1.22 Hectares outside of the business district area.</p>	
<b>Yes</b>		Class/Threshold 10(b)(ii)(iv)		Proceed to Q.4

<b>4. Has Schedule 7A information been submitted?</b>		
<b>No</b>	✓	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Appendix 2 - Form 2**

**EIA Preliminary Examination**

<b>An Bord Pleanála Case Reference</b>	ABP-317632-23	
<b>Proposed Development Summary</b>	Discount foodstore with ancillary off-licence sales and all other associated site development works (including foul sewer link from the proposed development site at Rocksborough to connect to existing infrastructure to the south, including within the curtilage of a protected structure). This application is accompanied by an NIS.	
<b>Development Address</b>	Lands at Kerloge/Rocksborough, Wexford	
<p><b>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.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development to include a discount foodstore, on-site parking and ancillary works (stated area 1.22ha) is on a greenfield site, within an area that was zoned mixed use/residential in the former Wexford and Environs Development Plan 2009-2015.</p> <p>The proposed development is to connect to public services. As per the documentation submitted, including regard to Construction and Environmental Management it will not result in significant emissions or pollutants.</p>	<p>No</p> <p>No</p>
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>This proposal is for the construction of a discount foodstore, 105 on-site parking spaces and ancillary works on a site of 1.22ha is well below the threshold of 400 parking spaces and below 10ha as per Class 10(b)(ii) and (iv) of Schedule 5 of Part 2 of the Planning and Development Regulations 2001 (as amended).</p> <p>Please refer to the Planning History Section of this Report. No significant cumulative considerations</p>	<p>No</p> <p>No</p>
<b>Location of the Development</b>	Retail Development in an out-of-town centre location on a greenfield site to be serviced site on lands zoned for	No

<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>mixed use/residential in the former Wexford &amp; Environs DP 2009-2015 includes regard to surface water drainage and the incorporation of SuDS.</p> <p>The proposal includes regard to drainage and a wayleave for sewer connections. This has been assessed in the documentation and shown on the drawings submitted, and it is concluded that it will not have a significant effect.</p>	<p>No</p>
<p><b>Conclusion</b></p>		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required</p>	<p><b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b></p> <p><del>Schedule 7A information required to enable a Screening Determination to be carried out.</del></p>	<p><b>There is a real likelihood of significant effects on the environment.</b></p> <p>EIAR required.</p>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)