



An  
Bord  
Pleanála

## Inspector's Report ABP-318053-23

<b>Development</b>	Modifications to layout and front of shop with all associated site works
<b>Location</b>	Lidl Store, East Wall Road, Dublin 3, D03 V9X3
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	5435/22
<b>Applicant(s)</b>	Lidl Ireland GMBH
<b>Type of Application</b>	Planning Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Peter McCarthy
<b>Observer(s)</b>	N/A
<b>Date of Site Inspection</b>	22 <sup>nd</sup> April 2024
<b>Inspector</b>	Conor Crowther

## **1.0 Site Location and Description**

- 1.1.1. The appeal site measures approximately 0.9ha., within an established inner suburban area at East Wall Road, Dublin 3. The site is occupied by a Lidl Store and a mixture of retail, residential, commercial, office, recreational and car park uses. The site is located approximately 2km northeast of Dublin City Centre, within the Local Authority area of Dublin City Council.
- 1.1.2. The proposed development relates to the discount retail store within this modern mixed use neighbourhood centre which covers the wider site. The site fronts onto East Wall Road (R131), and benefits from a moderately sized car park to the side and rear dedicated to the neighbourhood centre. The shop frontage exhibits modernist features consisting of a mixture of glazing, brickwork and panelling. Shopfront signage is affixed to the 2<sup>nd</sup> floor panelling at the corner of the site facing both northwards and eastwards along the East Wall Road frontage. The site is accessed from Church Road for vehicles and pedestrians and from East Wall Road for pedestrians only.
- 1.1.3. The appeal site is bounded to the south by 2 storey dwellings and commercial development in Shelmalier Road, to the north by East Wall Road, to the west by Church Road and to the east by 2 storey dwellings in Baginbun Road and East Wall Road. The Tolka River Estuary, Dublin Port Tunnel and the DART railway line lie to the north and northeast of the site.

## **2.0 Proposed Development**

- 2.1.1. The proposed development is described as follows:
  - A single storey extension to the front of the existing discount retail store to provide a Deposit Return Scheme (DRS) facility to allow customers to return plastic beverage bottles and aluminium cans to a reverse vending machine in store.
  - Demolition and repositioning of the existing exit/entrance pod and trolley bay.
  - Construction of a free-standing trolley bay to the immediate east of the proposed extension.
  - Alteration works to the store elevation and car park area.

- All ancillary works required.

2.1.2. It should be noted that the proposal was altered at Further Information (FI) stage to revise the extent of the proposed free-standing trolley bay, allowing for a greater quantum of pedestrian space to the east of the proposed trolley bay.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. Dublin City Council (the Planning Authority) issued a FURTHER INFORMATION request on the 16<sup>th</sup> February 2023 relating to bicycle parking associated with a previous permission onsite and remaining pedestrian space adjacent to the proposed freestanding trolley bay. The Planning Authority subsequently issued a GRANT of permission for the above-described proposed development on the 21<sup>st</sup> August 2023, subject to 8 no. conditions.

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

##### **3.3. Planning Reports**

3.3.1. The Planning Officer's Report dated 16<sup>th</sup> February 2023 found the principle of the proposed development to be acceptable but sought further information on the above items. The Planning Officer determined the proposed development to be ancillary to the existing permitted retail use and an appropriate climate change mitigation measure and to be in keeping with the character of the existing structure.

3.3.2. The Planning Officer's Report dated 24<sup>th</sup> August 2023 determined the response to the FI request to be satisfactory and subsequently issued a grant of planning permission, subject to conditions.

##### **3.3.3. Other Technical Reports**

3.3.4. Drainage Department – No objection to the proposed development, subject to a number of considerations.

3.3.5. Transportation Department – Following consideration of the submitted FI, no objection to the proposed development, subject to 2 no. conditions.

### **3.4. Prescribed Bodies**

- 3.4.1. TII – no objection to the proposed development.
- 3.4.2. Irish Water/Uisce Éireann – no response received.
- 3.4.3. Irish Rail/Iarnród Éireann – no response received.

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

- 3.5.1. One no. 3<sup>rd</sup> party observation was received from Peter McCarthy, no.63 Shelmalier Road, in response to the original application and the FI submitted to the Planning Authority. The issues raised by the observer are generally reflected in the 3<sup>rd</sup> party appeal and also raise the following:
  - The retail park has resulted in significant increase in litter which has impacted residential amenities in the area.
  - The DRS will likely lead to an increase in traffic and non-resident parking on surrounding roads, with associated safety issues.
  - The observer suggests a number of conditions to be attached to the planning permission, the following of which are not included in the 3<sup>rd</sup> party appeal, relating to:
    - The undertaking of a traffic management and safety plan.
    - Introduction of paid parking meters within the existing car park.
    - Dublin City Council to introduce parking management measures on the surrounding roads with the exception of free parking for residence.

## **4.0 Planning History**

### Subject Site:

- 4.1.1. 4202/22 – Permission GRANTED for the erection of photovoltaic panels on the roof of the existing Lidl Store at East Wall.
- 4.1.2. 2085/16 - Permission GRANTED for the erection of an illuminated car park information sign placed at the corner of East Wall Road and Church Road.
- 4.1.3. 3153/15 - Permission GRANTED for an ESB substation.

- 4.1.4. 2555/13 (ABP Ref. PL 29N 242804) – Permission GRANTED for a mixed use development, including surface car parking (118 spaces) with a proposed new vehicular access off Church Road, the provision of 32no. cycle parking spaces, and associated works.
- 4.1.5. I note that the Planning Authority included an additional onsite planning application in their assessment of the planning history which I did not consider to be pertinent to my assessment.

Neighbouring sites of relevance:

- 4.1.6. 2644/16 (ABP Ref. PL29N.246682) – Permission GRANTED on appeal for extension of operating hours of permitted drive-thru restaurant from 08:00 to 22:00 to 07:00 to 23:00.
- 4.1.7. 2645/16 (ABP Ref. PL29N.246681) – Permission GRANTED for the provision of signage (elevational, freestanding) and freestanding structures for the drive-thru restaurant and associated works.

A 1<sup>st</sup> party appeal was subsequently withdrawn.

## **5.0 Policy Context**

### **5.1. Climate Action Plan 2024**

- 5.1.1. Ireland's national Climate Action Plan is published and reviewed on an annual basis, and the latest published version includes the following policies, objectives and actions of relevance:

- Action CE/24/3 - Go-live of the Deposit and Return Scheme for plastic bottles and aluminium cans.

### **5.2. Dublin City Development Plan 2022-2028**

- 5.2.1. The following are policies, objectives and extracts of relevance to the proposed development from the Dublin City Development Plan:
- Zoning Objective Z3 Neighbourhood Centres – 'To provide for and improve neighbourhood facilities'.

- CA23 – Circular Economy
- CCUV12 – Shopfront Design
- SI27 – Sustainable Waste Management
- SI28 - Sustainable Waste Management
- SI31 – Provision of Public Recycling Facilities in Large Retail Developments.
- Section 15.17.5 – Shopfront & Façade Design
- Section 15.18.3 – Recycling Facilities

### 5.3. Natural Heritage Designations

5.3.1. The following sites are located in the surrounding area of the proposed development:

Proposed Natural Heritage Area (pNHA):

- North Dublin Bay (000206) – approx. 163m
- Royal Canal (002103) – approx. 579m
- South Dublin Bay (000210) - approx. 2.7km

Special Protection Area (SPA):

- South Dublin Bay and River Tolka Estuary (004024) – approx. 341m
- North Bull Island (004006) – approx. 3.5km

Special Area of Conservation (SAC):

- South Dublin Bay (000210) – approx. 2.6km
- North Dublin Bay (000206) – approx. 3.5km

Biosphere Reserve:

- Dublin Bay Biosphere Reserve (Core Zone) – approx. 335m.

### 5.4. EIA Screening

5.4.1. Having regard to the limited nature and scale of the proposed development, the criteria set out in Schedule 7 of the Planning & Development Regulations 2001 (as amended) and the location of the site within a serviced urban area at a remove from

areas of environmental sensitivity, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination stage (see Appendix 2) and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. A 3<sup>rd</sup> party appeal was submitted by Peter McCarthy, on the 18<sup>th</sup> September 2023 opposing the conditions of the Planning Authority's GRANT of permission. The grounds of appeal are summarised as follows:

- Notwithstanding the fact that the appellant is fully supportive of the Deposit Return Scheme (DRS), the appellant requests that the Board do not to refuse the application and instead impose conditions to protect the community.
- There is an existing problem with litter at the site and within the immediate vicinity. Increasing footfall as a result of the proposed development will exacerbate this issue.
- The appellant quotes a commercial property consultant who states that DRS will lead to increased footfall which will require proper management and maintenance of shopping areas to ensure a smooth and streamlined process.
- Existing bins are found to be regularly overflowing with rubbish. If the existing bins are not managed properly, how will the DRS be managed?
- DRS customers will automatically bin or throw on the ground items that the machine won't accept and will discard packaging they used to transport bottles. Thus, creating more rubbish.
- The level of cleaning services provided by the Planning Authority to the area do not reflect its retail district functions.
- Photographic evidence of how rubbish is discarded at existing bottle banks illustrates how people treat existing return schemes.

- Poor litter management and the actions of the Planning Authority contributes to the erosion of the community in East Wall and propagates anti-social behaviour.
- The applicant and surrounding retail units should clean up their immediate surroundings as part of their corporate social responsibilities.
- The appellant suggests conditions to be added to the grant of planning permission:
  - LIDL Ireland to hire an independent consultant to examine effects of the waste and litter in the retail park and surrounding community.
  - LIDL Ireland implement a litter and waste management plan involving the provision of more bins to service all areas of the retail park.
  - LIDL Ireland and adjacent occupants take responsibility for cleaning the area within the immediate vicinity of the retail park.
  - Require Dublin City Council to undertake and implement a waste management plan in the immediate area and recognise that this is the East City Retail Sector.
  - Require Dublin City Council to road sweep the area marked in red at least once per week and to install a sufficient number of bins surrounding the retail park.

## **6.2. Applicant Response**

- 6.2.1. None received.

## **6.3. Planning Authority Response**

- 6.3.1. The Planning Authority have not provided any further observations on this application.

## **6.4. Observations**

- 6.4.1. None received.



## **7.0 Assessment**

7.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the Planning Authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance and the fact that the appellant supports the principle of the proposed development and suggests that it should be granted, I consider that the substantive issues in this appeal to be considered are solely related to the following matters:

- Waste Management
- Traffic Management

### **7.2. Waste Management**

7.2.1. I note that the appellant has suggested the imposition of several conditions relating to waste management as part of the planning permission. This arises from the appellant's concerns regarding the contribution of the proposed development to pre-existing waste management issues at the site, in respect of submitted documentary evidence. From examination of the site and its surroundings during my site visit, I did not witness any proliferation of waste. I did witness a functioning outdoor DRS facility adjacent to the existing trolley bay which appears to have been installed post-application by the applicant to fulfil legal circular economy obligations. Thus, the outdoor DRS facility is not shown on the submitted drawings.

7.2.2. I note that the grant of planning permission issued by the Planning Authority does not include a condition in relation to waste management. Given the purpose of the proposed DRS facility to reduce waste and to incentivise the re-circulation of existing plastic bottles and cans within the economy, it is not likely that such a facility will generate significant waste. I do not agree that this scenario is comparable to a bottle bank as there is no monetary value attached to bottles discarded at bottle banks. Furthermore, the submitted plans indicate the provision of a waste bin adjacent to the existing DRS facility which would satisfactorily address concerns regarding any additional waste that may be brought about by the DRS facility. I therefore do not consider it necessary to impose a condition relating to waste management as part of the grant of planning permission.

- 7.2.3. With regard to the wider management of waste within the retail park, this is beyond the scope of my assessment. As such, I do not further consider this matter in my assessment of the proposed development.

### **7.3. Traffic Management**

- 7.3.1. The appellant contends that a DRS facility is likely to attract more traffic to the area and that this should be addressed by way of condition. The evidence submitted in support of this is a commercial property consultant's quote and the results of trial DRS facility undertaken at a LIDL store in Glenageary, County Dublin.

Notwithstanding the likelihood that the proposed DRS facility will attract more footfall to the area, I am not of the opinion that it is necessary to impose traffic management conditions to address this due to the existing parking provision within the site and the fact that this was not raised as an issue by the Planning Authority's Transportation Department. This indicates that the increase in traffic will not be significant, and that no loss of car parking will arise as such facilities are rolled out across other such retail stores.

## **8.0 AA Screening**

- 8.1.1. I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000, as amended.

The subject site is located on the East Wall Road in an inner suburban area within 341m of the South Dublin Bay and River Tolka Estuary SPA.

The proposed development comprises relatively minor modifications to the layout and front of a shop with all associated site works.

I note that the Planning Authority determined, in their assessment of the proposed development that it would not significantly impact upon a Natura 2000 site.

- 8.1.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The small-scale nature of the proposed development in a serviced inner suburban area,

- Although the site is located close to the South Dublin Bay and River Tolka Estuary SPA (c.341m), the location of the proposed development is well removed from the European site by way of the buffer of existing mixed use development, the Dublin Port Tunnel and a regional road between the site and the European site.

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

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

## **9.0 Recommendation**

I recommend that planning permission should be GRANTED, subject to conditions, for the reasons and considerations as set out below.

## **10.0 Reasons and Considerations**

Having regard to the nature and scale of the proposed development, existing and proposed facilities for onsite waste management and existing traffic management infrastructure, it is considered that subject to the conditions set out below, the proposed development would be acceptable and would be in accordance with the provisions of the Dublin City Development Plan 2022-2028 and the Climate Action Plan 2024. The proposed development would not negatively impact on residential amenity or give rise to negative impacts on traffic safety and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **11.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted in response to a Further Information Request on the 25<sup>th</sup> day of July 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development

and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason: In the interest of clarity.**

2. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason: In the interest of the visual amenities of the area.**

3. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason: In the interest of the amenities of the area/visual amenity.**

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services and shall be agreed in writing with the planning authority prior to the commencement of development.

**Reason: In the interest of public health.**

5. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

**Reason: In the interests of sustainable waste management.**

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

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

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of

development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste

**Reason: In the interests of public safety and residential amenity.**

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.**

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.

---

Conor Crowther  
Planning Inspector

7<sup>th</sup> May 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	ABP-318053-23		
<b>Proposed Development Summary</b>	Modifications to layout and front of shop with all associated site works.		
<b>Development Address</b>	Lidl Store, East Wall Road, Dublin 3, D03 V9X3		
<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>	No further action required
<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>		Class.....	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>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>	✓	Class 10(b)(iv) urban development involving an area greater than 2 ha in a business district OR Class	Proceed to Q.4

		11(b) min. intake of 25,000 tonnes of waste per annum.		
--	--	--	--	--

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

**Inspector: Conor Crowther      Date: 7<sup>th</sup> May 2024**

## Appendix 2 - Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	<b>ABP-318053-23</b>	
<b>Proposed Development Summary</b>	Modifications to layout and front of shop with all associated site works.	
<b>Development Address</b>	Lidl Store, East Wall Road, Dublin 3, D03 V9X3	
<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>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<b>Nature of the Development</b> Is the nature of the proposed development exceptional in the context of the existing environment?  Will the development result in the production of any significant waste, emissions or pollutants?	<p>Given the location of the proposed development within the confines of the existing retail unit located in a serviced inner suburban area, I do not regard the nature of the proposed development to be exceptional in the context of the existing environment.</p> <p>The proposed development represents an established DRS facility which will allow for the management and containment of waste within a dedicated area of the site, for collection and disposal.</p>	<p>No</p> <p>No</p>
<b>Size of the Development</b> Is the size of the proposed development exceptional in the context of the existing environment?  Are there significant cumulative considerations having regard to other existing	<p>Given the location of the proposed development within the confines of the existing retail unit located in a serviced inner suburban area, I do not regard the size of the proposed development to be exceptional in the context of the existing environment.</p>	<p>No</p> <p>No</p>



and/or permitted projects?		
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>I note the proximity of the Tolka River, which discharges to North Dublin Bay, to the proposed development. Given the containment of the proposed development within the confines of the existing retail development and the existing services in the area, I am satisfied that the proposed development will not significantly impact on the Tolka River.</p>	<p>No</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>Yes</p>	<p><b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b></p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p> <p>No</p>	<p><b>There is a real likelihood of significant effects on the environment.</b></p> <p>EIAR required.</p> <p>No</p>

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

Date: \_\_\_\_\_

**DP/ADP:**

Date: \_\_\_\_\_

(only where Schedule 7A information or EIAR required)