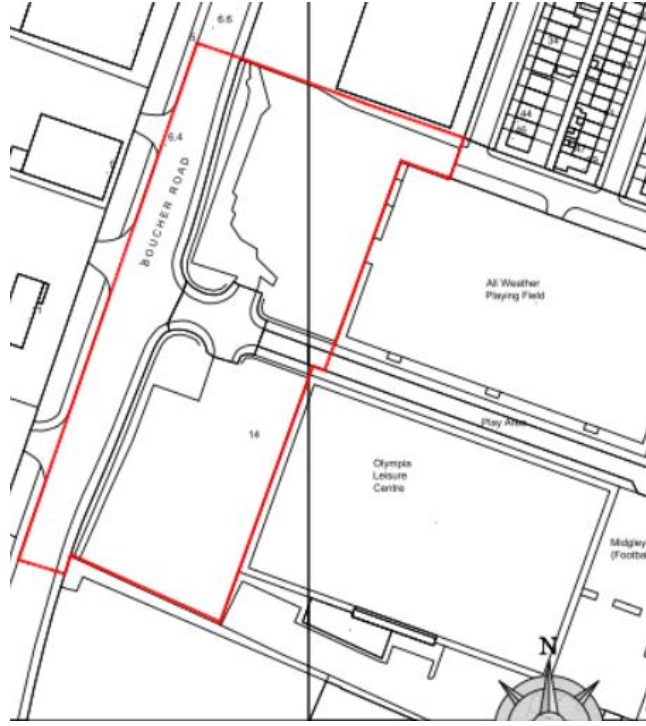


Committee Report

Development Management Report	
Application ID: LA04/2023/3879/F	Date of Committee: 17 th September 2024
Proposal: Vary of condition 11 of LA04/2021/2815/F to extend opening hours.	Location: Vacant lands at access road to Olympia Leisure Centre – directly opposite and approx. 70m east of, Nos 9-15 Boucher Road, Belfast.
Referral Route: Major application: variation of condition to previous major application.	
Recommendation: Approval	
Applicant Name and Address: Lidl Northern Ireland Nutts Corner Dundrod Road Crumlin BT29 4SR	Agent Name and Address: Dermot Monaghan MBA Planning 4 College House Citylink Business Park Belfast BT12 4HQ
Date Valid: 31 st August 2023	
Target Date: 28 th March 2024	
Contact Officer: Ciara Reville, Principal Planning Officer.	
<p>Executive Summary:</p> <p>The application seeks planning permission for a variation of condition 11 of LA04/2021/2815/F to extend opening hours for an additional hour on a Saturday, from Saturday 08:00-21:00hrs to Saturday 08:00-22:00hrs.</p> <p>The key issue relevant to consideration of the application is:</p> <ul style="list-style-type: none"> • Any issues that may arise from the amendment of a previous condition recommended by environmental health that was imposed for the protection of residential amenity against adverse noise. <p>Recommendation</p> <p>Having had regard to the development plan, relevant planning policies, and consultation responses it is considered that the variation of condition should be approved.</p> <p>Delegated authority is sought for the Director of Planning and Building Control to finalise the conditions and deal with any other matters which may arise so long as they are not substantive.</p>	

Case Officer Report

Site Location Plan and Site Layout



Characteristics of the Site and Area

1.0 Description of Proposed Development

1.1 The application seeks planning permission for a variation of condition 11 of LA04/2021/2815/F to extend opening hours.

2.2 Condition 11 of LA04/2021/2815/F states:

No Customers shall be served or remain in the hereby approved supermarket outside the following hours:

Monday to Friday 07:00-23:00 hrs

Saturday 08:00-21:00hrs

Sunday 13:00- 18:00hrs

Reason: Protection of residential amenity against adverse noise.

The application requests to extended permitted opening hours by 1 hour on Saturdays:

Monday to Friday 07:00-23:00 hrs

Saturday 08:00-22:00hrs

Sunday 13:00- 18:00hrs

2.0 Description of Site

2.1 The application site is located along the east side of Boucher Road. The area is predominantly characterised by a mix of uses, mostly commercial/retail uses. Windsor Park football stadium, Olympia Leisure Centre and associated playing fields are located to the immediate east. Existing residential development is located to the north-east of the site. Commercial uses are located to the north, south and to the other side of Boucher Road to the west.

Planning Assessment of Policy and other Material Considerations	
3.0	Site History
3.1	LA04/2021/2815/F - Erection of Discount supermarket, drive through cafe, landscaping, car parking, and associated site works. Approved 29/03/2023
4.0	Policy Framework
4.1	Belfast Urban Area Plan 2001
4.2	Draft Belfast Metropolitan Area Plan 2015 (v2004 and v2014) Following the recent Court of Appeal decision on BMAP, the extant development plan is now the BUAP. DBMAP (both v2004 and v2014 versions) is a material consideration. The weight to be afforded to dBMAP is a matter of judgement for the decision maker. Given its advanced stage in the Development Plan process, it is considered that dBMAP (v2014) carries significant weight.
4.3	Belfast Local Development Plan Draft Plan Strategy The Belfast Local Development Plan Draft Plan Strategy 2035 will guide future planning application decision making to support the sustainable spatial growth of the city up to 2035. The draft Plan Strategy has been subject to examination by the Planning Appeals Commission and the Council has been provided with a copy of their Report, together with a Direction from DfI in relation to additional required steps before it can be considered adopted. Paragraph 1.10 of the SPPS states that a transitional period will operate until such times as a Council's Plan Strategy has been adopted. Accordingly, whilst the Draft Plan Strategy is now a material consideration it has limited weight until it is adopted and during the transitional period planning authorities will apply existing policy together with the SPPS.
4.4	Strategic Planning Policy Statement for Northern Ireland (SPPS)
4.5	Policy RET 1 – Establishing a centre hierarchy. Policy RET 2 – Out of centre development. Policy DES 1 – Principles of urban design.
5.0	Statutory Consultees Responses None
6.0	Non Statutory Consultees Responses Environmental Health- Content with recommended condition.
7.0	Representations
7.1	The application was advertised on the 29th September 2023 and neighbour notified on the 20 th September 2023.
7.2	No objections were received.
9.0	Assessment
9.1	It is considered that the proposal is in compliance with the SPPS in that the proposed development will not cause demonstrable harm to interests of acknowledged importance which are considered below.
9.2	Principle of development

<p>9.3</p> <p>9.4</p>	<p>The principle of development has already been established through the previous approved application LA04/2021/2815/F. Therefore, RET1 AND RET2 have already been complied with.</p> <p>Impact on residential amenity against adverse noise</p> <p>The proposed variation of condition is to allow the supermarket to open for an extra hour from 21:00 to 22:00 on a Saturday. Given the previous condition suggested by Environmental Health, they were reconsulted on this application. Environmental Health responded with no objection with an amended condition. Therefore, it is considered that the proposed extra opening hour would have no further impact from what is already approved on residential amenity. The proposal is therefore compliant with Policy DES 1.</p> <p>Given that this variation of condition is to a previously approved major application, the applicant can rely on the pre-application community consultation that was submitted alongside application LA04/2021/2815/F.</p>
<p>9.5</p>	<p>Having regard for the policy context and the considerations above, the proposal is deemed acceptable.</p>
<p>10.0</p> <p>10.1</p>	<p>Summary of Recommendation:</p> <p>Approval. Delegated authority is sought for the Director of Planning and Building Control to finalise the conditions.</p>
<p>11.0</p>	<p>DRAFT Conditions:</p> <ol style="list-style-type: none"> 1. This planning permission has effect from the date of this decision. <p>Reason: As required by Section 55 of the Planning Act (Northern Ireland) 2011.</p> 2. No external finishes shall be applied unless in accordance with a written specification and a physical sample panel, details of which shall have first been submitted to and approved in writing by the Council. <p>The sample panel shall be provided on site and made available for inspection by the Council for the duration of the construction works.</p> <p>The sample panel shall show the make, type, size, colour, bond, pointing, coursing, jointing, profile and texture of all external finishes.</p> <p>Reason: In the interests of the character and appearance of the area.</p> 3. The gross retail floor space of the store hereby approved shall not exceed 2,223sqm. <p>Reason: To safeguard the vitality and viability of the City Centre and other Centres within the catchment.</p> 4. The net floor space of the retail store hereby approved shall not exceed 1,425sqm. <p>Reason: To safeguard the vitality and viability of the City Centre and other Centres within the catchment.</p> 5. Of the net retail floor space of the retail unit hereby approved, not more than 1,140 square metres shall be used for the sale and display of the items listed here under

and for no other purpose, including any other purpose in Class A1 of the Planning (Use Classes) Order (Northern Ireland) 2015

- (a) food non-alcoholic beverages, alcoholic drink;
- (b) tobacco, newspapers, magazines, confectionery; (c) stationary and paper goods;
- (d) toilet requisites and cosmetics;
- (e) household cleaning materials; and
- (f) other retail goods as may be determined in writing by the Council as generally falling within the category of 'convenience goods' or as generally being appropriate to the trading in these premises.

Reason: To control the nature, range and scale of the retail activities to be carded out at this location in order to protect the vitality and viability of town centres and other centres within the catchment.

6. No internal operations, including the construction of or extension to mezzanine floors, increasing the floor space available for retail use or subdivision to form additional units shall be carried out without the prior written consent of the Council.

Reason: To control the nature, range and scale of the retail activities to be carried out at this location in order to protect the vitality and viability of town centres and other centres within the catchment.

7. Of the net retail floor space not more than 285 square metres of the sales area shall be used only for the retail sale of comparison goods and for no other purpose.

Reason: To control the nature, range and scale of the retail activities to be carded out at this location in order to protect the vitality and viability of town centres and other centres within the catchment.

8. All hard and soft landscaping works shall be carried out in accordance with the approved details as set out in Drawing No. 10B – Landscape Proposal (in planning application LA04/2021/2815/F). The landscaping works shall be carried out prior to the occupation of any part of the development unless otherwise agreed in writing by the Council. Any existing or proposed trees or plants indicated on the approved plans which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size, details of which shall have first been submitted to and approved in writing by the Council. All hard surface treatment of open parts of the site shall be permeable or drained to a permeable area. All hard landscape works shall be permanently retained in accordance with the approved details.

Reason: In the interests of the character and appearance of the area.

9. Deliveries to or service collections from the hereby approved development shall only be permitted between the hours of 07:00-23:00hrs Monday to Friday; between the hours of 08:00-23:00hrs on a Saturday and between the hours of 10:00-22:00hrs on a Sunday.

Reason: Protection of residential amenity against adverse noise.

10. No customers shall be served or remain in the hereby approved supermarket outside the following hours:

Monday to Friday 07:00 - 23:00 hrs
Saturday 08:00 - 22:00 hrs
Sunday 13:00 - 18:00 hrs

Reason: Protection of residential amenity against adverse noise.

11. No customers shall be served in the hereby approved drive through café outside the hours of 08:00 – 23:00hrs.

Reason: Protection of residential amenity against adverse noise.

12. Prior to installation of any plant and equipment at the hereby approved supermarket, details of all plant and specification of all plant and equipment along with an accompanying final assessment by an acoustic consultant shall be submitted to and agreed in writing by the Council. The assessment shall demonstrate that the cumulative operation of all chosen on site plant will not arise in adverse impact at nearby sensitive receptors, particularly at night. The development shall be carried out in accordance with the agreed details.

Reason: Protection of residential amenity against adverse noise.

13. The rating level (dBLAr,T) from the combined operation of all plant and equipment at the hereby permitted development shall not exceed the representative daytime and night time background noise level (dBLA90,T) at the closest residential receptors when measured and determined in line with BS4142:2019.

Reason: Protection of residential amenity against adverse noise.

14. Prior to operation of the hereby approved supermarket, an acoustic timber fence to a height of 2m and of a mass no less than 15kg/m² shall be erected to the plant compound as shown on Drawing No. 02E - 'Proposed site plan – site finishes' and on Drawing No. 13 - 'Acoustic Fence Construction Details' (in planning application LA04/2021/2815/F). The acoustic fence shall be retained in accordance with this specification at all times.

Reason: Protection of residential amenity against adverse noise.

15. Prior to operation of the hereby approved supermarket, a 2m high parapet screen shall be erected around the rooftop plant and equipment as shown on Drawing No. 08a - 'Proposed Lidl elevations –A1', Rev F (in planning application LA04/2021/2815/F). The parapet screening shall be retained thereafter in accordance with this specification.

Reason: Protection of residential amenity against adverse noise.

16. Prior to commencement of operation of the hereby approved drive-through café, a proprietary kitchen extraction and odour abatement system shall be installed. This shall comprise an extraction canopy, fan and grease filtration as well as the additional odour abatement measures outlined in the Irwin Carr Odour and Air Quality Letter dated 21st January 2022 (in planning application LA04/2021/2815/F), namely: fine filtration followed by a UV Ozone system to achieve a high level of odour control in line with relevant industry good practice guidance for commercial kitchen exhaust systems.

17. Prior to the operation of the proposed development, a Verification Report shall be submitted to and approved in writing by the Council. This report must demonstrate that the remediation measures outlined in the RSK Ireland Ltd report entitled 'Lidl Northern Ireland GmbH, Updated Remediation Strategy, Lands at Boucher Road, Belfast, 603086-R2(01), February 2022' (in planning application LA04/2021/2815/F) have been implemented.

The Verification Report shall demonstrate the successful completion of remediation works and that the site is now fit for end-use (commercial). It must demonstrate that the identified human health contaminant linkages are effectively broken. The Verification Report shall be in accordance with Environment Agency guidance, British Standards and CIRIA industry guidance. In particular, this Verification Report must demonstrate that:

a) A minimum 1000mm capping layer has been emplaced in the area shown in Figure 3 of the Remediation Strategy, formed from material that is demonstrably suitable for use (commercial).

b) Gas protection measures commensurate with the site's Characteristic Situation 2 classification have been provided to the development, comprising:

- A cast in situ monolithic reinforced ground bearing raft or reinforced cast in situ suspended floor slab which is well reinforced to control cracking and has minimal penetrations.

- A gas resistant membrane which meets all requirements of Table 7 of BS 8485:2015+A1:2019.

Gas protection measures must be verified in line with the requirements of CIRIA C735.

Reason: To demonstrate that the required remedial measures have been incorporated into the development, in the interests of human health. Reason: protection of amenity against adverse odour impact.

18. If during the carrying out of the development new contamination or risks to the water environment are encountered, that has not previously been identified, all related works shall cease immediately, and the Council shall be notified immediately in writing. This new contamination shall be fully investigated in accordance with current industry recognised best practice. In the event of unacceptable human health or environmental risks being identified, a Remediation Strategy and subsequent Verification Report shall be submitted to and agreed in writing by the Council, prior to the development being occupied or operated. The Verification Report shall be completed by competent persons in accordance with best practice and must demonstrate that the remediation measures have been implemented and that the site is now fit for end-use.

Reason: To ensure that any contamination within the site is appropriately dealt with, in the interests of human health and protection of environmental receptors to ensure the site is suitable for use.

19. No development should take place on-site until details of the method of sewage disposal have been submitted to and agreed in writing by the Council. The development shall be carried out in accordance with the agreed details.

Reason: To ensure protection of the aquatic environment.

20. The vehicular accesses, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing Nos.02E & 03C (in planning application LA04/2021/2815/F) prior to the operation of any other works or other development hereby permitted.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

21. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway before the development hereby permitted becomes operational and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

22. Any existing street furniture or landscaping within the visibility splays as conditioned above shall, after obtaining permission from the appropriate authority, be removed, relocated or adjusted at the applicant's expense.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

23. The development hereby approved shall not be occupied or operated until the parking and turning areas have been provided in accordance with Drawing Nos. 02E & 03C (in planning application LA04/2021/2815/F). Such areas shall not be used for any purpose other than the parking and turning of vehicles and such areas shall remain free of obstruction for such use at all times.

Reason: To ensure adequate car parking, servicing and traffic circulation within the site.

24. The development hereby permitted shall not become operational until cycle parking facilities have been provided in accordance with Drawing Nos. 02E & 03C (in planning application LA04/2021/2815/F).

Reason: To promote the use of alternative modes of transport in accordance with sustainable transportation principles.

25. The development hereby permitted shall not operate unless in accordance with the Service Management Plan.

Reason: In the interests of road safety and the convenience of road users.

ANNEX

Date Valid	31 st August 2023
Date First Advertised	29 th September 2023
Date Last Advertised	29 th September 2023
Date of Last Neighbour Notification	20 th September 2023
Date of EIA Determination	N/A
ES Requested	No
Drawing Numbers and Title 01 – Site location Plan	
Approved Drawing Numbers in Planning Application LA04/2021/2815/F 01, 02E, 03C, 05A, 06, 07, 08A, 09A, 10B, 11, 12A, 13 and 14.	