

## Local Development Plan, draft Plan Strategy (DPS) Reconsultation - Reconsultation Survey

### Instructions

- Write as **clearly** as you can— these forms might be scanned
- Write your answers in the same language as this form

### Formal Consultation period

**The Statutory Consultation period opens on 16 January 2026 and closes at 4.30pm on 16th March 2026**

Responses to be returned to the LDP team at

2 Church Street , Newtownards BT23 4AP

or by email to [planning@ardsandnorthdown.gov.uk](mailto:planning@ardsandnorthdown.gov.uk)

Respondents should note that any representations should be made in full to the Council. Further information or clarification will not be sought unless requested by an independent examiner.

### Soundness

A key feature of the local development plan system is 'soundness' which requires the development plan document to be tested in terms of content, conformity and the process by which it is produced, at independent examination (IE).

The tests of soundness are based upon three categories which relate to how the development plan document (DPD) has been produced, the alignment of the DPD with central government regional plans, policy and guidance, and the coherence, consistency and effectiveness of the content of the DPD.

More information on Soundness is available :[Development Plan Practice Note 6 Soundness](#) .

## Tests of Soundness

The tests of 'Soundness' for Development Plan documents are as follows:

### Procedural tests

P1 - Has the DPD been prepared in accordance with the Council's timetable and the Statement of Community Involvement?

P2 - Has the Council prepared its Preferred Options Paper and taken into account any representations made?

P3 - Has the DPD been subject to sustainability appraisal including Strategic Environmental Assessment?

P4 - Did the Council comply with the regulations on the form and content of its DPD and procedure for preparing the DPD?

### Consistency tests

C1 - Did the Council take account of the Regional Development Strategy?

C2 - Did the Council take account of its Community Plan?

C3 - Did the Council take account of policy and guidance issued by the Department?

C4 - Has the Plan had regard to other relevant plans, policies and strategies relating to the Council's district or to any adjoining council's district?

### Coherence and effectiveness tests

CE1 - The DPD sets out a coherent strategy from which its policies and allocations logically flow and where cross boundary issues are relevant it is not in conflict with the DPDs of neighbouring councils.

CE2 - The Strategy, policies and allocations are realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base.

CE3 - There are clear mechanisms for implementation and monitoring.

CE4 - It is reasonably flexible to enable it to deal with changing circumstances.

**1. Name:**

Dermot Monaghan for MBA Planning

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**2. Address**

MBA Planning, 4 College House, Citylink Business Park, Belfast

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**3. Post Code (optional)**

BT12 4HQ

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**4. Email (optional)**

dermot@mbaplanning.com

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**5. Phone Number (optional)**

028 9042 1011

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**6. Are you responding as an individual? (optional)**

*\*Choose exactly 1 option*

Yes

No

**7. Are you responding on behalf of an organisation? (optional)**

*\*Choose exactly 1 option*

Yes

No

**8. Organisation and Job Title (if applicable): (optional)**

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**9. Are you an Agent responding on behalf of a client? (optional)**

*\*Choose exactly 1 option*

Yes

No

**10. Client Name , address (if applicable): (optional)**

Lidl Northern Ireland

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Nutts Corner

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Dundrod Road

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Crumlin

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BT29 4SR

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**11. Do you wish to upload a document to add to your survey response? (optional)** Yes - this response is accompanied by a statement by MBA Planning

Please note the maximum size of files that can uploaded is 50MB

*This field cannot be completed on paper. Please use the online version of this form instead.*

**12. Please indicate how you would like your representation to be dealt with at Independent Examination (please select one item only): Please note that the Independent Examiner will be expected to give the same careful consideration to written representations as to those dealt with by oral hearing.**

Further information on the IE procedures can be found at <https://www.pacni.gov.uk/node/443>

*\*Choose exactly 1 option*

Written (Choose this procedure to have your representation considered in written form only)

Oral Hearing (Choose this procedure to present your representation orally at the public hearing) Unless you specially request a hearing, the Independent Examiner will proceed on the basis that you are content to have your representation considered in written form only.

**13. Soundness of the Plan (optional)**

**Do you believe the draft Plan Strategy is sound?**

*\*Choose exactly 1 option*

Yes

No

**14. If you believe the strategy is unsound, please indicate which tests of soundness it fails and provide your reasoning below. (optional)**

Consistency test C3 and coherence and effectiveness test CE2 - see reasoning in the attached statement.

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**15. Procedural Tests - (optional)**

**P1 Has the DPD been prepared in accordance with the Council's timetable and the Statement of Community Involvement?**

*\*Choose exactly 1 option*

Yes

No

**16. Test P1 Comments (optional)**

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**17. P2 Has the Council prepared its Preferred Options Paper and taken into account any representations made? (optional)**

*\*Choose exactly 1 option*

Yes

No

**18. Test P2 Comments** (optional)

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**19. P3 Has the DPD been subject to Sustainability Appraisal including Strategic Environmental Appraisal?** (optional)

*\*Choose exactly 1 option*

Yes

No

**20. Test P3 Comments** (optional)

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**21. P4 Did the Council comply with the regulations on the form and content of its DPD and procedure for preparing the DPD** (optional)

*\*Choose exactly 1 option*

Yes

No

**22. Test P4 Comments** (optional)

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**23. Consistency Tests** (optional)

**C1 Did the Council take account of the Regional Development Strategy?**

*\*Choose exactly 1 option*

Yes

No

**24. Test C1 Comments** (optional)

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**25. C2 Did the Council take account of its Community Plan?** (optional)

*\*Choose exactly 1 option*

Yes

No

**26. Test C2 Comments** (optional)

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**27. C3 Did the Council take account of policy and guidance issued by the Department?**  
(optional)

*\*Choose exactly 1 option*

Yes

No

**28. Test C3 Comments** (optional)

See reasoning in the attached statement.

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**29. C4 Has the Plan had regard to other relevant plans, policies and strategies relating to the Council's district or any adjoining council's district?** (optional)

*\*Choose exactly 1 option*

Yes

No

**30. Test C4 Comments** (optional)

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**31. Coherence and Effectiveness Tests** (optional)

**CE 1 The DPD sets out coherent strategy, from which its policies and allocations logically flow and where cross boundary issues are relevant it is not in conflict with the DPDs of neighbouring councils?**

*\*Choose exactly 1 option*

Yes

No

**32. Test CE 1 Comments** (optional)

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**33. CE 2 The Strategy, policies and allocations are realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base?**  
(optional)

*\*Choose exactly 1 option*

Yes

No

**34. Test CE 2 Comments** (optional)

See reasoning in the attached statement.

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**35. CE 3 There are clear mechanisms for implementation and monitoring?** (optional)

*\*Choose exactly 1 option*

Yes

No

**36. Test CE 3 Comments** (optional)

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**37. CE 4 It is reasonably flexible to enable it to deal with changing circumstances?** (optional)

*\*Choose exactly 1 option*

Yes

No

**38. Test CE 4 Comments** (optional)

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**39. If you consider the draft Plan Strategy to be unsound please provide details of changes you suggest to make the draft Plan Strategy sound.** (optional)

See the attached statement.

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**40. Do you have any comments on the Implementation and Monitoring of the draft Plan Strategy?** (optional)

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**41. Sustainability Appraisal (SA) incorporating Strategic Environmental Assessment (SEA)**  
(optional)

Do you have any comments?

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**42. draft Habitats Regulations Assessment(HRA)** (optional)

Do you have any comments on the draft HRA?

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**43. Equality Impact Screening Report** (optional)

Do you have any comments on the EQ screening?

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**44. Rural Needs Impact Assessment** (optional)

Do you have any comments on the RNIA?

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**45. Please add any additional comments** (optional)

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## **What Happens Next?**

Thank you for your representation to the Local Development Plan draft Plan Strategy (dPS).

**You will receive a formal acknowledgement letter from the Council's Planning Department . We will issue this within 5 working days of your response.**

This is in addition to the acknowledgement auto-generated by the Go Vocal system.

Representations received during the public consultation stages of the Plan Strategy and Local Policies Plan, must be made available for public inspection, both in hard copy, and on the Council's website, as required by Legislation.

Representations will also be shared with an Independent Examiner such as the Planning Appeals Commission and the Department for Infrastructure as part of the Local Development Plan Examination Process.

## Comments on Ards and North Down Borough Council Local Development Plan - Draft Plan Strategy

### On Behalf of Lidl Northern Ireland

March 2026

1. This is a response to the Draft Plan Strategy of the Ards and North Down Borough Council Local Development Plan (“LDP”) on behalf of Lidl Northern Ireland (“Lidl”).
2. Lidl is a well-established discount retailer with over 13,000 stores across Europe and the USA including 44 in Northern Ireland.
3. It has enjoyed significant growth in the local retail market in recent years as the brand has become more established, with local shoppers valuing the high-quality goods and value for money in accessible and welcoming stores.
4. Lidl was recently named the UK’s cheapest supermarket by consumer analysis group “Which?” and offers significant cost savings compared to local convenience stores.
5. In addition to the shopping benefits provided, Lidl also makes a significant contribution to the Northern Ireland economy:
  - it has 1,500 direct employees in NI and helps to sustain over 7,000 jobs across the region;
  - contributed £360 million to the local economy in 2023 including £110 million in tax revenues;
  - in 2024-25 it procured more than half a billion pounds (£557 million) from local suppliers and business partners across NI, with £413 million of goods shipped outside the region to Lidl stores in GB, Europe and internationally, thereby helping to expose local businesses to new markets and support growth within NI’s important agri-food sector.
6. Within the Ards and North Down Borough, Lidl has had stores in Bangor and Newtownards since 2004 and 2005 respectively. A new store was developed in Newtownards in 2021 at a cost of £7.5 million. It provides employment for 40 people.

7. The Council has recently approved permission for a replacement store in Bangor, which will be located at Bloomfield Road South. This will be another significant investment in the Borough - £7.5 million in construction and fit out costs. This store will also provide 40 jobs.
8. Lidl is currently seeking opportunities to develop three further stores within the Borough. The scale of investment will be in the order of £30 million with the potential to create up to 120 new jobs.
9. These would be well paid jobs – Lidl is the highest paying retailer in Northern Ireland. It was recently recognised as a Top Employer by the Top Employers Institute for a fifth consecutive year, and is the only retailer in NI to receive the accreditation.
10. With this in mind, Lidl welcomes the opportunity to participate in the LDP process and seeks to help shape a Plan Strategy that facilitates further retail investment to the benefit of local shoppers and the economy whilst protecting the environment and other matters of planning importance.
11. This response sets out concerns regarding a number of policies of the Draft Plan Strategy (dPS) having regard to the tests of soundness as per Development Plan Practice Note 6 (DPPN6) and provides suggestions on how they could be changed to make them sound.

### **Policy RET1**

12. Policy RET1 relates to retailing and main town centre uses. The first two paragraphs relate to the sequential test. The third paragraph then states:

*“Favourable consideration will be given to edge of centre sites before out of centre locations, provided it has been demonstrated that there is a need for the proposal. The assessment of need should incorporate a quantitative and qualitative assessment taking account of the needs of the local town, committed development proposals, and allocated sites.”*

13. This fails Consistency Test C3 because it is inconsistent with the Strategic Planning Policy Statement (SPPS). The SPPS only requires an assessment of need ‘in the absence of a current and up-to-date LDP’ (paragraph 6.289). Policy RET1 would form part of an up-to-date LDP and so such an assessment should not be necessary under it.

14. Furthermore, the requirement to demonstrate need is no longer an appropriate policy approach. The need test was dropped as a requirement of national planning policy in England as long ago as 2009 with the publication of PPS4. This followed the Barker Review of Land Use Planning in 2006 (commissioned by the Department for Communities and Local Government) which found that development proposals should not be assessed on the basis of need because it is anti-competitive, impairs growth and leads to more limited choice and higher prices of goods.
15. The Barker review concluded that *“requiring the demonstration of need can therefore be removed without weakening the overall policy of seeking to promote the vitality and viability of town centres”*.
16. Even though the SPPS provides for an assessment of need (if there is no up-to-date LDP), it does not state that proposals should be refused if qualitative or quantitative need is not demonstrated. Such a test would, as the Barker Review found, impair growth and lead to higher prices for shoppers and more limited choice.
17. The fourth paragraph of RET1 states that *‘proposals for retail and other main town centre uses must also comply with all of the following criteria:*
- (a) the design of the proposal (including any proposed signage) makes a positive contribution to the character and appearance of the town centre;*
- (b) the proposal contributes to the vitality and viability of the town centre...’*
18. Criterion (a) is not an appropriate policy requirement. In an appeal relating to a proposed Lidl store in Lisburn, the Planning Appeals Commission held that:
- “it is not an appropriate requirement of policy that a proposal should make a positive contribution to townscape or visual amenity. The test is whether the proposal would result in unacceptable harm or would significantly erode existing character.” (Appendix 1).*
19. The SPPS is now the relevant regional policy however it provides no basis for a policy requiring proposals in town centres to make a positive contribution to them. The SPPS test is no demonstrable harm (paragraph 3.8) and the dPS should reflect that.
20. Policy RET1 relates to proposals both within and outside town centres however it should be clarified in the policy that criterion (b) only applies to proposals within town centres. Any out-of-centre proposal could not reasonably be expected to contribute to town centre vitality and viability. The

policy test of the SPPS is that out of centre proposals do not result in significant adverse impacts, and dPS policy should be consistent with it.

21. Policy RET1 fails consistency test C3 and coherence and effectiveness test CE2. The requirement to demonstrate need should be removed, criterion (a) should be deleted, and it should be clarified that criterion (b) does not relate to out-of-centre proposals.

### **Policy RET 6**

22. Policy RET 6 relates to out-of-centre development. Its first paragraph states that proposals will be refused unless it can be demonstrated that a sequentially preferable site is not available in accordance with Policy RET 1.

23. Both Policy RET 1 and the SPPS (paragraph 6.296) also state that suitability and viability are relevant considerations when assessing alternative sites. Policy RET 6 should be amended to include these considerations too.

24. Paragraphs two, three and four of Policy RET 6 refer to an assessment of need. The requirement to demonstrate need should be removed for the reasons set out above.

25. The Justification and Amplification of Policy RET 6 at paragraph 11.41 states that *'out of centre retailing is detrimental in terms of the negative impact on the vitality and viability of town centres and maintaining an over reliance on private vehicles.'*

26. This is not accurate. As noted at paragraph 11.40, 'out of centre' includes edge of centre sites. There are circumstances in which out of centre retailing can help nearby town centres. For example, where a particular town is experiencing significant leakage of trade to other settlements, a new out of centre food store could help to claw back trade and retain more shoppers in the town, and this could have a positive impact on the nearby town centre through linked shopping trips. It may also be more sustainable than shoppers travelling long distances to shops in other settlements. The statement at paragraph 11.40 is not accurate and should be deleted.

27. As currently drafted, Policy RET 6 fails consistency test C3 and coherence and effectiveness test CE2. It should be amended as set out above.

# Appendix 1

# Appeal Decision

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<b>Appeal Reference:</b>	2010/A0307
<b>Appeal by:</b>	Lidl NI GmbH in default of a decision on an application for full planning permission
<b>Development:</b>	Local foodstore
<b>Location:</b>	80m south west of 27 Antrim Road, Lisburn
<b>Application Reference:</b>	S/2010/0671/F
<b>Procedure:</b>	Informal Hearing on 18 November 2011
<b>Decision by:</b>	Commissioner Brigid McGlinchey, dated 16 December 2011

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## Decision

1. The appeal is allowed and full planning permission is granted subject to the conditions set out below.

## Preliminary Matters

2. During the processing of the planning application, the appellant submitted 10 drawings to the Department for consideration. In advance of the submission of the statements of case (SOCs) he submitted amendments to 5 of these drawings and indicated that they were also sent to the Department and to the objectors on 21 October 2011. These amended drawings were also enclosed in the appellant's SOC as was an additional drawing (10-036-PS1). The appellant requested that these drawings be considered. At the hearing, he presented further amendments to 4 of the drawings for consideration which he stated were in response to the concerns raised by the Department and the objectors in their SOC's. The Department did not object to the introduction of the plans attached to the SOC or to the revised plans introduced at the hearing. The appellant argued that the amended plans contained minor refinements and provided further clarification. Whilst the introduction of amendments at such an advanced stage in the appeal process is not helpful, the matters raised are material considerations and I allowed them to be submitted in evidence.
3. None of the revisions indicated in the amended drawings have resulted in any enlargement of the proposed building. Relative to that originally submitted to the Department, the 5 amended drawings in the SOC related to confirmation of enclosure of the loading bay and positioning of 2 air condensers within a sunken roofwell. The visual appearance of the exterior of the building in the amended plans is no different. The notable variations relate to the proposed positioning and specification for a 1.5m high retaining wall, a 1.5m high acoustic fencing and the

proposed planting along the adjoining boundaries with the properties at 5 and 8 Bentrin Court and 27-35 Antrim Road. They also provided identification of the trees subject to Tree Preservation Orders (TPOs) on the site. The amended site layout plan (PL-04E) excluded details of the access arrangement previously shown. The additional drawing entitled Private Streets Layout encapsulated the details of the access arrangement which had previously been shown in full on the site layout plan. The key amendments in this drawing are the addition of notations giving further clarification of the arc of the access to the site and the widening of the roundabout at Bentrin Road South to provide an additional lane.

4. The further 4 amended drawings introduced at the hearing indicated only one condensing unit and its reposition into the loading bay. The drawings also notated and illustrated a change of species type for the proposed planting along the adjoining boundaries and the provision of protective fencing around the TPO trees to be retained on site. I am satisfied that none of the proposed revised drawings represent substantial changes to the original proposal as submitted to the Department and I consider that they do not significantly alter the nature of the proposal.
5. Though the objectors expressed concern in respect of the timing of the submission of the additional plans submitted, they were able to consider the first set of amended drawings in their SOC and an adjournment was facilitated to allow them and the Department to consider the amended plans introduced at the hearing. The Department confirmed that it did not need to consult with Landscape Branch or Northern Ireland Environment Agency on the additional changes. I consider that the Departmental representatives at the hearing were able to provide sufficient information to enable me to address any relevant issues in my determination. I am satisfied that the parties participating in the appeal process have had an opportunity to consider the plans and to comment on them and therefore have not been prejudiced. The adjoining residents at No 5 Bentrin Court and No 27-31 Antrim Road did not attend the hearing and would not be aware of the 4 further amended drawings introduced. However, they were represented at the hearing by Mr Warde of the Lower Antrim Road Residents group and the changes proposed in these 4 drawings are insubstantial. I am satisfied that there would be no third party prejudice if I was to determine the appeal based on the amended drawings.
6. The Department submitted 7 draft reasons for refusal by letter dated 23 August 2011. However, in its SOC, the Department withdrew all the reasons for refusal. Nonetheless, the concerns expressed by the objectors remain before me for consideration.

## **Reasoning**

7. The main issue in the appeal is whether the proposal satisfies the requirements of planning policy for retail development.

### ***Policy context***

8. Article 25 (1) of the Planning (Northern Ireland) Order 1991 requires the decision maker to have regard to the development plan, in so far as material to the application, and to any other material considerations. The site is unzoned land within the development limit of Lisburn in both the statutory Lisburn Area Plan (LAP) and the draft Belfast Metropolitan Area Plan (dBMAP). The Regional Development Strategy (RDS) sets out an overarching strategic planning framework and sets out strategic planning guidelines (SPG). SPG ECON 1.3 aims to support urban renaissance and highlights town centres should normally be the first choice for major new retail developments. However, the RDS does not provide operational policy for the consideration of specific development proposals for retail development. The Addendum to Planning Policy Statement 7: Safeguarding the Character of Established Residential Areas sets out the Department's planning policies for new residential developments and does not apply to this appeal proposal for a local foodstore.
9. Policies relating to retail development are provided in Planning Policy Statement 5: Retailing and Town Centres (PPS5). Draft PPS5: Retailing Town Centres and Commercial Leisure Developments (dPPS5) published in July 2006 is also a material consideration. However, paragraph 50 of Planning Policy Statement 1: Planning Principles (PPS1) states that less weight will be ascribed to emerging policies in the form of draft statements than to final publications. Moreover, the Department confirmed that it had given an undertaking not to give draft PPS5 any weight until such time as it has been approved by the Executive Committee. Though the Environment Minister issued a statement on 5 October 2011 indicating that he hoped to present dPPS5 to the Executive in two weeks time, the Department stated at the hearing that there was no indication that the publication of dPPS5 in its final form was imminent. The appeal therefore has been considered under the extant policies in PPS5.
10. The proposed development involves a building with a gross floorspace of 1,320 square metres and net sales area of 1,065 square metres. It is therefore a major retail development as defined in paragraph 36 of PPS5. In reference to the glossary of terms set out at the back of PPS5, the size and nature of the proposed retail development falls into the category of a supermarket selling predominantly convenience goods. The appeal site lies over 300 metres outside the city centre as defined in both the LAP and dBMAP and is thus in an out of centre location. Paragraph 41 of PPS5 states that proposals for food supermarkets on sites outside town centres may be acceptable provided that the proposal satisfies all the criteria of paragraph 39.

### ***Alternative site analysis***

11. Paragraph 41 of PPS5 also states that the availability of suitable sites in the town centre, in particular those which have been identified in a development plan, will be an important consideration. Paragraph 60 states that the Department will normally require that all applications for out-of-centre retail developments over 1,000 square metres gross retail floorspace should be accompanied by information on the applicant's approach to site selection and the availability of suitable alternative town centre sites. The Commission reached a number of conclusions in a previous appeal decision for development of a foodstore and 2 retail units on the appeal site in 2006 (2005/A603). I believe that these conclusions are important to my consideration. Whilst acknowledging that

alternative site analysis is necessary as part of the assessment, the Commission conclusion was that paragraph 41 does not require appellants to demonstrate a need for a food supermarket and that there is no sequential test required for such developments. As there is no sequential test, it seems to me that if a suitable alternative was shown to exist that in itself would not justify the refusal of planning permission. The issue of alternative sites would only arise if there were clear planning disadvantages to the application site.

12. The alternative site analysis in the RIA submitted with the application detailed consideration of 10 Development Opportunity Sites (DOS) in Lisburn Town Centre as zoned in dBMAP (Zonings LC47-LC56). Nonetheless, the objectors argued that the information in the RIA was incomplete as the analysis did not consider all the 30 sites identified in the 'Lisburn Strategic Investment Framework' document published by the Lisburn City Council in 2003. However, the appellant at the hearing stated that all of these sites had previously been considered in the previous appeal proposal and in the Department's consideration of another prior planning application for a comparable sized foodstore on the appeal site in 2007 (S/2007/0006/F). The Department stated that all the potential, realistic sites in the Framework document had been zoned as DOS in dMAP and these had been assessed in the RIA accompanying this application. I agree with the appellant's argument that the determination of what is suitable in the site analysis must be based on the requirements of the business. At the hearing the appellant stated that the minimum sized site appropriate for the development would be 1.0-1.2 acres (0.4-0.5 hectares). The optimum site required as set out in Annex 5 of the RIA was a flat site about 0.6 hectares with easy accessibility, a prominent setting and good visibility from a major road for passing traffic.
13. On further exploration of the 30 sites at the hearing, it was evident that 2 of the sites lie outside the town centre boundary. The appellant argued that 19 of the other sites are too small to accommodate the proposal. Of the nine remaining sites, 4 correspond to the DOS in dMAP and have been considered in the RIA. The other 5 sites were deemed not to be realistic possibilities for the proposed development either because they are too large, have access issues or site assembly would be too difficult due to multiple ownership and existing buildings on the site. The appellant stated that he had attempted a site assembly at one of these sites in the late 1990s without success. The objectors did not identify any other sites. Given the previous appeal determination, I am satisfied that the information provided in the alternative site analysis provided in the accompanying RIA is robust. It confirms that, based on the requirements of the retail business, there are no suitable alternative town centre sites for the development. Albeit that the appeal site extends to 1.04ha and exceeds the stated optimum sized site of 0.6ha required by the appellant, this does not alter my conclusion.

***Impact on the vitality and viability of Lisburn City Centre and its convenience shopping function***

14. The objectors argued that the proposal did not meet all the criteria of paragraph 39. In respect to the third test, the principal concern expressed by the City Council was that the RIA failed to demonstrate that the proposed development would not have an adverse impact upon the convenience function of Lisburn City Centre. It was argued that that there was no rationale for the underlying assumptions in the RIA. In considering these matters, I note the following:

- While 2014 could have been used as the forecasted operational year, I have no reason to doubt the appellant's statement that 2013 is a realistic timescale for establishing a trading pattern allowing time for obtaining planning permission and constructing the store. I consider that 2013 as the chosen operational year does not seem unreasonable. I am also mindful that the further forward you forecast, the less impact there is likely to be.
  - The RIA is an assessment by the applicant of the likely impacts of additional floorspace upon the vitality and viability of the existing and committed retail developments in the town centre and designated shopping areas. I believe that it is unlikely that the proposed store would attract customers beyond a 10 minute drive time catchment given the discounted range of convenience goods typically on offer by Lidl, the presence of the other existing Lidl store in Lisburn and the geographic spread of 34 other Lidl stores throughout the province. I find the identified catchment area is appropriate.
  - The finding of a £50m trade inflow to the catchment area is predicated on the total turnover of convenience stores in the catchment area minus the projected spending power in the catchment. Though this is not broken down into the different centres in the RIA, I am satisfied that there would be a net inflow across all the centres in the catchment area. Lisburn is a large urban centre in the NI context and it would inevitably draw in trade from the rural hinterland beyond the 10 minute drive time catchment.
  - A RIA by nature is imprecise and in assessing the impact of a retail proposal, different assumptions about turnover and trade draw can be made. Whilst the assumptions used in the appellant's RIA were criticised, the objector did not produce any alternative assumptions or results.
  - The Department's representative at the hearing stated that lower figures for expenditure per head and turnover per store were used in carrying out its own assessment compared with those the appellant had applied. Consequently, the trade diversion figure in the appellant's RIA of just over 4% of total available convenience spend as a result of the proposal was showing a greater impact than the Department's stated assessment of a 2 % trade diversion.
  - The Commission in the previous appeal for a Lidl store of 1,772 square metres on the appeal site in 2006 concluded that that proposal would not adversely affect the vitality and viability of Lisburn City Centre or undermine its convenience shopping function. This appeal proposal is for a foodstore that is approximately 25% smaller.
15. Taking all the above matters into account, I consider that the RIA is acceptable. From my unaccompanied site inspections of Lisburn City Centre and observations of the convenience shops within it, they appeared to be thriving and in my own judgement appeared relatively robust. It is not the role of the planning system to protect individual shops from competition. I consider that a trade diversion of 2-4% is not significant. On this basis, I conclude that the appeal proposal would not adversely impact on the vitality and viability of Lisburn City Centre and its convenience shopping function. The objectors have not sustained their concern under 3<sup>rd</sup> policy test of paragraph 39 of PPS5.

### **Impact on amenity**

16. The 4<sup>th</sup> criterion of paragraph 39 requires that the proposal will not lead to an unreasonable detrimental impact on amenity. The mature trees located within and along the site boundaries are visually significant and contribute to the amenity of the area. Though they are subject to a Tree Preservation Order (TPO), I consider that the removal of protected trees 29 and 34-35 to accommodate the creation of a new access from Prince William Way and the layout of internal access road would not justify rejection of the proposal on amenity grounds. I agree with the Department that the number, species and size of the trees in the proposed planting scheme are sufficient to compensate for the loss of these protected trees. The amenity provided by the remaining protected trees can be secured during construction with the erection of protective fencing as illustrated in Drawing LO-01 submitted at the hearing.
  
17. The ground level of the appeal site where the proposed building is to be erected is to be reduced by up to 2m. The consequent finished roof level of the building at its highest point will be below that of the dwellings in Bentrin Court located to the NW. The blank gable elevations of the dwellings at Nos 5 and 8 Bentrin Court are sited 2m from the intervening boundary with the appeal site. The proposed planting of semi-mature hornbeam trees (*Carpris betulus*) is positioned 2m from the boundary on a lower level on the proposed sloping embankment. I am satisfied that this proposed planting would provide adequate screening without any adverse effect of overshadowing or loss of light to the adjacent properties especially if the trees are maintained to a maximum height of 4m. The adjacent dwellings located to the NE and facing onto the Antrim Road have extensive back gardens of over 28m. I consider that these dwellings are sufficiently removed not to experience any unacceptable loss of amenity from the proposed planting along the intervening boundary especially if this is maintained to a maximum height of 7m. The existing TPO trees along the boundary with No 10 Bentrin Court and No 15 Thornleigh Avenue are to be retained. Combined with the proposed additional boundary planting, I am satisfied that there would be no loss of privacy to these properties as a consequence of the development.
  
18. The site faces onto a very busy roundabout junction and is adjacent to two principal roads. As a consequence, the area in the immediate vicinity has a high level of associated ambient noise. I consider that the proposed building will itself attenuate some of the noise emanating from traffic movements on the roundabout towards the properties in Bentrin Court. I am satisfied that the enclosed loading bay and the proposed 1.5m sound barrier along the adjoining residential boundaries will mitigate any unacceptable noise emanating from the building or activity on the site to these properties. Furthermore, the timing and frequency of deliveries by Heavy Goods Vehicles (HGV) to the service bay can be controlled to safeguard residential amenity. These views have been accepted by Environmental Health in carrying out its own assessments and reaching its agreement with the appellant. However, in order to safeguard any consequent amenity issues relating to noise from vehicles entering and leaving the site, the proposed noise barrier should be extended along the full length of the NW boundary of the site to the side No 10 Bentrin Court and to the rear of No 15 Thornleigh Avenue. This extension to the sound barrier can be secured by condition.
  
19. The proposed lighting on the site has not been shown on the submitted drawings. As this could unacceptably affect amenity, it is necessary that a lighting proposal

is submitted to the Department for consideration and approval. This would not weigh heavily against the proposal as I am satisfied that an acceptable lighting scheme could be secured by a negative condition.

20. I was not persuaded that the resulting intensification of traffic on the roads and within the site would lead to an unacceptable increase in levels of carbon monoxide fumes. It would not be in the appellant's interests to attract bad publicity by having litter strewn around the site. The appellant cannot be expected to control public areas outside the site which is the responsibility of the local council.
21. Considering all these matters and those elements which can be secured by conditions, I am not persuaded that there would be an unacceptable impact on the amenity of the adjoining residential properties as a consequence of the proposal. The objectors' concerns under this policy test in the 4<sup>th</sup> criterion of paragraph 39 in PPS5 do not justify rejection of the proposal.

#### ***Impact on traffic movements and road safety***

22. The 4<sup>th</sup> criterion of paragraph 39 also requires an assessment of the impact of the proposal on traffic movements and road safety. One of the objectors' concerns related to the intensification of traffic on the road network. The Traffic Assessment (TA) submitted with the application demonstrated that the proposed development would result in a 5% increase in baseline traffic. However, the TA concluded that when considered with the proposed Tesco extension and providing the Bentrim Road east arm of the roundabout is increased to three lanes, the roundabout is forecast to operate well within capacity during peak traffic flows. Roads Service agreed with this assessment and confirmed that the works to the roundabout are on land within its control and that these works can be secured by a negative condition.
23. The objectors' other concern under this criterion related to the creation of a new access with a right hand turning lane from Prince William Road and the potential conflict with vehicular movements from the fire station and from the service access to Tesco. The representative from Roads Service stated at the hearing that the design of the access as shown on drawing 10-036-PS1 complies with the Design Manual for Roads and Bridges. He stated that in direct consultation with the fire station no more than 10 vehicles use the site in any one day. I agree with the Department that lorry movements from the Tesco service access to the appeal site are highly unlikely. I note that the proposed access arrangement was deemed acceptable in the previous appeal proposal for a larger store and 2 retail units and that it adequately mitigated the traffic impacts of that proposal. This appeal proposal is for a smaller store and the proposed access arrangement is similar with only minor modifications in the arc of the access within the site boundary. I am satisfied that the effect of this appeal proposal on the traffic movements and safety of road users would be acceptable. I conclude that the concerns raised under this policy test are not sustained.

#### ***Car parking***

24. The 6<sup>th</sup> criterion of paragraph 39 relates to the provision of adequate car parking. The expressed concerns related to the site layout and the provision of the 5 parking spaces for people with disabilities on the other side of the internal access road from the store. Paragraph 5.4 of PPS3: Access, Movement and Parking

states that development should be designed to facilitate ease of access for all pedestrians and wheelchairs users and where necessary should provide for priority for such movement over vehicles. Paragraph 5.11 refers to the Department's guide 'Access for all' which sets out design guidelines for designing an accessible environment. Paragraph 7.4 of this guidance document states that reserved parking spaces should be located as near as possible to the building entrance while paragraph 7.14 states that the pathway system should where possible be designed to avoid crossing vehicular routes within the site. Though the layout of the proposed reserved spaces may reflect the arrangement which the appellant stated was deemed acceptable by the Department at other stores, I consider that it would be necessary that the reserved spaces are provided to the side of the building to avoid any need to cross the internal road. This can be secured by condition. Whilst the position of the loading bay is accessed through the car park, the appellant stated that this was consistent with the layout of other Lidl stores and no accidents had occurred. I am satisfied that potential conflict between HGVs to the service bay and pedestrians would be minimised given the indication that there would only be one delivery per day which can be conditioned. The objectors' concerns under this policy test are not sustained.

### ***Impact on the townscape and surrounding area***

25. Another pertinent conclusion reached by the Commission in the previous appeal decision was that it is not an appropriate requirement of policy that a proposal should make a positive contribution to townscape or visual amenity. The test is whether the proposal would result in unacceptable harm or would significantly erode existing character. The appeal site adjoins residential properties to the NW and NE and lies within an area that is residential in character. However, in my view this wedge of residential development defined by Prince William Road and Antrim Road does not have the compactness, homogeneity or character of the proposed Wallace Park Area of Townscape Character on the other side of the Antrim Road. Whilst Prince William Road physically separates the appeal site from the commercial developments to the south, the site nonetheless had a former non-residential use as a roads service depot, albeit that the former building on the site occupied a small part of it. That another non-residential use is proposed on the site partially on the footprint of the former building would not of itself justify rejection of the proposal. I consider that the assessment of harm must relate to details of the proposal. Whilst much of the former vegetation on the appeal site as shown on the photo montages attached to the appellant's SOC has been cleared, I consider that the protected trees remaining within and on the boundaries of the appeal site continue to form an important part of the townscape. The majority of these protected trees are to be retained with extensive new planting proposed on the site boundaries. This existing and proposed vegetation will soften the layout of the proposed car parking and thus this aspect of the proposal would not erode the character of the area. Whilst the proposed building is of the standard prototype design replicated by Lidl throughout Northern Ireland, I have not been persuaded that its scale or layout are so unacceptable or would adversely harm the townscape or character of the area to such an extent as to justify its rejection under this criterion of paragraph 39.
26. Having considered all the matters raised under Paragraph 39 of PPS5, I conclude that the proposal satisfies the requirements of retail policy.

### ***Other matters raised***

27. The appellant's ecology expert at the hearing confirmed that there were no badgers on the site. I was not presented with any evidence to persuade me that there are any other protected species on the site and I am thus satisfied that an ecological survey is not required. I was not presented with any persuasive evidence that the proposal would impact on the value of adjoining residential properties. I acknowledge that the development process can be disruptive to local residents during construction but these impacts are temporary and can be minimised by good site management practices. The rejection by the Department of an out of town superstore at Magheralave Road in Lisburn does not weigh against this proposal for an out of town supermarket. Bearing in mind that each proposal must be looked at on its own merits and that each site will be different in some way, I would not see this proposal as creating a significant precedent for further consents in established residential areas in Lisburn.

### ***Conclusion***

28. For the reasons stated above, the objectors' stated concerns are not determining in this appeal and a number of potential problems can be overcome by the imposition of conditions. I conclude that the appeal should be allowed and that full planning permission be granted subject to conditions. The Department proposed a number of conditions and at the hearing suggested some changes in the light of the amended drawings. I have reworded some of conditions to ensure that the legal tests of conditions are satisfied and to avoid duplication. The objectors also suggested a number of additional conditions which I have considered.

29. A determination under the provisions of the Private Streets (NI) Order 1980 must be obtained before the commencement of any development on the site. In the interests of roads safety, a condition requiring the provision of the proposed new vehicular access and visibility splays prior to the commencement of any other works is necessary. The Department's conditions relating to keeping the sight splays clear relate to matters that can be controlled under roads legislation. I do not consider that a condition relating to the gradient of the access is necessary given the minor variation in levels between the site and the road. To ensure a safe and convenient road system, the proposed improvements to the roundabout must be completed before trading from the approved foodstore commences. In the interests of road safety, a condition requiring the closure of the existing access from the Antrim Road is necessary. However, a condition requiring the provision of a pavement which was not there before is unreasonable. The proposed hard surfaced areas must be constructed and marked out before any trading commences from the building. A requirement for a Travel Plan is implicit in policy with reference to paragraph 5.37 of PPS3. I consider that a condition requiring the operation of the submitted Travel Plan is necessary to ensure a realistic choice of access by walking, cycling and public transport for employees.

30. In order to protect the amenity of the adjoining properties, it is necessary to restrict deliveries to one per day and prohibit any deliveries between 10.00pm and 7.00am on working weekdays and no earlier than 8.00am on Saturdays, Sundays or Public Holidays. As the TA has concluded that the roundabout subject to the identified improvements will operate well within capacity during peak traffic flows, I do not consider it necessary to further restrict the timing of deliveries during the permitted periods. Whilst respecting the convictions of those opposed on religious grounds to Sunday opening, I do not consider that this is an issue related to town

planning. To protect amenity, there should be no refrigeration, air handling equipment or mechanical extracts on the roof or external façade of the building. I am not persuaded that an in store bakery would affect the amenities of adjoining properties especially given the imposition of the prior restriction. The objectors expressed concern that the car park of the proposal could become a meeting area for youths resulting in potential anti-social behaviour. However, I am not persuaded that a barrier at the entrance to the site would prevent this occurring. This is a matter that can be controlled by community policing.

31. To protect the townscape and amenity of the area, protected fencing should be erected around the TPO trees on the site before development commences and the proposed new landscaping shall be carried out before the store begins trading. These works should be carried out in accordance with the British Standards as detailed in drawing L0-01 submitted at the hearing. As details of the imported infill required for the landscaping proposals are set out in this drawing, further details are not required. A condition is necessary to ensure appropriate provision is put in place for future management of the proposed landscaping on the site. In order to protect the townscape, a condition securing the retention of the remaining protected trees on the site is necessary. I am not persuaded that the proposed trees along the boundary with Bentrin Court would undermine the structure of the existing dwellings especially if they are maintained to a height of 4m. Consequently, I do not consider that a root barrier is necessary. In the interests of visual amenity, display of goods on the forecourt of the building should be controlled.
32. The gross floorspace of the building is controlled by the details of the drawings accompanying the application and any additional floorspace would require planning permission. Therefore a condition limiting the gross floorspace is unnecessary. The RIA was predicated on a net floorspace of 1,065 square metres and this should be conditioned. As the subdivision of the building or addition of a mezzanine floor would change the whole retail concept underlying the RIA, conditions prohibiting these matters are necessary. The evidence points that Lidl while predominantly concerned with the sale of convenience goods, also sell some comparison goods. However, the appellant at the hearing did not object to the Department's condition restricting the sale to only convenience goods. Signage is adequately controlled under Advertisement Regulations.

## Conditions

- 1) No development shall take place until a determination of the width, position and arrangement of streets and land within the site to be regarded as comprised in those streets, has been obtained in accordance with Article 3 of the Private Streets (Northern Ireland) Order 1980.
- 2) No development shall take place until a revised site layout drawing has been submitted to and approved by the Department indicating:
  - provision of reserved car parking for people with disabilities immediately to the side of the proposed building;
  - extension of the 1.5 metre high sound proof barrier along the full extent of the northwest boundary of the site.

These works shall be carried out in accordance with the approved drawings before trading commences from the building.

- 3) The right hand turning lane and visibility splays of 2.4m x 90m in both directions shall be laid out at the access onto Prince William Way as indicated on drawing 10-036-PS1. These works shall be undertaken before any building operations commence on site and shall be permanently retained thereafter.
- 4) No trading from the building shall commence until the works necessary for the improvement of the Bentrim East arm of the roundabout have been completed in accordance with drawing 10-036-PS1.
- 5) The redundant access from the site to the Antrim Road shall be permanently closed off before any trading from the building commences.
- 6) No trading from the building shall commence until the hard surfaced areas have been constructed and permanently marked in accordance with the revised site layout drawing referred to in condition 2 above. No part of these hard surfaced areas shall be used for any other purpose other than for the parking and movement of vehicles.
- 7) The development hereby permitted shall be in accordance with the Travel Plan submitted with the appellant's statement of case.
- 8) No delivery shall take place except between the hours of 7.00am and 10.00pm on working days Monday to Friday and 8.00am and 10.00pm on Saturdays, Sundays and public holidays.
- 9) There shall be no more than one delivery per day by Heavy Goods Vehicles to the service bay without the written consent of the Department.
- 10) No retained protected tree as shown on Drawing LO-01 shall be cut down, uprooted or destroyed or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any of the retained protected trees without the written approval of the Department.
- 11) The erection of fencing for the protection of the retained protected trees shall be undertaken in accordance with Drawing LO-01 before any construction equipment, machinery or materials are brought onto the site. Nothing shall be stored or placed within these fenced areas and the ground level within these areas shall not be altered or disturbed. The protective fencing shall be maintained and not removed until all equipment, machinery and surplus materials have been removed from the site.
- 12) The scheme of planting as shown on drawing LO-01 shall be carried out in the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Department gives written consent to any variation.
- 13) No development shall take place until there has been submitted to and approved by the Department a landscaping maintenance and management plan indicating:

- the maintenance of the proposed hornbeam trees along the NW boundary to retain them to a maximum height of 4m;
- the maintenance of the proposed trees along the NE boundary to retain them to a maximum height of 7m.
- the maintenance of the other elements of the scheme of planting shown on drawing LO-01.

The maintenance and management plan shall be carried out as approved

- 14) No lighting shall be installed on the site except in accordance with a scheme submitted to and approved by the Department.
- 15) The net floorspace of the building hereby permitted shall not exceed 1,065 square metres measured internally.
- 16) The gross floorspace shall not be sub-divided or otherwise altered to form more than one unit.
- 17) No internal works to create mezzanine floors shall be carried out without the prior written consent of the Department.
- 18) The floorspace hereby permitted shall be used only for the retail of convenience goods and for no other purpose, including Class A1 of the Schedule to the Planning (Use Classes) Order (NI) 2004 without the prior written consent of the Department.

Convenience goods for this purpose are hereby defined as:

- (a) food and drink;
- (b) tobacco, newspapers, magazines and confectionery;
- (c) stationery 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 Department as generally falling within the category of convenience goods or as generally being appropriate to trading in these premises.

- 19) No goods, merchandise or other materials shall be stationed or displayed on or about the forecourt of the premises.
- 20) No refrigeration, air handling equipment or mechanical extracts shall be located on the roof or external façade of the building.
- 21) The development shall be begun before the expiration of five years from the date of this permission

This decision relates to the following drawings submitted with the application:

- 1:1250 scale site location plan;
- PL-01 1:250 Existing Site Layout;

the following amended drawings submitted prior to hearing and enclosed in appellant's statement of case:

- PL-04E 1:500 Proposed Site Layout (except in relation to reserved car parking for people with disabilities);

- PL-200A 1:250 Proposed Site Plan (except in relation to reserved car parking for people with disabilities);
  - PL-05 1:250 Site sections;
  - 10-036-PS1 1:500 Private Streets Layout (except in relation to reserved car parking for people with disabilities);
- and the following amended drawings submitted at the hearing:
- PL-02D 1:100 Proposed Floor Plan and Loading Bay Section;
  - PL-03D 1:100 Proposed Elevations;
  - LO-01 1:250 Landscape proposals;
  - LO-04 1:500 Retaining Wall Elevation and Projected vegetation growth.

**COMMISSIONER BRIGID McGLINCHEY**