

James McInerney Planning Consultant
39, Kilheale Heights, Kilheale Manor, Kill, Co. Kildare, W91 R28R.

25 August 2022

Planning and Transportation Dept
South Dublin County Council
County Hall
Tallaght
Dublin 24

By Email to planningsubmissions@sdublincoco.ie

RE: **Third Party Observation Reg. Ref. No. SD22A/0312**
Construction of a single storey Discount Foodstore Supermarket at Main Street Upper, Newcastle,
Co Dublin for Main Street Upper, Newcastle, Co Dublin for Lidl Ireland GmbH.

Dear Sir/Madam.

I am a Planning Consultant and have been instructed by Mr. Frank Kerins, The Old Glebe, Main Street, Newcastle, Co. Dublin to lodge this Third-Party Observation in respect to the above planning application for permission. Mr. Kerins is concerned that the proposal in respect to surface water disposal will have an adverse effect on The Old Glebe, a Protected Structure.

Yours faithfully


James McInerney, Planning Consultant.

Attached:

- (i) Observation Fee €20.00 SDCC Receipt No. T4//0/15425
- (ii) Grounds of Observation.

Third Party Observation.

I am a Planning Consultant and have been instructed by Mr. Frank Kerins, The Old Glebe, Main Street, Newcastle, Co. Dublin to lodge this Third-Party Observation in respect to an application for permission hereunder. Mr. Frank Kerins is concerned that the proposals in respect to existing and proposals surface water drainage will have an adverse impact on The Old Glebe, a Protected Structure.

1.0 Application.

Reg. Ref. No. SD22A/0312.

Permission sought for construction of a single storey Discount Foodstore Supermarket with ancillary off-licence use (with mono-pitch roof and overall building height of c. 6.74 metres) measuring c. 2,207sq.m gross floor space with a net retail sales area of c. 1,410sq.m; Construction of a vehicular access point to Main Street Upper and associated works to carriageway and including partial removal of boundary wall / facade, modification of existing footpaths / public realm and associated and ancillary works including proposed entrance plaza area etc, at Main Street Upper, Newcastle Co. Dublin for Lidl Ireland GmbH. Application was submitted on 26 July 2022 and Latest Date for Observation is 29 August 2022.

2.0 Observer.

The Observer, Frank Kerins resides at The Old Glebe, on the northern side of Main Street, Newcastle opposite the development site. The Old Glebe is 18th century Queen Anne residence, a Protected Structure under Map Reference No. 226 with extensive landscaped rear garden overflowing with Medieval Architecture and an ornamental pond measuring approximately 10m wide x 75m long.

The Old Glebe is a two-storey dwelling with basement and single storey elements on each side, courtyard, mews, outbuildings, and a medieval ruin in the front garden.

Evidence has been found during excavation works that part of the rear garden was used as a medieval burial ground associated with the adjoining old Church of Ireland burial ground. Under Table 3.4 County Geological Sites for Protection of the new Development Plan refers to the townland as being part of the Newcastle Burial Channel with a Summary Description as:

A deep buried channel in Carboniferous Limestone bedrock, representing the site of a former Vauclosion Spring type cave (a large resurgence of groundwater from a cave).

The Observer purchased the property in 1989 and since then has spent vast amounts of money in restoring the houses and the gardens to the present condition. The property is widely acclaimed by many visitors during its open days throughout the year. The house was built between 1720 and 1727 as a Glebe House by Archdeacon Smyth as part of The Newcastle Church of Ireland Estate.

The Old Glebe is a protected structure and therefore unless otherwise stated, includes the interior of the structure, the lands lying within the curtilage of the structure, any other structure lying within the curtilage and their interiors, all fixtures which form part of the interior or exterior of that structure. The protection also extends to any feature specified as being in the attendant grounds. The effect of the Protected Structure status is to seek to retain the special character and features of that Structure.

The Old Glebe is identified in the National Inventory of Architectural Heritage (NIAH) Interim County Survey for the South Dublin County Area, published on 15 November 2002, Ref. No. 11212007. The NIAH rates the structure as being of architectural, historical, and technical interest and of regional rating.

The ornamental pond once was the habitat for one hundred trout fish. The fish stock has been diminished over the years arising from flooding and contamination events. The fish have not been replaced due to lack of compensation and the failure of South Dublin County Council to put a proper surface water drainage system in place.

The Old Glebe is located within an area having a high to extreme aquifer vulnerability.



The Old Glebe Lands outlined in Red, Ornamental Pond located within northern narrow width area.

2.1 Ornamental Pond.

The ornamental pond is unique in Ireland in that it has been managed in a garden environment for circa 300 years. It is a thriving aquatic environment containing a broad range of insects, Stickleback fish, Trout, Frogs and Newts together with a range of emergent and submerged aquatic plants. A number of specialized birds depend on the pond. The pond depends for its survival on a supply of consistently high-quality water from a spring indicated on the Site Layout Plan Showing Services Drawing submitted with the Application as being located on the Application Site. The fresh water is currently contained within a surface water drain, which discharges into an open ditch, located immediately external to the red line boundary of north-western corner of the Application Site.

The open ditch continues in a western direction along Main Road and discharges into a Surface Water Sewer. The Surface Water Sewer then crosses under Main Street and discharges into a **Temporary** Surface Water Sewer within the curtilage of The Old Glebe. The fresh water/surface continues in a northern direction and discharges into the Ornamental Pond via private drains. Overspill from the ornamental pond discharges into open ditches and onto the River Liffey.

Following the flood event in November 2000, copious amounts of silt were carried into the pond by flood waters causing most of the trout in the pond to suffocate, while the remaining fish had severe gill damage leading to their short-term death. Irish Waterways Management, The Cliff, Ardmore, Co. Waterford restocked the pond with two hundred trout from an approved hatchery with certified disease-free status at a cost of €1,600 and stabilised the silt in the lake by specialist form of treatment. Following the flood event in 2002, the pond had to be dredged and restocked.

Irish Waterways Management Consultants Limited have been involved in caring for the pond for approximately 20 years and have prepared a Report dated 3 June 2019, setting out potential from the carrying out of the proposed development, which is attached to this Appeal.

The SDCC **Temporary** Surface Water Sewer within the curtilage of The Old Glebe was installed by SDCC in 2006 and since then SDCC have been unable to put in place a permanent arrangement. Mr. Chris Galvin, former Senior Engineer, Environment, Water and Climate Change Department, SDCC visited The Old Glebe, in July 2020 and was satisfied that there was an issue as regards flooding and pollution to The Old Glebe and

promised that SDCC would commission Consultants to assess the options in Newcastle for the management of surface water in Newcastle. The Consultant's Report is awaited.

It is critically important for the survival of the pond that the fresh water be protected from the effects of any construction works, including silt run-off, construction materials (lime, cement, sand, and chemicals) entering the water. Uncured concrete can kill fish, plant life and macro invertebrates by altering the pH of the water. Discharge of fuels and oils can be directly toxic to aquatic life leading to tainting of fish tissue rendering fish inedible. Oil films on water can seriously interfere with the diffusion of oxygen from the atmosphere into waters and in extreme cases result in oxygen depletion. Aquatic life and plants are particularly sensitive in term of threats to their physical habitats and to water quality such as arise during construction works adjacent to the water source.



Photo of the rear of The Old Glebe and Ornamental Pond.

Photo of 300mm pipe discharging into roadside ditch along the south side of Main Street. The photograph taken during a dry spell and clearly indicates fresh water flowing from pipe,



Fresh water conveyance outlet discharging to roadside ditch



Location of fresh water outlet on far side of Main Street on right hand side of photo within foliage.

The provision of a proposed new surface water sewer serving the proposed development and discharging into the existing drainage ditch is not acceptable to the Observer as its onward journey will traverse private drains at The Old Glebe, on the grounds that an existing surface water sewer exists fronting the site which diverts surface water away from The Old Glebe. Incorporating fresh water supply from the spring within the new surface water system is also unacceptable as these two elements must be separated so as not to have an adverse impact on The Old Glebe

A new 300mm pipe solely conveying fresh water supply from the existing spring on the site should be provided and discharged into the existing roadside ditch. No surface water from the proposed development should discharge into this pipe.

3.1 Alternative Route for the Discharge of Surface Water from Application Site.

SDCC Reg. Ref. No. SD18A/0363 and ABP-304908-19 – St. Finian’s Way, Main Street.

The Services Design Information prepared by SDS Design Engineers, under Paragraph 4 states:

“There is no existing surface water system serving the proposed Lidl site.”

This above statement is factually incorrect as a surface water sewer exists on the public road along frontage of the Application Site.

The Surface Water Sewer was provided pursuant to a Grant of Permission by Order of An Bord Pleanála dated 09/01/2020 for development consisting of:

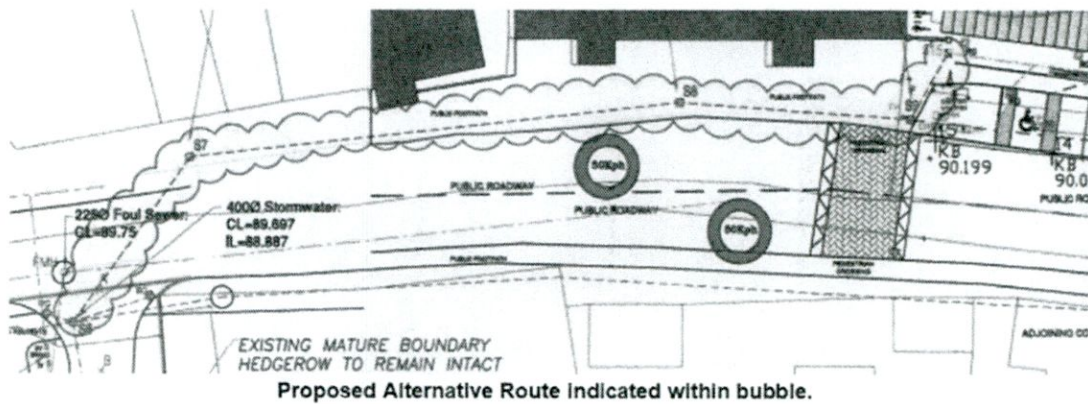
- (1) Construction of 22 three bedroom dwellinghouses;
- (2) construction of access road and footpaths;
- (3) provision of car parking facilities to serve the development;
- (4) construction of a foul sewer network to serve the development which shall connect into adjoining foul sewer network;
- (5) construction of a surface water sewer network to serve the development including the provision of the necessary attenuation elements and the connection of the surface water network to the adjoining surface water network;
- (6) provision of a watermain to serve the development and connection to adjoining water main;
- (7) demolition of the garden sheds;
- (8) provision of all necessary utility services;
- and (9) all ancillary site works, at Main Street, Newcastle, County Dublin for Pavement Homes Ltd.

The above permission has been availed of and the approved development including the provision of a new surface water sewer has been carried out and is operational. The new residential estate is known as St. Finian’s Way and is located a short distance to the west of the Application Site,

The background to the provision of this surface water sewer is as follows:

The Observer, Frank Kerins was the Appellant in the above Appeal. The grounds of appeal were against the approved proposal by SDCC to allow the discharge of stormwater from the proposed development via the existing stormwater/freshwater pipe crossing under Main Street, and into the stormwater manhole within The Old Glebe and continuing thru the private drain into the ornamental pond.

Following the making of the Appeal, William Donoghue & Associates, Consulting Engineers, on behalf of the Developers in responding to the Appeal Submission, under Appendix Three of their reply submitted details for an alternative route for the discharge of stormwater. The alternative route involved a new road crossing and then travelling in an eastern direction/opposite direction from The Old Glebe. The alternative route discharged into a new development housing/commercial development on the north side of Main Street, then under construction by the same developer. The alternative route was acceptable to SDCC and has been provided with no additional stormwater from the development entering The Old Glebe.



The ABP Planning Inspector's Report noted the following:

I consider the third party has presented a case based on local knowledge and case history regarding flooding associated with his property at the Old Glebe, and a threat to the large fish pond to the rear,
and

I consider the concerns of the third party appellant to be warranted given that the site is located opposite the Old Glebe on a higher ground level. It was originally proposed and permitted by the planning authority to direct the surface water discharge into a manhole that traverses the Old Glebe property. I considered the revised proposals presented on appeal address the concerns expressed in a satisfactory manner.

The same concerns arise in respect to the current application. An Bord Pleanála have expressed such concerns to be warranted and accordingly SDCC have no other option but to take these same concerns into consideration when assessing this current application.

5.0 Flood Risk Assessment Report.

A Flood Risk Assessment Technical Report prepared by JBA Consulting was submitted as part of the application and extracts are included hereunder:

Section Site Background.

2.2.1 Drainage ditch, culvert

From the site survey it is known that there is a drainage ditch running partially along the site's western boundary. The ditch is overgrown upstream, and no flow was identified on the day of the site visit. The ditch enters an approx. 0.3m diameter culvert within the site boundary and upstream of embankment (Figure 2-4 a).

On a wet day site visit, a spring has been identified near a redundant culvert chamber (Figure 2-4 b-e), which splits the culvert. The culvert outlet is approx. 0.60m and enters at the site's north-western corner (inlet Figure 2-4 a). The outfall of the culvert is located outside the site and flows into an open channel stream which flows to the west away from the site (Figure 2-4 f). The detailed drain location is shown on Figure 2-5.

In addition to the above text, photos of culvert inlet, spring water flowing into culvert and outfall of culvert into open stream at front roadside.

Section 3 Flood Risk Identification.

3.4 Flood Sources

The initial stage of a Flood Risk Assessment requires the identification and consideration of probable sources of flooding. Following the initial phase of this Flood Risk Assessment, it is possible to summarise the level of potential risk posed by each source of flooding. The flood sources are described below.

3.4.1 Fluvial

The proposed site in Newcastle is not located in proximity to any river waterbodies. The only hydrological feature near the site is the drainage ditch and associated culvert (refer to Figure 2-5) flowing from south to north along the western boundary of the site. However, there aren't any past flood events that have been associated with his ditch. Having reviewed the available sources of flooding outlined in Section 3.2, it is clear that the site is in Flood Zone C and at low risk of flooding.

Based on the site visit, although the ditch and culvert were dry it has been identified as the main flood risk to the development. Further analysis has been undertaken in Section 4.1.

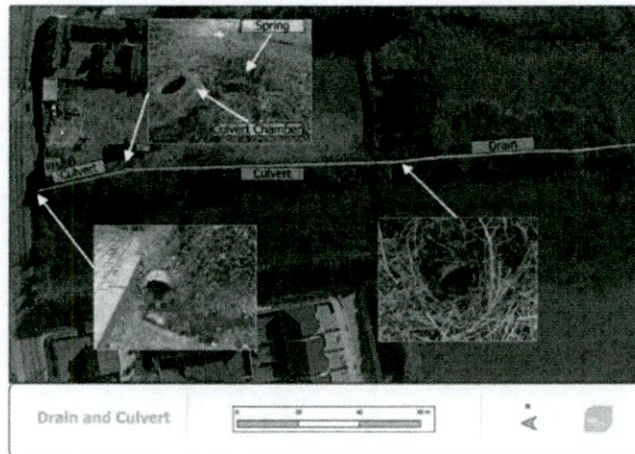


Figure 2-5: Drain map

Extract from Flood Risk Assessment Technical Report.

The above identifies the ditch and culvert located along western boundary of the Site as the 'main flood risk' to the development. In this regard, the same ditch and culvert have giving rise to historic fluvial flooding events onto Main Street and spreading into curtilage of The Old Glebe.

3.4.3 Pluvial/ Surface Water

Pluvial flooding is the result of rainfall-generated overland flows that arise before run-off can enter a watercourse or sewer. It is particularly sensitive to increases in hard-standing ground/urbanised areas and is usually associated with rainfall events of high intensity.

Pluvial flood risk information is sourced from the PFRA indicative flood maps reviewed within the Newcastle LAP. Some localised flooding is suggested in the village, however none of the are within the proposed site boundary. Review of the historic flood locations identified a recurring flood event just approx. 50m west of the site on the Main Street, which cause a flooding into the basement of a residential house. Having reviewed the site topographical survey, the Main Street elevation between the site boundary and this house is decreasing, therefore it will not impact the proposed site.

Any increase in hardstanding area on the site will result in an increase in surface water ponding. Potential pluvial flooding issues and mitigation measures will be discussed further in Section 4.2.

The residential property referred to is The Old Glebe, and it would appear that not all historic pluvial flooding events have been officially recorded.

No mitigation measures have been proposed to the satisfaction of the Observer, that the proposed development will not give rise to flooding of The Old Glebe.

This report also failed to mention that there is an existing surface water sewer under the public road fronting the Site and presumably is available to serve the proposed development.

6.0 Conclusion.

Mr. Frank Kerins strongly objects to the proposal to:

- discharge additional surface water from the proposed development through the **Temporary** Surface Water Sewer and private drains within the curtilage of The Old Glebe and
- to incorporate fresh water from the underground spring within the new surface water layout for the proposed development.

Mr. Frank Kerins raised similar concerns as set out in this Observation, previously in his Appeal to An Bord Pleanála under Reference No. ABP-304908-19 and the Planning Inspector for the Board found such concerns justified. Accordingly, it is now a matter for the planning authority to ensure that such concerns are address in this application.

The particulars submitted under the Service Design Information Flood Risk Assessment Technical Reports failed to take into consideration that the Site is served by a Surface Water Sewer approved under SDCC Reg. Ref. No. SD18A/0363 and ABP-304908-19. Therefore, these documents together with the proposed surface water layout plans need to be revised to take into consideration that a Surface Water Sewer is available along Main Street fronting the Site. In the first instance, surface water discharge from the proposed development

should be to the new surface water sewer rather than to an overburdened **Temporary** surface water sewer and private drains.

The Application failed to set out any mitigating measures to protect the supply of fresh water to The Old Glebe from possible pollution during construction phase of development.

Should the Planning Authority agree with the views expressed by An Bord Pleanála about overburdening the surface water infrastructure at The Old Glebe and that it is more appropriate that the proposed development connects to an existing surface water sewer fronting the Site, then Further Information should be sought

It is therefore suggested Additional Information should be sought from the Applicant as follows:

1. Detailed proposals to be submitted showing the Surface Water Drains from the Site discharging into the existing Surface Water Sewer fronting the Site on Main Street, approved under SDCC Reg. Ref. No. SD18A/0363 and ABP-304908-19.
2. Detailed proposals to be submitted showing fresh water supply from the underground spring on the site discharging to a new 300mm underground pipe along the western boundary of the site and continued north to the existing open ditch/stream along Main Street. Together with an undertaking that no foul or surface water will discharge to this new pipe and that the Applicant has the necessary approval from the adjoining landowner to do such work, (the final length of the pipe appears to be on lands under the control of a third party).
3. Construction Management Plan setting out mitigating measures preventing possible pollution to the fresh water source during construction phase of the development.

The Planning Authority has a duty to ensure that the proposed development will not have an adverse impact on The Old Glebe, a Protected Structure.

Yours faithfully


James McInerney, Planning Consultant.

**James McInerney,
Planning Consultant
39, Kilheale Heights
Kilheale Manor
Kill
Co. Kildare
W91 R28R**

Date: 02-Sep-2022

Dear Sir/Madam,

**Register Ref:
Development:**

SD22A/0312

Construction of a single storey Discount Foodstore Supermarket with ancillary off-licence use (with mono-pitch roof and overall building height of c. 6.74 metres) measuring c. 2,207sq.m gross floor space with a net retail sales area of c. 1,410sq.m; Construction of a vehicular access point to Main Street Upper and associated works to carriageway and including partial removal of boundary wall / facade, modification of existing footpaths / public realm and associated and ancillary works including proposed entrance plaza area; Demolition of part of an existing rear / southern single storey residential extension (and related alterations to remaining structure) of Kelly Estates building; The original Kelly Estates building (a protected structure - Eircode: D22 Y9H7) will not be modified; Demolition of detached single storey accommodation/ residential structure and ancillary wall/ fence demolitions to rear of existing Kelly Estates building; Demolition of existing single storey (stable) building along Main Street and construction of single storey retail /cafe unit on an extended footprint measuring c. 118sq.m and associated alterations to existing Main Street boundary facade; Renovation and change of use of existing (vacant) two storey vernacular townhouse structure to Main Street, and single storey extension to rear, for retail/ commercial use (single level throughout) totalling c. 61sq.m; Repair and renewal of existing Western and Eastern burgage plot tree and hedgerow site boundaries; Provision of associated car parking, cycle parking (and staff cycle parking shelter), pedestrian access routes and (ramp and stair) structures (to / through the southern and western site boundaries to facilitate connections to potential future development), free standing and building mounted signage, free standing trolley bay cover /enclosure, refrigeration and air conditioning plant and equipment, roof mounted solar panels, public lighting, hard and soft landscaping, boundary treatments and divisions, retaining wall structures, drainage infrastructure and connections to services/ utilities, electricity Substation and all other associated and ancillary development and works above and below ground level including within the curtilage of a protected structure.

Location: Main Street Upper, Newcastle, Co Dublin
Applicant: Lidl Ireland GmbH
Application Type: Permission

Date Rec'd: 26-Jul-2022

I wish to acknowledge receipt of your submission in connection with the above planning application. The appropriate fee of €20.00 has been paid and your submission is in accordance with the appropriate provisions of the Planning and Development Regulations 2001(as amended). The contents of your submission will be brought to the attention of the Planning Officer during the course of consideration of this application.

This is an important document. You will be required to produce this document to An Bord Pleanála if you wish to appeal the decision of the Council when it is made. You will be informed of the decision in due course. Please be advised that all current applications are available for inspection at the public counter and on the Council's Website, www.sdublincoco.ie.

You may wish to avail of the Planning Departments email notification system on our website. When in the **Planning Applications** part of the Council website, www.sdublincoco.ie, and when viewing an application on which a decision has not been made, you can input your email address into the box named "**Notify me of changes**" and click on "**Subscribe**". You should automatically receive an email notification when the decision is made. Please ensure that you submit a valid email address.

Please note: If you make a submission in respect of a planning application, the Council is obliged to make that document publicly available for inspection as soon as possible after receipt. Submissions are made available on the planning file at the Planning Department's public counter and with the exception of those of a personal nature, are also published on the Council's website along with the full contents of a planning application.

Yours faithfully,

M. Furney
for **Senior Planner**