

An Bord Pleanála

Inspector's Report

Development Mixed use development comprising a shopping centre & health care centre

Location: Tullamore Road, Kilbeggan, County Westmeath

Planning Application

Planning Authority: Westmeath County Council

Planning Authority Reg. Ref.: 08/4130

Applicant: Sarin Properties Limited

Type of Application: Permission

Planning Authority Decision: Grant with conditions

Planning Appeals

Appellant(s): 1st party &
3rd parties
1 Danny McGee
2 Sarin Properties Limited
3 Median Properties Limited

Type of Appeal: 1st 'v' condition
3rd Party 'v' Grant

Observers: Peter Wrafter
Jerry O'Flynn
Irene Plunkett
Marea O'Driscoll

Date of Inspection: 21/05/09

Date of Report: 25/07/09

Inspector: **Tod Davis**

1

OVERVIEW

1.1

PROPOSED DEVELOPMENT & SITE LOCATION AND DESCRIPTION

1.1.1

It is noted that the 1st party appellant seeks to have the original retailing proposal (much revised and modified) considered by the Board. The report has taken this request into account within the overall assessment of the application.

Notwithstanding this request the assessment of the shopping centre element of this planning appeal is based essentially on the revised proposed development for the shopping centre building as further submitted to the planning authority on 26/11/2008 (and additionally on 4/12/2008). The submission of the 26/11/08 formed the basis for the decision by the planning authority which is now under appeal.

The layout of the buildings on the site and the associated roads system, carparking arrangements, service yards landscaping and other features is considered as is presented with the revised shopping centre submission.

The health care building is essentially unchanged by the revisions affecting the retailing component of the application and is examined as proposed in the original submission accompanying the application on the 20/05/08.

The application thus has two distinctive elements (shopping centre & health care centre) with two separate sets of plans & drawings.

It is also noted that while the appeals are focused essentially upon the shopping centre element, the health care centre has also attracted comment from observers and the 3rd parties to the appeal.

1.1.2

The development is for what is described as a neighbourhood shopping centre and a health care centre on a 2.2 hectare (5.5 acre) site on the Tullamore Road, Kilbeggan.

There are two proposed buildings to be placed on the site; the shopping centre and the health centre. The much revised and downsized shopping centre sits with its short axis parallel to the main road with a modest building line of 10.357 metres to the front fence. The shopping centre building is a single storey building shown as 8.15 metres to the top of the cladded feature over the entrance area.

The health centre presents its gable to the road with an inward curving or convex front façade as viewed from the service road system which fronts the building (south elevation). The building line to the front fence is 24.72 metres. The two storey building (8.43 metres) has a prominent canopied and heavily glazed portico-type foyer sitting forward of the main building.

The two buildings are separated by the service road system and the surface carpark which is accessed from the public road by a single entrance in an approximate central position along the site's frontage.

1.1.3

The care centre has a total floor area of 758m². It is a distinctive building with its curved façade and impressive entrance portico leading to the foyer. It is a two storey building (8.43 metres) with a low mono-pitched roof sloping to the front elevation. The central ground floor reception area sits forward of the building line and is a notable feature. The upper level is used essentially for staff rooms and plant.

1.1.4

The revised shopping centre proposal (stated gross floor area of 896.4m²) is to contain a ground floor level anchor unit (750m²), which includes a pharmacy (? m²). The balance of the floor area is to be taken up with offices, staff rooms, storage and loading rooms. The transformer, switch room and boiler house is to be placed externally against the southern elevation of the building. The delivery/service yard is placed to the south of the building between the building and the southern site boundary. It is accessed from the internal service road system.

1.1.5

The layout of the site places the two buildings towards the front of the site and towards the side boundaries. The area forward of these buildings is to be landscaped and the service road provides access to the surface carpark placed in a central position between the two buildings (capacity for 95 vehicles). The care centre has a separate access off the main service road for set down and service vehicles only.

There are no significant site boundary treatments proposed. Site boundaries - for the most part heavily tree lined hedgerows; are generally left as they are.

The site is fully serviced. The site is generally flat to the front and somewhat below the adjoining level of the public road. The site rises to the rear where the rear hedgerow forms something of a crest line. A footpath extends from the town as does overhead lighting. The site is within the speed limit zone. The site, while in open grassland and in agricultural use, has all the characteristics of being located proximate to what may be described as the built up area.

1.1.6

It is noted that a hotel (08/4158) is intended for the adjoining site to the south (currently occupied by an abandoned single storey prefabricated building) and extensive agricultural lands adjoin to the north-east and east. The rising rear portion of the site (east) is to be set-aside within the revised proposal and is to remain undeveloped. The site does not directly abut any established residential property. The end house to the north (on the Tullamore Road's frontage) is separated from the site by a pass (shown to be about 9 metres in width) to the agricultural lands to the rear. Pedestrian access is indicated linking the site to the proposed open space area (currently agricultural) to the rear (north-east). Indicative primary health care facility is notated on drawings placed within this undeveloped eastern section of the site facilitated by an extended service road.

It is noted that the applicant indicates throughout the appeal correspondence that the current application for the medical centre will meet primary health care facility standards and criteria required by the HSE.

1.1.7

The site is within the established urban area which extends out along this main arterial from the central area of Kilbeggan. Landuses are mixed but predominantly residential. Residential property fronts the road opposite the site (east) and extends to the site from the town to the north. Some commercial property is located further out of town to the south. The site is currently a substantial gap site between single detached bungalows (north) and the proposed hotel site adjoining to the south. The extent of development on this frontage does not generally extend in depth. Residential housing schemes extend back from the Tullamore Road opposite. The site is located between the bypassing motorway south of the village and the urban area.

1.2

PLANNING AUTHORITY'S DECISION

1.1.1

The planning authority granted the application with conditions.

Condition #2 is the question of the 1st party appeal.

This #2 condition requires a revised proposal to be submitted to the authority for agreement which shall provide for a downsized proposal which is to have a 500m² gross floor space containing 375m² of retail floor space and 125m² of ancillary space.

1.2.2

This decision partially reflected the recommendation of the planner who advised that the application may be either

~ granted with conditions restricting the extent of the retailing floor areas or, alternatively

~ may be refused on the grounds that the proposed retailing element of the application contravened the objectives of the development plan in respect of retailing strategy (see 'Development Plan' paragraph of this report) and due to excessive scale and a location removed from the designated town centre area, would undermine the investment in urban renewal

1.2.3

The planner makes a number of reports. In seeking further information he advises that the proposal is considered to be of an excessive scale and should be downsized. He suggests a maximum of 4 units with '*...a small anchor store*' as described or defined under article 5 of the 2001 regulations (this is assumed, without any certainty, to be a reference to the definition of 'Supermarket').

The planner also seeks to maintain the vibrancy of the existing retail core of the town.

1.2.4

The planner makes further comments in relation to the need for an indicative masterplan for the area (which the applicant provided) and a revised retail impact study to address the downsized local shopping character of the expected amended proposal (which the applicant did not provide in the planner's opinion). There is also a request for some further design and engineering detail.

The planner also asked the applicant to comment on the issues that were raised by 3rd parties; which includes sequential testing of the site required comment.

1.3 SUPPORTING DOCUMENTATION

1.3.1

The Board's attention is brought to the original 'Planning Appraisal' document submitted by the applicant in 2007 contains useful aerial photographs of the area (see pouches). This submission also contains sequential testing maps which are useful references.

Retail Impact Study (Original May 2008 document)

1.3.2

The original application (gross floor area of 5102m²) is supported by a 'Retail Impact Study' and a 'Sequential Test Report'. Revised retail impact study reports were submitted as the application underwent modification following advice provided by way of further information requests from the planning authority.

Because of the radical modifications to the proposal this original study has a limited relevance when examining the subsequent downsized proposals. Nevertheless, its examination is considered essential to enable a comprehensive understanding of the 1st party's proposal in this case and because it is noted however that the 1st party appellant seeks to have the original planning proposal considered by the Board.

1.3.3

The Retail Impact Study (May 2008) has been examined. Its principle points are further expressed throughout the documented submissions from the applicant and are referenced by the other parties to the appeal. Some of the main selected findings include the following:-

(Note RPG= Retail Planning Guidelines & RP= Regional Planning Guidelines)

~

The development is within a 2nd tier urban centre (RP)

~

The site is within 400 metres of the central area ('Edge of centre' site re: RPG)

~

Sequential testing established no reasonable alternatives within the core area

~

Planning objectives within the LAP identify this site as suitable for retailing

~

The County Retail Strategy identifies the town as a 2nd tier retailing centre

~

As a 2nd tier centre the town has performed poorly with high vacancy rates (RP)

~

Retail leakage to other large centres is substantial (c. 80%)

~

15 minute drive time was used to establish the catchment area of 3718 (2006 data)

~

The growth rate of 1.75% was established in the catchment area (2002-2006 data)

~

2013 estimated catchment population is estimated to be 4738 persons

~

Capacity for additional retail floorspace is estimated to be 1769m² (2008-2013)

~

>¾ of all business is derived from 'clawback' of retail leakage to larger centres

~

Cumulative affects are negligible as business is redirected from outside the area

~

Core area's vacancy rates (>66%) suited to small scale comparison & non-retail

Sequential testing

1.3.4

The sequential assessment is under a separate report. Seven (7) central area sites were considered as suitable for sequential analysis. These sites are geographically identified in the report and separately assessed. All 7 are considered less than suitable due to reasons of difficulties in zoning restrictions, problematic site acquisition and consolidation of landbank issues, potential adverse impact on traffic safety and adverse affects on local residential property and places of heritage value.

Revised Retail Impact Studies

1.3.5

The later revised retail impact document (26/11/08) indicates that the development should be supported because it is consistent with the purpose and objectives of the development plan which seeks to provide a neighbourhood shopping and a medical centre on the site.

A modified local catchment of 2307 persons (397 houses built nearby, local places of employment and church and community school) was identified within 5 minutes walk of the site.

This methodology, it is suggested by the applicant in later correspondence, was suggested to be adopted by the planning authority's officials.

Traffic & Transport Assessment & traffic Audit

1.3.6

The original application is supported by a Traffic & Transport Assessment. This assessment indicates that the capacity of the public road fronting the site has sufficient capacity to cater for the development with a notable reserve capacity (see section 7.14 of the report). The report concludes that no infrastructural improvements are required to accommodate traffic generated by the development in the area of the site (see section 12.5 & 7).

A subsequent Road Safety Audit was completed. No unresolved difficulties arose.

Engineering report

1.3.7

The Engineering Report supporting the application shows that connections can be made to public sewers and water mains in the area and that surface waters will be attenuated (storm water management system enclosed within this report) and discharged to separate storm sewers available at the site.

A further assessment was carried out on request from the planning authority

Archaeological Report

1.3.8

An archaeological report was provided following a request from the planning authority (see also paragraph 1.7.2) without any deposits of archaeological significance being found on site.

1.4

DEVELOPMENT PLAN / COUNTY RETAIL STRATEGY / RETAIL PLANNING GUIDELINES

County Development Plan

1.4.1

The development plan for the area is the 2008-2013 County Westmeath Development Plan. The Retail Strategy for the County is adopted as part of this plan. The plan also extensively acknowledges the Retail Planning Guidelines. The plan also includes the local village plan for Kilbeggan.

The site is zoned 'Residential' (reference the County Plan; 'Kilbeggan Village Plan') with a specific planning objective (O-KB16) which promotes the use of the site for '*...a neighbourhood shopping and a medical centre...*' Copy of landuse map & objectives statement is available in the appendix.

The site is not within nor does it adjoin the areas that are designated as 'Town Centre' or 'Expanded Town Centre' zones. The site is some 170 metres from the central area zones and separated by areas zoned 'Residential'.

1.4.2

The town is not a 'designated town' in the National Spatial Strategy (see page 80-82). It is not noted as one of the smaller towns which might enjoy service growth through locational advantages in relation to the transportation corridors that pass through the area. It is reasonable to consider the town as one of the smaller settlements in the area. Notwithstanding this, the County Plan designates the community as a 2nd Tier growth centre (see section 2.2.1 – copy in appendix).

Under section 2.2.4 'Retailing' of the CDP (and also 2.8 of the Westmeath Retail Strategy), this growth centre designation is translated into 'District Centre' status in the County's shopping hierarchy. The section also indicates that locational suitability and scale of development will have regard to the RPG's and the Retail Strategy for the County.

It also is also noted that the stated policy to provide for the existing local District Centres to be expanded or to providing new purpose built centres are directed to Athlone & Mullingar and not to Kilbeggan (see page 29 of the CDP).

In the Kilbeggan Village Plan the existing central area is expanded to accommodate growth in the retailing (and other) sectors and also, through objective O-KB16, to encourage new shopping and medical centre facilities.

In the Westmeath Retail Strategy the smaller tier 2 towns are stated to have an established local catchment area, defined town centres and distinctive local service role.

The town is shown to have a 66% vacancy rate of retail property.

1.4.2

Section 2.2.4 of the plan indicates the planning & sustainable development matters that should be taken into account in addressing retail development. Neighbourhood centre proposals should serve a catchment population of not less than 5000 persons and be locational suitable. This would suggest that such centres be directed to larger urban centres of population. Kilbeggan has a population of 822 (2006 census).

1.4.3

Section 6.1 of the plan indicates permitted range of uses within residentially zoned areas. Retailing, other than at the local scale, is not included (see copy in appendix). In the landuse matrix retailing is permitted/open for consideration.

Retail Planning Guidelines

1.4.4

In the Retail Guidelines it is noted that:-

- ~ Section 71: District centres are normally provided within the built up area of a major conurbation. District centres are therefore not appropriate to this area
- ~ Annex 1: Types of Centre include reference to 'Local Centre' or 'Neighbourhood Centre'. These are described as small groups of shops, typically comprising of a newsagent, small supermarket, sub post-office and other small shops serving a small localised catchment population

1.4.5

In small towns there is a clear presumption in favour of edge-of-centre locations for new foodstores (section 74) and supermarket developments (section 91 & 92) and some comparison shopping should be provided (Section 91). Annex 1 of the guidelines states that developments described as a 'Supermarket', should be in an 'Edge of Centre' location (within 300-400 metres of the central area)

Impact on town centre vitality & viability needs to be evaluated to ensure that no adverse effects arise (section 65).

Westmeath Retail Strategy

1.4.6

- ~ Section 2.2 designates the town as a tier 2 settlement
- ~ Section 2.2 describes the town as a '*district*' town (note lower case & quotations)
- ~ Section 2.9 defines the town as having a distinct local service role
- ~ Section 2.10 states that the town's significant retail growth opportunities are limited
- ~ Section 7.5 seeks to - consolidate the role and function of the town through retention of retail and services appropriate to the centre
 - make appropriate provision for future need where it emerges in order to enhance the town's vitality & viability
- ~ Section 7.6 indicates that significant increase in retail requirements is unlikely

Summary and some clarification of main policy statements

1.4.7

At this point in this report there needs to be some clarification of terms, application of strategies and relevance of policies regarding retail planning in Kilbeggan.

- ~ The NSS does not identify Kilbeggan as a town with a designated status
- ~ The CDP identifies the town as a 2nd Tier district growth centre
- ~ The WRS identifies the town as a 'district' town in the shopping hierarchy
- ~ The CDP zones the site as residential which excludes large scale retailing landuses
- ~ The CDP planning objectives promote the site's use for neighbourhood shopping
- ~ The RPG associate 'District Shopping Centres' to sites in metropolitan urban areas
- ~ The RPG associate 'Neighbourhood Centres' to sites in 5000+ pop' urban centres
- ~ The WRS directs District & Neighbourhood Centres to Athlone or Mullingar
- ~ The RPG favours edge-of-centre locations for new foodstores
- ~ The RPG seek availability of comparison goods in new foodstores/supermarkets
- ~ The WRS regards tier 2 towns retailing functions as local and in defined centres
- ~ The WRS indicates that the town's retail growth potential is limited and unrealistic

District centre terminology

1.4.7

It is noted that the revised submission of November 2008 proposed a shopping store of 750m². This is considered not to be of a scale that meets the description of a 'District Centre' (see section 71 of the RPG).

The use of the phrase in the development plan describing as Kilbeggan as a 'District Centre' is considered to apply to the retailing functions of the town in a general way only and not in a manner that promotes the location of a 'District centre' as a type of retailing operation that would be considered to be suitable for this particular town/site.

It is noted that in the Retail Strategy for the County the adjective 'district' before 'district' town is placed in quotations which indicates that it is to be considered as a loose descriptive phrase rather than a prescriptive term.

Neighbourhood centre terminology

1.4.8

The use of the phrase 'neighbourhood shopping' in the planning objective for this site is noted. The size of the site and initial proposals submitted as part of this application would be consistent with the description of a neighbourhood centre.

It is the case that neighbourhood centres, as described in the retail planning guidelines and the county plan, are associated with larger urban areas such as Mullingar and Athlone. They are not regarded as appropriate to small towns such as Kilbeggan. This is further emphasised within the Retail Strategy which indicates that towns such as Kilbeggan has limited realistic opportunities for significant retailing growth and that their role is one of local service provision only.

The policy provisions of the LAP should be regarded as subordinate to the aims and objectives of the County Development plan of which it is a part.

The conclusion is that the phrase 'neighbourhood shopping' is a loose descriptive term and ought not to be considered to mean 'Neighbourhood Centre' in the prescriptive sense.

1.4.9

The revised proposal is better described as a large but medium sized foodstore. The floor area set aside for the pharmacy is undetermined in the revisions. 750m² is compatible with a large supermarket type operation and would be typical of similar stores located in the larger towns throughout the wider area. There is no such sized retail store operational within Kilbeggan. There is an approved central area shopping development ('Riverview' – refer paragraph 1.5.1).

1.5 PLANNING HISTORY

No previous appeals refer to this site.

No known previous applications are material to this appeal.

1.6 GROUNDS OF APPEAL – 3rd Party

1.6.1

There are two appeals in this case. It is proposed to examine the 3rd party appeal which obliges a total reassessment of the development.

The 1st party appeal assessment and recommendation follows in paragraph 1.7.

3rd Party Appeal

1.6.2

There are two 3rd party appellants; Merlin Properties Limited & Mr Danny McGee. Merlin Properties represent the interests of the 'Riverview' development scheme which is located within the town and is an integrated development of housing, retail (including medical) community and public open space (total floor area of 6665m²). The site was designated as part of the town's 'Renewal Scheme'. It is an 'in depth' scheme backing Main Street and within the core central area. The company state that only two of the retail units are occupied; that is 9% of the floor space has been taken up.

1.6.2

The grounds of appeal have been carefully read and short summarised account follows:-

- The proposed development (including health centre of a similar scale to the proposed development) is adversely affecting the occupation and commercial viability of the planned, built and unoccupied central area scheme (the phrase 'planning blight' is used) and also the existing but vacant retail facilities of the central area. The development would contravene the planning objectives stated under P-EY15 & 16 and 20 & 22 by failing to sustain central area vitality and viability (CDP)
- There are a number of other specifically identified sites in the Kilbeggan Village Plan that are suitable for retail and other development of the type proposed (refer to policies O-KB 9-14) that are within or closer to the central area which indicates that the development would fail a locational site sequential assessment

- The scale and location of the development is inappropriate for Kilbeggan's low population increase projection. Surplus convenience floor space exceeding what is currently unoccupied or available in Kilbeggan is extremely limited
- The development does not meet the definition of a 'neighbourhood centre' which is the phrase stated within planning objective O-KB16 for the site, is either premature pending the development of a large local population in a localised catchment or refers to local shopping provision integral to the surrounding residential area. The description of a 'neighbourhood centre' in the CDP refers to Athlone and Mullingar and cannot be applied to Kilbeggan. The O-KB16 objective is subordinate to the historic objective which is to protect central area retailing
- The proposed development is an edge of town site that should not be considered as suitable for development when the central area commercial property stock is largely unoccupied
- The development raises issues of traffic safety and capacity of public services

1.7

GROUNDS OF APPEAL – 1st Party

1.7.1

The applicant has appealed condition number 2 of the planning authority's decision which requires that a revised proposal be presented to the planning authority for approval which downsizes the retailing element of the application to 500m² maximum. Convenience shopping outlets (see Annex 1 of the RPG) are considered to be within a floorspace range of 500m². This is the type of retail facility that is considered appropriate when located in residential areas. It is the planning authority's view that this type of retail outlet is therefore consistent with the relevant landuse zoning requirements of this area.

The applicant considers this conclusion to be erroneous.

1.7.2

The applicant considers that the retail impact study supporting the application (that is the study that supports the original application for 5102m² of floor space of which 4344m² is placed within the retailing associated building unit), shows that the retail catchment area is of a sufficient size to support a shopping centre of this scale, that sequential testing established that no central area sites are suitable or available for a scheme of this size and type and that the near centre location is sustainable and synergetic to town regeneration.

The applicant also notes that the town's retailing functions perform poorly, that there is substantial leakage to larger centres and that the development proposed would reinvigorate of the town's central area retailing.

1.7.3

The applicant seeks the development of a shopping facility therefore that is larger than a village shop. The applicant uses the phrase a 'trolley' shop rather than a 'basket' shop. This is understood to mean a facility that is described in the RPG (page 42) as larger than 'Convenience Store (500m² floor space) and within the 'Supermarket' range of outlets (2500m²).

1.7.4

The grounds of appeal indicate that the applicant regards the town as a town or major village which can support a facility up to 3000m² (the threshold for development of this type in this area – reference section 50 of the RPG). The applicant considers that the settlement is consistent with the description of a ‘District Centre’ and as a Tier 2 centre for growth and as such, the development plan indicates that growth areas need to be serviced by purpose built Neighbourhood Centres. The applicant considers that the proposal meets the criteria required to justify such a development.

1.7.5

The applicant further considers that the development is ‘plan led’ being consistent with the planning objectives of the area which promotes such a scheme at all levels: national, regional county and local.

1.7.6

The development is seen as locational empathy with the adjoining proposed hotel site development while retaining its road frontage character and not prejudicing residential development on surrounding land. The planning authority has identified the site as suitable for neighbourhood shopping and medical centre within the residentially zoned area. The proposed development is considered to meet these planning objectives.

1.8

OBSERVATIONS/REFERRALS

1.8.1

There is an observer to the appeal. The ‘Young At Heart’ group welcome the possibility of a modern medical centre available to the group.

The Health Service Executive made a submission at the time the application was before the planning authority.

There were three referrals to prescribed bodies at the time the application was before the planning authority; Archaeological Section of the Department, National Roads Authority and An Taisce.

The Department advised that archaeological testing should be carried out prior to development and supervision at time of excavation

An Taisce observed that the town of Kilbeggan was not of a sufficient size to require a ‘neighbourhood centre’ and that all new retailing space ought to locate within the town centre..

The NRA made no useful comment.

1.8.2

Observations were received by the Board from interested parties responding to the appeal by the applicant which are documented within the following ‘Responses’ paragraph (see paragraphs 1.8.3 & 1.8.4).

1.9 RESPONSES

Applicant to 3rd party appeal

1.9.1

There is a response from the 1st party to the appeal in regard to the 3rd party appeal. The applicant considers that much of the 3rd parties submissions are anecdotal and have no scientific evidence provided in support and that issues raised have been addressed by the impact study (see summary under paragraph 1.3.3 of this report).

Additionally:-

- ~ The property vacancy map submitted by the appellants is challenged as inaccurate on the basis that many of these properties are unsuitable for purpose and not currently available for development being occupied as places of residence
- ~ The development, if permitted, would reduce the levels of vacancies in the core area
- ~ The proposed neighbourhood centre, if permitted, will retain shoppers in the village
- ~ The responder asserts that the retailing space available in the existing core area 'Riverside Scheme' cannot accommodate the scale of development as is proposed.
- ~ The responder also notes that the existing medical centre available in the Riverview scheme provides for a single practitioner but is too small to meet HSE requirements in relation to Primary Health Care Centre needs which is what is proposed as part of this application
- ~ The RPG's (section 91) recommend near centre retail development in small towns where there is leakage to larger centres and which are performing poorly in a retail context
- ~ The retail catchment area was based on the 10 minute drive time and not the 15 minute drive time indicated by the appellants (refer section 4.1 of the Retail Impact Study of '08)

3rd parties

1.9.2

There is a response to the appeal from consultant representing Mr. McGee (3rd party). The response indicates that the neighbourhood centre planning objective should be considered as subordinate to the residential landuse zoning objectives which, in supporting retailing context (reference to the RPG) should comprise of a small group of lower order ranking retail outlets.

Responses from Observers

1.9.3

Responses to the appeal have been received from Peter Wrafter who notes that the Riverview Scheme remains largely unoccupied and the town generally suffers from chronic vacancy and dereliction. He supports the proposal which meets the communities need for safe and convenient shopping.

1.9.4

Responses have been received from Drs O'Flynn, Campbell & O'Driscoll. They note that the Riverview Scheme cannot accommodate their Primary Care Practice, and that in conjunction with the HSE requirements, the proposed medical centre would meet their needs.

2

PLANNING ASSESSMENT & RECOMMENDATION

2.1

DEVELOPMENT PLAN ASSESSMENT

2.1.1

There is something of an inconsistency between the landuse zoning objectives of the area and the specific planning objective for the site which requires being resolved.

The site is zoned 'Residential' which includes the accommodation of small shops that are of a scale that does not unduly interfere with the predominant residential landuse. Neighbourhood shops are listed in the landuse matrix and are 'open for consideration' in residentially zoned areas. Major shops are also listed in the matrix and are considered to be inappropriate.

2.1.2

A neighbourhood centre normally consists of a number of shops which provide a local retailing service and are generally located convenient to local (suburban) population centres. They are not normally associated with small towns and villages which have not the density of population in a suburban setting to support such centres. A district centre is similar and associated with metropolitan areas and is not suitable for small towns and villages. The CDP supports this description and such retailing provision is specifically directed to Athlone and Mullingar. There is no reference to Kilbeggan.

2.1.3

The application (revised) is for a 750m² floor space retail unit which is considered to be a medium sized shopping facility consistent to what is described in the RPG as a foodstore (see section 76 'Discount Food Stores' - the floor area of the store is approximately 50% of the 1500m² maximum) or a large supermarket .

The revised retail unit, or, with the medical care centre integrated into a single scheme would also not meet the criteria required to qualify the proposal as a neighbourhood shopping centre.

2.1.4

The specific planning objective O-KB16 in the 'Village Plan' identifies the site as suitable for neighbourhood shopping and medical care centre. The text of the planning objective needs quoted. '*Secure the development of (sic) neighbourhood shopping and a medical care centre*'. The planning objective does not therefore state that the site is suitable for a neighbourhood shopping centre of the type described in the development plan for the area or the RPG.

2.1.5

The local planning objectives for the village would normally be considered to be subordinate to the residential landuse objectives and the principles of the spatial suitability for locating such a facility in a 2nd tier small town/village such as Kilbeggan, as set down in the County Plan.

The community's description in the development plan/retail strategy as a 2nd tier growth centre and a 'District Centre' in the retailing hierarchy, is unfortunate as the population of the town, its location relative to Gateway Centres & other 2nd tier settlements and its limited catchment would indicate that it cannot sustain and ought not to be confused with a retailing development described as a 'District Centre' development. These retailing facilities are dependant on large concentrations of populations not available in small settlements such as Kilbeggan.

2.1.6

There has been an increase in population between 2002 and 2006 of about 60%. The development plans for the area indicates that the town is suitable for growth. There is a case that this rapid growth and development would justify or sustain such a scale of retail development (large foodstore/supermarket type). While it appears that existing capacity is available in the central area (vacancy levels high) and that local shopping needs can largely be accommodated within the central area, there is a deficit of suitable sites for retailing of this type and alternative sites convenient to, accessible from and with good connectivity between the core area and the selected site may be considered as suitable. .

2.1.7

It is noted that the objective O-KG16 does not state that the site is suitable for a 'neighbourhood shopping centre' but for a 'neighbourhood shop' and a medical centre. The term 'neighbourhood shop' would, in the context of the scale of the settlement, the landuse character of the area and the provisions of the development plans for the area, be quite consistent with the term 'local shop'.

It is noted that as part of the response to the submissions to the draft plan this site was referred to as suitable for a 'one-shop stop' facility which was amended to the landuse description of neighbourhood shop in the zoning provisions of the plan. It is quite possible that the term 'neighbourhood shop', which intended to reflect the local character of the intended facility and did not intend to be interpreted as a 'neighbourhood shopping centre' as is expressed and defined in the planning terminology of the RPG and the County plan.

2.1.8

The conclusion is that while the site may attract the objective for retail shopping and medical care centre development, the scale and character of the development would be required to meet the objectives of the development plan which seeks to ensure that development of neighbourhood centres and similar are restricted to major population centres and that the scale and character of retailing developments in small towns and villages are local, central and convenient.

The development of a 'neighbourhood centre' on this site therefore contravenes the objectives of the County Development Plan.

Insofar as the original application was consistent with the neighbourhood centre description the development, as originally proposed, it appears that the proposal is inappropriate for the site.

2.1.9

Because the proposed development has been substantially downscaled and the revised proposal is not what can reasonably be described as a 'Neighbourhood Centre', there is a need to assess the current revised proposal to establish if there is capacity in the development plan to allow for further evaluation of the application.

As a large supermarket, with or without the association of the medical care centre, the application may be considered to be other than a neighbourhood centre and may be considered further on its own merits.

2.2

PHYSICAL PLANNING ASSESSMENT

2.2.1

The physical planning assessment includes the following matters:-

- ~ Scale of development
- ~ Location of the site
- ~ Capacity of the site
- ~ Impacts on receiving environment

These matters may be examined in the context of public health, amenity and safety.

Scale of development

2.2.2

The population of Kilbeggan is 1232 in 2006 (762 in 2002).

The town may thus attract some inward investment in the retailing sector which should be accommodated within the sort of scale of development appropriate to the size of the community and its retailing catchment area.

2.2.3

The provision of a retail unit of 750m² is significant in the terms of the size of the community and would require a supporting population in excess of the population of the town/village. It has been asserted that the estimated catchment area shopping space requirements can be fully met within the available space at Riverview and other central area sites. There is a need therefore for the development to show that the proposal is synergetic to central area development and meets sequential testing requirements to justify its out-of-centre location in an area which has no retailing core and is not zoned for such landuse developments. It is considered that this has been satisfactorily demonstrated.

2.2.4

While a local shop providing the sort of range of goods and services described in the RPG under section 93 and further described under the CDP (page 32) would have some compatibility with the zoning requirements of the existing and intended residential development of the area and would not raise the sort of issues that this large retailing outlet raises, the proposed development is of a scale that is not consistent with these circumstances and would therefore be regarded as inappropriate to the area. Convenience shopping outlets (see Annex 1 of the RPG) are considered to be within a floorspace range of 500m². This is the type of retail facility that integrates with local residential area, is consistent with landuse zoning requirements and is therefore appropriate in the context of the zoning provisions of the site.

2.2.5

The policies of the development plans for the area seek to protect central area retailing and promote viability, vibrancy and vitality of the core area. There is a fundamental difficulty in considering the development as promoting sustainability of central area functions, services and amenities. However it is equally difficult to see how the type of development proposed, which cannot realistically be placed within the core area due to site consolidation constraints, will adversely affect the central area's retailing functions particularly if the development upgrades and improves connectivity between the site and the central area. There is a case therefore that this type and scale of development will have a neutral affect on the central area and its existing and potential central urban area functions, facilities and amenities.

Location of development

2.2.6

Given the availability of floor space in the central area (estimated to be 2371m² in the Retail Strategy) of which 66% is unoccupied, there is a need to justify the location of a retailing operation on this defined out-of-centre site which would be the equivalent to almost 50% of this unoccupied space which is centrally located and includes the new Riverview development (total retail space component shown to be 1311m²) Additional unoccupied retail space is shown to be approximately 1190 m².

2.2.7

The site is not located within the central area (Main Street) and is sited on a main arterial which exits the town to the south. The area is predominantly residential and the land is in agricultural use and is zoned for future residential (as is the appeal site). There is no accommodation in the established landuse pattern in the area or the development plan's proposed landuse pattern for an out of centre commercial centre development that would include retailing of the type proposed. Development of the type proposed is therefore not consistent with landuse development provisions for the area.

2.2.8

The site has good accessibility and is reasonable convenient to the eastern portion of the central area. The site is not, however, integral to the core area and is located in what is the surrounding residential urban area between the core of the village and the main transportational corridor (motorway) which determines the extent of the community to the south.

2.2.9

Given the sequential test assessment, it would appear that a large development scheme of the scale of the initial proposal could not have been accommodated within the central area and there are grounds to justify alternative site location out-of-centre all other matters being acceptable.

In the context of the subsequently revised downsized scale of the proposal, the sequential test findings are somewhat invalidated and thus less persuasive. The applicant did not provide a 'downsized retail impact assessment' which might have addressed this matter.

The sequential test analysis should be revisited on the basis that alternative ‘in centre’ sites may now be suitable for such a modified retailing proposal. Any decision to grant approval for the revised downsized scheme would presume that such a report would support the proposed retailing element of this application. This may be an unsafe position to take and is not recommended.

Capacity of the site

2.2.10

The site is physically large enough to accommodate the development and its associated works. Public utilities are available and traffic and access is not considered to cause any likely serious difficulties. The indicative proposals to extend access to the rear are noted and the proposal in the physical development context will not prejudice proper development of adjoining lands.

Provided normal controls and design criteria are adopted and management provisions put in place the site have the capacity to cater for the development.

Impacts on receiving environment

2.2.11

The development will have some affects by way of noise and disturbance, particularly by way of traffic, on local residential amenities. Deliveries are located at the southern end of the site and are substantially removed from any houses. Separation distances are over 45 metres and there is an intervening main arterial route between site and house. The separation distance at the northern side of the site is estimated to be 23 metres. The proposed medical care centre adjoins. It is unlikely that noise levels will exceed ambient values already established in the area by passing traffic.

No other significant issues arise that cannot be addressed through normal procedures.

Medical centre

2.2.12

The medical care centre raises similar issues to that which arise in relation to the retailing proposals regarding landuse zoning provisions. The LAP is however more specific and supportive of medical centre development on this site. This is a service that should have a central location or be justified through a sequential test. The sequential test in this regard has shown that a centre in this location may be justified.

2.2.13

The medical care centre is an inextricable part of the overall application. The medical centre thus cannot be considered as a stand alone element of the proposal that can be assessed separately from and independently of the larger project. The overall development, as a single scheme, is difficult to justify within the context of landuse objectives, central area sustainability and support for investment already made in central areas renewal programmes.

2.2.14

The nature of the application which integrates both proposals as a single application would indicate that if one of major elements of the proposal fails then the whole application fails. Furthermore, the supporting infrastructure for the scheme, including roads, water and sewerage services, telecommunications cabling and surface water attenuation and disposal have been proposed in relation to the entire site’s development of the larger scheme.

On this basis it is not possible to consider a separate permission for the medical centre without substantially and significantly departing from the original nature and content of the original application. It is felt that such permission would be materially different from the application if permitted.

2.2.15

Furthermore, the development of the medical centre as a separate facility without an attendant proposal for neighbourhood shopping, may be regarded as being inconsistent with the objectives of the development plan which seeks both types of landuse developments in mutual support one for the other. The medical care centre and shopping facility are not therefore considered to be independent one upon the other.

Masterplan

2.2.16

It is considered necessary to note that the application includes a notional 'Masterplan' proposal. The adoption of a masterplan for the area may resolve the matter of detailed landuse allocation within the larger area that may include provision for larger scale retailing. There are processes and procedures to be adopted, managed and fulfilled, which includes substantial and essential community consultative involvement. The notional masterplan proposals submitted within this application cannot be presumed to have any significance and therefore have no useful contribution to make to this appeal.

2.3

SUMMARY & CONCLUSION

2.3.1

The summary follows:-

- The retailing development proposal is contrary to the residential zoning provisions of the area which excludes all larger scale shopping developments
- The site has a specific planning objective O-KB16 which indicates that the site is suitable for neighbourhood shopping and a medical centre
- The development plan does not zone this site for 'Neighbourhood Centre' retailing nor does the specific objective affecting this site (O-KB16) indicate that the site is suitable for a neighbourhood shopping centre
- The retailing objectives contained within the development plan's zoning matrix is considered consistent with local shopping facilities and this is regarded as within the description of a 'convenience store' not exceeding 500m² of retail floorspace
- The development of the site for a neighbourhood shopping centre materially contravenes the development plan for the area which seeks to locate such centres in large centres of population where local retailing services are required
- The County Development Plan indicates that Kilbeggan is a 2nd tier settlement suitable for growth and the plan identifies that the community has had a substantial population increase in the period 2002-2006
- The initial development is of a scale that exceeds the existing capacity of the community to assimilate the development successfully. Projected catchment population statistics are considered optimistic. There is sufficient evidence that the future population catchment can support retailing of a scale in the mid-range (750m²)

- The revised downsized development may prejudice the uptake of available, suitable retailing and service space capacity within the central area and may therefore not meet sequential test criteria
- The development can be accommodated on the site without causing any serious or significant adverse effects on public safety or local amenities
- The medical centre is considered suitable for the site and is consistent with the planning objectives and zoning provisions of the area
- The medical centre, as an integral element within the larger application, dependant upon infrastructural works, services and facilities proposed in relation to the larger scheme, cannot be considered independently of, or separate to, the larger project

2.3.4

The conclusions follow:-

- All the retailing proposals submitted, including the downsized proposal which is the specific question of this appeal, are of a character that are not consistent with the planning objectives of the area which is to provide for neighbourhood shopping facilities within a residentially zoned area
- The provision of the medical facility may be considered as consistent with planning objectives and may be appropriate on the site subject to an appropriate planning application/permission

2.4

RECOMMEDATION

3RD Party appeal

REFUSE permission for the above proposed development based on the reasons and considerations set out in paragraph 2.5 which follows.

1ST Party appeal

Notwithstanding that the development of larger scale retailing may be justified on this site having regard to the future retailing catchment of the area and the capacity of the town to accommodate enhanced retailing functions of the type proposed, in the absence of appropriate sequential testing to establish justification of an alternative out-of-centre site of such a revised proposal, and with reference to the conclusions stated under paragraph 2.3.4 of this report that recommends that the development be refused planning permission, consideration of the 1st parties appeal against conditions is thus recommended to be dismissed and the condition retained.

2.5

REASONS AND CONSIDERATIONS (3RD PARTY)

1

The development is contrary with the landuse zoning provisions for the area which seeks to restrict large scale shopping landuse development such as the nature of the development proposed, and is in an area where development of this type is inconsistent with established zoning patterns and landuse. The development thus fails to conform to the landuse zoning provisions of the development plan for the area and is thereby contrary to the proper planning and sustainable development of the area.

2

It is the objective of the development plan for the area to protect, sustain and strengthen the vitality and viability of the town centre, through the consolidating of development and the maximising of the use of land.

Having regard for:-

- ~ The revised downsizing of the proposed development and its location in an out-of-centre location
 - ~ The limited size and retailing capacity of Kilbeggan and the availability of suitably located unoccupied retailing space within the central area
 - ~ The need to ensure such development's located out-of-centre would not undermine the central area's retailing viability and the associated vitality and vibrancy of the core area
 - ~ The need to ensure that such proposal's locations are justified by way of an appropriate sequential testing assessment
- and in the absence of such an appropriate sequential test, the Board is not satisfied that the proposed development would not prejudice the objectives of the development plan and the proposed development is thereby regarded as contrary to the proper planning and sustainable development of the area.

25/05/09

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