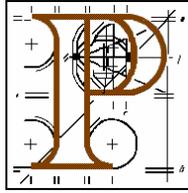


An Bord Pleanála



Inspector's Report

Development:

Permission for development of a retail scheme on 2.67 hectares located at the N5/Ballinalee Road, Lisnamuck, Co. Longford. The site is principally bounded by the N4 to the north, undeveloped lands to the south (the site of a concurrent application): the N5 Ballinalee Road to the east and undeveloped lands to the west. The development with a total gross floor area of approx. 10,996sq.m. arranged over two levels, will consist of an anchor retail unit comprising a convenience net retail sales area of 2,424sq.m. (including alcohol sales area), a comparison net retail sales area of 2,715 sq.m. and ancillary customer café. The development will also consist of administrative, office, staff, circulation and storage areas and 576 no. car parking spaces and bicycle parking spaces at surface level. (Access to the development will be from the N5/Ballinalee Road, which forms part of a concurrent planning application submitted to Longford Town Council). The development will also include an enclosed service yard: marshalling area: waste management and storage areas: switch-rooms: ESB substation: plant: landscaping and boundary treatments: lighting: internal roads: pedestrian walkways, vehicular and pedestrian access points: signage (including 3 no. totems, 2 no. 7 m high, 1 no. 9.2 m high); services provision: changes in level and all associated site development works above and below ground. The development will also include the widening of the N5 between the N5/N4 roundabout and the boundary with Longford Town Council to the south, from one to two lanes in each direction: the under-grounding of existing overhead electricity lines and the provision of associated infrastructure at N5/Ballinalee Road, Longford for Longford Business Park Ltd.

Site Address:

Lisnamuck and Templemichael Glebe, Longford

Planning Application

| | |
|-------------------------------|--------------------------------|
| Planning Authority: | Longford County Council |
| Planning Authority Reg. Ref.: | 09/379 |
| Applicants: | Longford Business Park Limited |
| Type of Application: | Permission |
| Planning Authority Decision: | Grant Permission |

Planning Appeal

Appellant: Luke Baxter
Longford Chamber of Commerce and Industry Ltd.

Type of Appeal: Third Party V Grant

Observers: CFO Construction
Mark Cunningham
Master Consultancy Bureau
Longford 2020

Date of Site Inspection: 17th September 2010

Inspector: Joanna Kelly

Appendices:

Appendix 1 Site Location Map
Appendix 2 Photographs and Site key Plan
Appendix 3 Retail Strategy, Appendix 5 of Longford Town Plan
Appendix 4 Map indicating appeal site relative to permitted retail developments in town centre.

1.0 SITE DESCRIPTION

- 1.1 The appeal site is ca. 2.67 hectares and is located in the townlands of Lisnamuck and Templemichael Glebe, north-east of Longford Town. The appeal site is located within the county council administrative area while the concurrent appeal (PL.235973) pertaining to the proposed road infrastructure is located within the town council administrative area. The site is bounded to the north by the N4, undeveloped lands to the south, undeveloped lands to the east that immediately abut the N5 Ballinalee Road and undeveloped lands to the west which abut the Camlin River. The appeal site forms part of the Longford Northern Environs Plan lands and it is noted that there is an extant permission for a mixed-use development which incorporates the appeal site. There is a permitted development which provides for neighbourhood retail units, retail warehousing, drive-through, car showroom, offices and residential on these environs lands which include the appeal site.
- 1.2 The Abbot Ireland (pharmaceutical) facility lies to the north of the site on the opposite side of the Ballinalee Roundabout/N4. Green Isle foods factory is located to the south of the appeal site and is accessed via an independent access off the N5/Ballinalee Road to the south. The Irish Prison Service building is located east of the N4 and is accessible via the N5. The area at present is generally considered industrial with dispersed housing in the immediate vicinity of the appeal site.
- 1.3 The site is currently a Greenfield site with ESB lines traversing it. The levels of the site rise gently from north to south. The site appears poorly drained. There is an existing vehicular entrance located along the N4/N5 Ballinalee Roundabout which does not appear to have been used for some time. This entrance and laneway would appear to have served agricultural buildings and Ashfield House and is located within the town council administrative area. There is a ringfort to the north-west of the appeal site where residential development was previously permitted adjacent to it.
- 1.4 The appeal site is a prominent gateway site on entry into Longford Town from the N4 Sligo-Dublin Road. There is a retail park located at the Red Cow Roundabout which is to the north-west of the appeal site. This retail park is referred to as 'The Axis Neighbourhood centre', and contains a vast range of uses and services such as restaurant, café, hard-ware store, Pet Store, Carpet Store amongst others. A number of units including larger units are also vacant. It is noted that there was a previous refusal on this neighbourhood site to convert a vacant retail warehousing unit to a discount store (PL.68.235354).

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 The proposal comprises of the development of a hypermarket with a total gross floor area of 10,996sq.m. arranged over two levels. Car parking is located at ground level with the store located at first floor level.
- 2.2 The hypermarket unit will consist of a convenience net retail sales area of 2,424sq.m. and 2,715sq.m. of comparison net retail sales area. There is also an ancillary café. The proposal also includes office, staff, administrative and storage areas. The proposed surface car parking area provides ca. 576 no. spaces.
- 2.3 An Environmental Impact Statement has been submitted with the application and is considered to comply with the requirements of Article 94 and Schedule 6 of the Planning and Development Regulations. It is noted that unsolicited information was submitted by the First Party in respect of traffic and has been duly noted. The retail impact assessment is attached as an appendix to the EIS and is discussed in more detail in the assessment.

3.0 TECHNICAL REPORTS

3.1 Planning report:

The Planner's report (unsigned) sets out that the development is divided between the administrative areas of Longford County Council and Longford Town Council and that the application is linked to a further proposed development located in the town core. The report summarises the proposal of each of the other concurrent applications. It is noted that the planning report sets out that a number of pre-planning consultations took place regarding the proposed development and the concurrent proposal in the town core. (Copies of pre-planning minutes are enclosed on the file. However, a cover letter submitted with the minutes, indicate that no formal pre-planning consultations were held under the planning acts.)

3.1.2 A number of submissions were noted by the planner in respect of the proposed development and the main issues raised were as follows:-

- Proposal is for an out of town store based on an outmoded car based design
- Previous application on the site in 2004 which was granted by the Board but with a reduced floor area.
- Site floods
- Proposal contravenes Retail Planning Guidelines and is not sustainable
- Design response to the road safety audit does not deal with all of the problems identified in the road safety audit stage 1.
- Proposal to join the link road with enters the site owned by another third party
- Support for the proposal so as to reverse the decline in retail performance.

3.1.3 The Planning report sets out relevant planning policy in relation to zoning, retail policy, and retail impact. Reference is made to the Northern Environs LAP which promotes *'linkages between the town core and the northern environs area of the town, enhancing both vehicular and pedestrian connectivity to the area through the southern spine road and parallel distributor road.'* The Planner sets out that the proposal is considered to be in accordance with the requirement of the zoning policy as it consists of a retail development that has been submitted in tandem with a proposal for the redevelopment of the town centre and also comprises a part of the parallel distributor road. The planners report indicates that the RIA sets out that *'given that the subject application is intrinsically linked to that of a parallel application for the redevelopment and regeneration of the area within the town core then it is not an application that can, or should be considered on its own merits for the purposes of the RIA. However, it is stated that it should be noted that the application wholly meets the tests of the sequential approach'*. It was recommended that permission be granted for the proposal.

3.2 Water Services Report

3.2.1 No objection subject to conditions. There are some conditions which raise concerns and the main issues are summarised as follows:-

- It is noted that there is a section of foul sewer and surface water pipe from the proposed development to the public network which have not been taken in charge.
- It is noted in the report that the surface water pipe referred connects to the River Camlin via an open drain. The pipe is undersized and there is evidence that it did not have sufficient capacity for the recent floods. Applicant is to investigate this and provide proposals for up-sizing of this section.
- It is noted that standard conditions relating to residential developments have been attached and are not relevant to this application.

3.3 Roads Design

This report indicates that further to a site inspection there are 17 items which required further details /plans to be submitted.

3.4 Environment

This report sets out conditions to be attached to any grant of permission.

It is noted that there were two external submissions received from prescribed bodies as follows:-

3.5 NRA

This submission sets out the following:-

- The design response to RSA stage does not deal with all of the problems identified in the Road Safety Audit Stage 1.
- The Road Safety Audit Stage 1 has not been taken to its logical conclusion.
- The Road Safety Audit Stage 1 identifies under Problem 3.3. 'the County Council proposals will ensure eventually that the speed limit of the N5 is maintained at a consistent 50 km/h for the entire link.' This would suggest that the proposed development is premature.

3.6 An Taisce

The proposal is for a significant 'out-of town' retail centre based on outmoded car based design with 576 spaces. Reference is made to '*Smarter Travel: A new Transport Policy for Ireland 2009-2020*'.

4.0 **PLANNING AUTHORITYS DECISION**

Longford County Council recommended a grant of permission subject to 20 conditions. Of particular relevance to this appeal is condition 2 in respect of a Section 47 agreement. It is also noted that Condition 20 seeks the payment of a special contribution.

5.0 **APPEAL GROUNDS**

5.1 Vitruvius Hibernicus on behalf of Luke Baxter

The Third Party appeal grounds are summarised as follows:

- There are three concurrent applications and this appeal should be read in conjunction with the two other appeal submissions.
- It is set out that this development is contrary to the aims, objectives, and policies of the approved development plan and the local area plan.
- Access to the proposed development is by private conversion of the N5 National Primary Road into a local service road (Reg. Ref. No. 09/41). The NRA response noted that the proposal was considered premature. The appellant submits that the proposal is premature pending the provision of a link road (which is approved) between the Red Cow Roundabout and the N5 Strokestown Road out of Longford.
- The appellant sets out that a large retail outlet may be constructed at out-of-town sites only if a corresponding development replaces the commercial void created within the town. It is set out that ca. 150 metres from the appeal site pertaining to File ref. No. 09/40/PL.235978 lies the empty and incomplete shopping centre at the Camlin Bridge. Stage 2 of this shopping centre on the south side of the river has not commenced. The town centre application 09/40/PL.235978 is unsustainable and if it is refused then this out of town centre must also be refused.

5.2 Longford Chamber of Commerce and Industry Ltd.

The Board should note that the third party in this instance has provided extensive detail under each of the grounds of appeal as to why the proposal is not considered to be appropriate. For the purposes of brevity, the grounds of appeal are set out as follows:-

- The proposal due to its nature and excessive scale is too large for the town of Longford and does not accord with the National Spatial Strategy or the Midland Regional Planning Guidelines. The proposal is of such a scale that it would be one of the largest stand alone hypermarkets in the country. It is set

out that the NSS specifically requires that Longford Town should be enhanced to drive development at county level only. Other towns have been identified in the National and Regional Strategies as regional centres to serve their particular regions.

- The proposal does not accord with the policies and objectives of the Retail Planning Guidelines 2005, the Longford County Development Plan 2009-2015, the Longford Town Development Plan 2009-2015 and the Longford Retail Strategy 2007. The proposed development is for a hypermarket on the outskirts of the town and the fact that the applicants are linking it to the proposed redevelopment of a town centre site is not relevant to the determination of this appeal. Section 7.11 of the Development Management Guidelines are referred to.
- The proposed development is situated on an 'out of centre' site as defined by the Department of Environment, Heritage and Local Government Retail Planning Guidelines for Planning Authorities. The appeal site cannot be classed as an edge of centre site as claimed by the applicants. It is situated ca. 1.5 kilometres from the town centre in the administrative area of the County Council.
- The proposed development does not accord with the principles of the sequential approach. From an assessment of the town there are other more suitable alternative locations within the town centre and on the immediate edge of town where the proposed development could be accommodated. The appellants identify three suitable sites a) Existing Tesco Site b) the new Longford Town Centre Scheme and c) the Old Creamery Site, Richmond Street.
- The proposed development would seriously injure the vitality and viability of Longford Town Centre. The appeal site is ca. 1.5 kilometres from the town centre and is physically disconnected from same with large areas of undeveloped Greenfield land between town centre and appeal site. There are a large number of vacant retail units within the town centre and the new Longford Town Centre Shopping Centre is completely vacant at present with two large vacant anchor stores and 21 other vacant retail units.
- There is not enough convenience retail expenditure capacity available within the catchment area of Longford Town to cater for the proposed development. The catchment area for the proposed development is unsustainable, does not reflect the status of Longford Town. The catchment area is too large given the position of Longford Town in the retail hierarchy of the midland region and given its location in close proximity to other centres of a similar size.
- There is a very real and serious issue regarding vacancy in the town centre. The proposed development will only exacerbate this situation. The appellants have provided a detailed qualitative assessment of the town centre and immediate edge of centre which identified a vacancy rate of ca. 17% within the town centre. This rate did not include the existing unoccupied units of the new Longford Town Centre Shopping centre.
- Condition 2 of the decision of Longford County Council is *ultra vires* in that it relates to the development of lands at a substantial remove from the site and does not directly relate to the development proposed. This condition relates to a proposal in the Town Council area (File Ref. No. 09/40) for the redevelopment of the Longford Shopping Centre Site and its prime intent is to ensure that the development of a hypermarket does not take place without the redevelopment of the town centre site. It is submitted that the redevelopment of the town centre site was considered to be a fundamental determinant in the decision of the council to grant permission for this permission, which is unacceptable in planning terms.
- A grant of permission in respect of the proposed development is contrary to Section 7.11 of the Development Management Guidelines. The argument behind the granting of permission is directly related to the idea of 'planning gain'. The appellant sets out that the 'planning gain' manifests itself by the redevelopment of this town centre site and through the provision of part of the 'parallel distributor route' needed to service the proposed hypermarket.

- The decision of Longford County Council in the case of this application is contrary to the judgement of the Supreme Court in the case of Ashbourne Holdings V. An Bord Pleanála and the County Council of the County of Cork (2003) where the judge made a number of judgements relevant to this application. It is contended that another applicant, of lesser means, who applied for permission as per Longford County Council (File ref. No. 09/379) but without the means to provide for the redevelopment of the town centre as per this application, Longford Town Council File ref. No. 09/40 would have been refused permission for the development due to its location of that proposed development on an out-of-town site. It is further set out that the Supreme Court Judgement means that there is no basis in planning law for the policy contained in the Longford County and Town Development Plans which provides for a considered grant of permission on lands outside the town centre in conjunction with regeneration works within the town core.
- The proposed development will not remove the through traffic on the National routes from the Town Centre but rather would have an adverse impact on the vitality and viability of the town centre. The problem of traffic congestion in the town centre is directly related to the convergence of a number of National Primary, National Secondary, and Regional Routes within the town core. Proper planning would seek to relocate 'onward' traffic and not to remove dedicated shopping traffic from the town centre to an out-of-town site. It is considered that the removal of the existing convenience store and the proposed redevelopment of the town centre site to provide for mainly comparison goods would negate the position of Longford Town Centre as the primary shopping location of the County and thus impact negatively on the vitality and viability of Longford Town Centre.
- The First Floor Plan, DRG NO. PI-201 is inaccurate and misleading in its delineation of the breakdown of the internal floor area. An accurate delineation would see the convenience floor cap of 3000sq.m. breached. The drawings do not delineate the convenience goods net retail sales space rather they deflect scrutiny by delineating the food sales area which are two different things.
- The appeal submission concludes by setting out that it is clearly evident that the proposed development is contrary to the proper planning and sustainable development of the area and request the Board to refuse permission.

6.0 RESPONSES

6.1 First Party Response to Third Party appeal of Luke Baxter

This submission is summarised as follows:-

- The proposed development is considered to comply with the aims, policies and objectives of the relevant statutory documents. It is submitted that the appellant has failed to submit how the proposal does not comply with the relevant policies.
- It is set out that the proposed road infrastructure is more substantial than is strictly required to serve just the proposed development. A significant portion of the parallel distributor road (proposed as part of the concurrent application) will provide a key piece of road infrastructure that will serve the wider Northern Environs area.
- The N5 currently acts as a main access route to and from the town as well as serving several residential, commercial/industrial developments.
- The third party submission appears to incorrectly associate the NRA observation on prematurity with the delayed N5 bypass (Red Cow Roundabout to Strokestown Road). The NRA observation did not raise any road capacity issue but instead referred to the 100km/hr speed limit along the N5 which has since been extended out.
- In relation to the town centre application and its link with the proposed development in this application, it is set out that the rationale for the developments have been set out in the applications submitted. The Section 47 agreement as required by condition will ensure certainty in respect of the town centre scheme. Further the town centre scheme is designed so as to

provide high end comparison shopping. Reference is made to the CPO confirmed by the Board and the associated recognition that there were extant retail developments permitted and even developed in Longford however the regeneration of Longford Shopping Centre and its expansion northwards to Great Water Street would be a key driver in the regeneration of the town core.

- A capacity assessment was submitted with the original application and it is submitted that a plan led development will assist with the regeneration of the town and serve to create conditions where a sustainable town centre can begin to emerge.

6.2 First Party response to The Longford Chamber of Commerce and Industry Ltd.

This response is quite lengthy and contains details that reiterate how the proposal is considered to comply with respective policy and objectives. Therefore the main points of the response have been summarised as follows:-

- Procedural issues are raised concerning the lack of clarity surrounding the nature of the appellant.
- The response sets out how the proposal is considered to be consistent with strategic policy framework. The role of Longford town and its position in the regional hierarchy were examined in the retail and Economic Statement.
- The response sets out that the proposal is for a hypermarket rather than a superstore as the net floorspace of the store is 5139sq.m. The convenience floor space complies with the requirement of the RPGs in that it is less than 3,000sq.m.
- A detailed policy appraisal of all relevant national, regional and local planning frameworks was provided in Section 2 of the Retail Impact Assessment. Reference is made to the concurrent appeal for the town centre site where it is set out that the proposal forms part of a new mixed use urban quarter in the town. Reference is made to PL.214376 and PL. 214355 where the Board permitted a mixed use development on the Northern Environs lands which also incorporates the appeal site. It is noted that the Board decision reduced the retail warehousing floor space by half to 4,300sq.m.
- It is set out that the proposal is not for a large retail centre and neither the NRA nor the Department of Environment objected. It is highlighted that the previous inspectors report in relation to PL.214376 and PL.214355 were satisfied that there were no adverse impacts on the N4 by-pass.
- This submission sets out specific responses to each of the policy objectives contained in the Retail Planning Guidelines and relevant policies contained in the Town and County Development Plan. The relevant policies and issues will be set out in detail in the assessment of this report.
- Details of three of the sites mentioned in the sequential testing have been further elaborated upon by the First Party.
- The First Party set out that it is planning policy that is the basis of connection between the two proposed developments hence the assertion that Condition 2 (Section 47 Agreement) is not *ultra vires*. The primary objective of the condition is to regulate the development and use of land actually being developed. A response is submitted in relation to the 'alleged planning gain'.
- It is highlighted that there is an NRA approved proposal to provide a new N5 bypass of Longford which will in the future remove through traffic from the town centre.
- In relation to the delineation of convenience floor area, the drawing PL201 does delineate the area to be devoted primarily for the sale of convenience goods. However a revised drawing PL203 has been submitted which clearly indicates the convenience and comparison sales area.
- The submission notes that the proposal will serve to significantly contribute to Longford town reasserting its traditional role, profile and attraction in county, region and inter-regional shopping patterns. The proposal is considered to be appropriate and complies with relevant retail objectives and policies.

- 6.3 Response of Third Party (Luke Baxter) to other Third Party appeal (Longford Chamber of Commerce and Industry Ltd.)
This response is summarised as follows:-
- Third Party concur with views in the other third party's appeal submission.
 - The N5 by-pass from the Red Cow Roundabout to the Strokestown Road is not to proceed in the foreseeable future and as such the development is premature.
- 6.4 Response from Vitruvius Hibernicus to the First Party Response made on 16th March 2010 in relation to Sean Lucy appeal on behalf of Longford Chamber of Commerce and Industry Limited.
Response is summarised as follows:-
- Issues of procedural matters in respect of whether the other third party appellant can make an appeal have been highlighted.
 - The response submission concludes that the other third party appeal nonetheless presents the same fundamental grounds for appeal presented by this third party.
- 6.5 Response from Sean Lucy & Associates Ltd. on behalf of Longford Chamber of Commerce and Industry Ltd. to the main issues in the response of the First Party response to the Third Party appeal from the Longford Chamber of Commerce.
- The response sets out that there is no question of validity over the appeal made by the Longford Chamber of Commerce.
 - The issues re-iterated in this response are similar to those already presented in previous responses and the main areas of concern are assessed in more detail in the assessment hereunder.

7.0 OBSERVATIONS

7.1 Stephen Little on behalf of CFO Construction.

This observation is summarised as follows:-

- Reference is made to the observer's position in that they have permission for a development of a site within the defined retail core of the town. It is set out that the proposed development is not in line with the proper planning and sustainable development of the area.
- It is set out that the proposed development represents an inappropriate form of development for the location proposed and is excessive in scale.
- Reference is made to national and regional guidelines and how the proposed development is considered to be at odds with such guidelines.
- The observation sets out that the proposed development is located some 1.5 kilometres from the town centre and the site is considered to be an 'out-of-centre' site, therefore representing a car based design proposal. The applicant's sequential testing is considered flawed due to the reasoning presented for disregarding sites located within the town centre.
- It is set out that there is a large tract of undeveloped land between the subject site and the town centre reaffirming the application sites 'out-of-centre' location. The observation goes on to expand on the issue of vitality and viability of the existing town centre and that the proposed development would not link effectively with the existing town centre.
- The proposed development would redirect consumers out of town centre and would result in leakage of retail expenditure out of the town centre.
- Concerns are expressed in relation to Condition 2 requiring a Section 47 agreement and its relevance to the development permitted. It is set out that Condition 2 is ultra vires as the condition does not directly relate to the permitted development or land adjoining the application site. The only reasoning for the condition is to ensure that the development of the 'out-of-town' large convenience store does not occur without the redevelopment of the town centre site.

- Reference in the observation is also made to the architectural treatment of the proposed development. The development would be located at an important transport gateway to the town and adds nothing to the area.
- The observation concludes by re-iterating points already set out and requests that the development is refused.

7.2 Mark Cunningham

This observation is summarised as follows:-

- The observation sets out the disappointment with the negative appeal made supposedly on behalf of the business community of Longford which is not representative of the vast majority of the Longford Business community.
- The retail developments proposed are a direct plan-led response to those policies and frameworks.
- The observation sets out that the best location for a large convenience store is on a site with good access with lots of free parking.
- It is contended that the priority for Longford must be firstly to modernise its existing, active and centrally located shopping centre. Thereafter, a positive impact would disperse throughout the town centre.
- The observation concludes by stating that Longford needs investment in modern shopping facilities and the proposals are considered to be well considered so as to transform the town into an attractive vibrant centre.

7.3 Master Consultancy Bureau

This observation is summarised as follows:-

- Longford needs to reverse the decline in its retail performance and to reverse expenditure leakage.
- It is set out that the proposal in conjunction with the redevelopment of the town centre appears to provide a framework for attracting the major retailers to invest in Longford by identifying and seeking to provide for what retailers require.
- The observation supports the proposal in this appeal.

7.4 Conroy Crowe Kelly Architects on behalf of Longford 2020

This observation is summarised as follows:-

- Longford 2020 would like to voice their support for the proposed development subject to appeal.
- It is considered that the proposed investment is necessary if the town is to function as a regional centre.
- It is set out that the new developments propose to provide retail units of adequate size and design which will cater for the modern retail chains.
- It is requested that the Board uphold the decision to grant permission.

8.0 **PLANNING HISTORY**

8.1 There are two extant permissions pertaining to lands at this location which incorporate the appeal site:-

File ref. No. PL.214376 and PL.214355 Both of these applications were granted on appeal for a mixed use development on the northern environs lands which incorporate the appeal site. PL.214376 pertains to county council lands and includes the retail warehousing units which is where the proposed hypermarket would be located. PL.214355 pertains to the uses/structures proposed on the Town Council lands and it is noted that a mixed retail building comprising of 700 sq.m. of neighbourhood retail and non-retail services was permitted.

8.2 Of relevance to this appeal are permitted developments located within the town centre which are referred to hereunder:-

File ref. No. 218750 (File ref. No. 06/21) Decision upheld on appeal for the construction of a shopping centre comprising an anchor store, 14 retail units, an enclosed mall area, public toilets, management facilities, stockroom/staff facilities, restaurant, office, crèche, medical clinic, service yard, 419 car parking spaces, et al together with a road link between Connaught Road and Little Water Street. This site is located at Connaught Road, Richmond Street, Longford Town. A revised proposal was submitted to the Board proposing a reduction in the total gross floor-space, external car parking, the anchor store floor space and the number of retail units. This site is identified as Site 5 in the Retail Impact Assessment submitted with the planning application and appeal documentation.

9.0 RELEVANT PLANNING POLICY

9.1.1 National Spatial Strategy

Longford Town is identified in the NSS as a county town with 'urban strengthening opportunities'.

9.1.2 Retail Planning, Guidelines for Planning Authorities, 2005

The Guidelines set out a number of policy objectives which include the incorporation of clear policies and proposals for retail development in all development plans, to facilitate a competitive and healthy environment for the retail industry of the future, to ensure accessibility to customers by promoting forms of developments which are easily accessible and to support the continuing role of town and district centres. The guidelines also set out a final objective which is a presumption against large retail centres located adjacent or close to existing, new or planned national roads/motorways.

9.2 Regional

9.2.1 Midlands Regional Planning Guidelines

The Regional Planning Guidelines set out that they are about building on and enhancing the competitiveness and attractiveness of the region that comprises the four Counties of Laois, Longford, Offaly and Westmeath. This will be achieved by focussing on:

- Building up the "Critical Mass" of the region in terms of economic strength, employment, education and population,
- Developing and strengthening the identity of the region,
- Providing better transport and communications connections within the region and between the region and other regions,
- Ensuring both rural and urban areas play their full roles in driving the development of the region in a balanced and sustainable way.

9.3 Local

9.3.1 Longford County Development Plan 2009-2015

Chapter 4 of the County Development Plan refers to economic development. This section sets out that '*it is vital that Longford Town, as the county's principal urban centre continues to develop its retail function to meet expanding shopping needs and to ensure a healthy and competitive retail environment.*'

Section 4.3.6 sets out that '*in order for Longford Town to compete effectively with other urban centres of a similar scale, it is imperative that sufficient high-end comparison shopping is in place in the town core area. The retail strategy review has identified the need for a significant growth of comparison retail provision up to 2015 to address this deficiency and enhance the retail profile of the town core...*'

9.3.2 Longford Northern Environs Local Area Plan 2008-2014

This plan relates to lands on the northern environs of Longford Town overlapping the town council and the county council areas. It is set out that the LAP is required to

support the economic development of Longford, building on the strength of the existing industries which have recently located and expanded in this section of the town. The appeal site has a land use zoning objective 'employment/mixed use'.

Section 5.2 sets out that '*in accordance with the Longford County retail Strategy, convenience retail will only be considered at strategic sites under this zoning, where it can be clearly demonstrated that a substantial and appropriate redevelopment of the town core area can occur, that provides significant tangible benefits for the town including improved access circulation and car parking thus ensuring the continued vitality and vibrancy of the central area into the future*'.

9.3.3 Longford County Retail Strategy 2007-2015

The strategy identifies that there is scope for the county to improve and enhance the quantum and quality of its retail offer. It concludes that the development of retail offer particularly high end high street comparison shopping is vital if Longford is to remain competitive and to prevent expenditure leakage to centres outside the County.

The strategy includes a series of criteria against which all applications for significant new retail development should be assessed. It sets out that in Longford town all developments of or over 1,000sq.m. gross convenience and of or over 2,000sq.m. gross comparison should be tested by the criteria.

Of note in the strategy is the significant increase in retail warehousing from 2003 to 2007. Section 4.3.1.2 sets out results of a survey was to the main purpose of trips to the town.

10.0 ASSESSMENT

10.0.1 Having examined the file, the previous history files, considered local and national policies, inspected the site and the immediate environs and assessed the proposal and all of the submissions, responses and relevant documentation it is considered that the key issues in this case are as follows:-

- 10.1 Justification for the proposed development**
- 10.2 Compliance with Retail Planning Guidelines**
- 10.3 Design**
- 10.4 Traffic and Access**
- 10.5 Planning gain**
- 10.6 Archaeology**

10.0.2 It is noted that concerns were raised in respect of traffic and surface water drainage in the appeals/observations. However, as there are extant permissions for substantial mixed use developments, PL.214376 and PL.214355, the former of which incorporates the appeal site, it is considered that these issues have been considered previously and can be addressed by way of condition should the proposal be considered favourably. For clarity, it is noted that the proposed development in this application results in an amended roads layout to that previously permitted. However the access from the N4/Ballinalee Road is off a proposed new roundabout as previously permitted. An indicative future master-plan has been submitted, Figure 3.9, which sets out how the remaining lands could be developed (subject to a further planning application) should this proposed development be constructed.

10.1 Justification for the proposed development

10.1.1 The documentation submitted by the First Party with the planning application and the appeal sets out that whilst Longford is a town with many assets, it has lost its attractiveness as a shopping destination for convenience and high end comparison goods within its own catchment area. It is set out that the proposed developments (concurrent appeals as already detailed) will ensure the re-development and

expansion of the existing Longford Shopping Centre in the town core principally for high end comparison shopping, supported by convenience shopping. From review of details submitted it is considered that there would be a significant loss of convenience floor space within the existing shopping centre, which would appear from site inspection to be the primary attractor of people to this shopping centre.

10.1.2 It is set out by the First Party that the development of a modern shopping unit principally for the bulk weekly shop on an accessible and spacious site would also help meet the challenge of reviving the town as a retail destination. Significant weight would appear to be given to the reference in the Longford Northern Environs Plan 2008-2014 and the Longford Town Plan 2009-2015 supporting the development of a convenience store in an edge of centre location where it facilitates a development of high-end comparison retailing in the town centre in tandem with improved services. A Section 47 agreement has been included as a condition to ensure the development of the town centre site in conjunction with the edge of centre retail store.

10.1.3 The Longford Town Development Plan and the Northern Environs Plan do contain a reference as follows:-

"In accordance with the Longford County Retail Strategy, convenience retail will only be considered at strategic sites under this zoning, where it can be clearly demonstrated that a substantial and appropriate redevelopment of the town core can occur, that provides significant tangible benefits for the town including improved access circulation and car parking thus ensuring the continued vitality and vibrancy of the central area into the future."

The appeal submissions raise concerns regarding the validity of this policy. However, it is the opinion of this inspector that the aforementioned reference as quoted and referred to by the First Party in the documentation submitted, is not a specific policy but rather a statement. Whilst the redevelopment of the town centre in an appropriate manner would be welcomed, it is considered that it should not be at the expense of providing inappropriately located development elsewhere. It is also considered that the statement itself is unclear and provides no definition as to what 'significant tangible benefits' would have to accrue. In any event, both the Longford Retail Strategy and Longford Town Plan clearly set out the importance of continued vitality and vibrancy of the town centre area. The First Party is considered to have given undue weight to a reference in both plans for the possibility of an edge of town retail development and it is this reference that appears to be the substantive justification for the proposed development. It is contended that the subject site which is zoned as an employment/mixed use area will '*represent a beneficial asset that will have the capability of satisfying the retail requirements of the increasing population..*'. It is contended that the location of a modern large convenience trolley based store is not feasible within the town centre where floor plates are smaller than required and parking and traffic difficulties arise. The latter is discussed in more detail further on in this report.

10.1.4 It is set out that the proposed developments would create in the region of 137 no. full time jobs along with a number of part-time jobs during the construction phase and a further 171 gross indirect jobs. It is contended that the proposal would benefit the locality however it is considered that the creation of employment in this instance focuses specifically on the short-term construction employment phase where there would be no guarantee that local construction workers would be employed. The long-term benefits of the proposed scheme are not detailed.

10.1.5 With regard to the justification for the proposed development, it would appear that the primary argument put forward for the proposal is based on the reference in the Longford Environs LAP and the Longford Town Plan that an edge of town retail development would be considered should the town centre site be re-developed. However it is considered that this is not justification in itself. There should first and foremost be a need for the proposed retail store. It would appear from an analysis of the Retail Planning Strategy for Longford town, that the need for additional

convenience floor space is minimal in the short-term and rises to ca. 10,000sq.m. up to 2020. The RIA submitted indicates as per the Retail Strategy for Longford town that there is a requirement for between 3,000-7,000sq.m. of convenience floor space and between 7,000-16,000sq.m. of comparison in the County over the period 2007-2015. The RIA carried out by the First Party contends that if *'Longford Town is to realise its potential in regional shopping patterns then comparison shopping should be the main reason for shopping in the town centre'*, however the RIA also acknowledges that *'convenience shopping is a key attraction of the town centre'*¹. However the proposal in this application essentially seeks the re-location of an existing anchor store 'Tesco' from the town centre to an 'out-of-centre' site. Therefore the proposal could result in the loss of a convenience store which is indicated as being the first choice for main food shopping for 51% of respondents in the 2007 survey. Application details have set out that the existing anchor store could be occupied by either a convenience or a comparison store hence there is no certainty that a convenience anchor store would be retained on a prime town centre site. The Retail Impact Assessment itself indicates that *'the decline of the town core as a convenience shopping location has continued to grow, largely because of the poor quality of the offer.'*² It is set out that the parallel application (concurrent appeal PL.235978) seeks to address this issue through the incorporation of a quality convenience offer. It is therefore considered that the proposed hypermarket with a convenience floor area of that proposed would effectively have an undue negative impact on the existing vitality and viability of the town centre of Longford.

- 10.1.6 The proposal in this instance, having regard to the documentation presented in this appeal and all concurrent appeals, is that the existing convenience store located in the town centre would be re-located to the edge-of-town should permission be granted. It is acknowledged that there maybe restraints within the site from which the existing anchor tenant is operating, however justification for the re-location should be clearly demonstrated. It is therefore considered that the sequential test is of critical importance so as to establish whether or not the proposal could reasonable be accommodated for within the existing town centre.

10.2 Compliance with National Policy

- 10.2.1 The Retail Planning Guidelines for Planning Authorities, 2005 clearly set out that a sequential test should be done where it is proposed to locate retail development on sites other than those located in town centres. The proposal in this instance is for a retail store to be located on what is referred to by the First Party as an 'edge-of-centre' site. The Longford Town Plan identifies the town centre, town core and edge of centre areas. The appeal site is just within the 'edge-of-centre' area identified as per the definitions provided in the Longford Town Plan. However, the Retail Planning Guidelines 2005, (Paragraph 25) set out that the preferred location for development is within town centres. Thereafter, it is only where no development sites are available within the town centre should an 'edge-of-centre' and then an 'out-of-centre' development be considered. Having regard to the provisions of the Retail Planning Guidelines, it is considered that the appeal site is not an 'edge-of-centre' site but rather an 'out-of-centre' site. The hatched red area identified in Appendix 5 of the Longford Town Plan is considered to constitute the town centre area, the blue line would appear to this inspector to represent an 'edge of centre' area and anything thereafter would be classed as an 'out-of-centre' site. The definition of an edge-of-centre location is *'a location within easy walking distance (usually not more than 300 to 400 metres) of the primary retail area of a town centre, and providing parking facilities that serve the centre as well as the new development thus enabling one trip to serve several purposes'*³. The appeal is located ca. 1.2 kilometres from the town centre and is just located within the urban boundary as identified in the Longford Northern Environs Plan 2008-14 and therefore is considered to constitute an 'out-of-centre' site.

¹ p23, Retail Impact Assessment

² p46, Retail Impact Assessment

³ P44, Retail Planning, Guidelines for Planning Authorities, January 2005

- 10.2.2 With regard to sequential testing as provided for in the Retail Planning Guidelines, the First Party, in Appendix 18.1 of the EIS submitted, have outlined a summary of nine alternative sites that were considered. The first to be considered is the existing site of the convenience store in the Longford Shopping Centre. The assessment concludes that the site is not suitable for the proposed development due to accessibility, site size constraints and policy objectives for the site. No information has been submitted as to why the store format could not be reconfigured to suit the site. Further, the site within the town centre has been identified for urban regeneration and as such could be re-developed to accommodate the tenant. There is no precluding policy in the town plan to prevent the convenience store from operating at this location. It is also considered that access is not an issue per se, as there is good pedestrian connectivity as acknowledged by the First Party. There are also four streets from which the site can be accessed by vehicles. It is considered that no substantial justification for the re-location of the existing store from its current site in the existing Longford Shopping Centre has been presented, other than the First Party highlighting that the relocation would help ensure the delivery of more high end comparison shopping in the town core. Whilst there is a need for more middle to high end comparison shopping as identified in the retail strategy, it is also noted that there are many vacant structures along the Main Street, including an existing unoccupied shopping centre and a site with extant permission for further retail development on the former Creamery site.
- 10.2.4 Pursuant to a site inspection it was noted that there were several vacant units within the town centre which were noted as being potentially capable of accommodating the proposed development. The First Party dismissed many of these sites as being unsuitable due to access problems or that they were unavailable. The existing constructed shopping centre at Bridge Street is currently vacant (See plate 17) and is considered to have floor space that would cater for the proposed development. Further as the existing shopping centre is currently vacant, there is an opportunity for the anchor store to be re-configured to accommodate the needs of the applicant. The First Party also indicated in the sequential test that they have an issue with access. However it is considered that access is not an issue given that this existing development has been through the planning process and subsequently secured permission. No documentation has been submitted to clearly substantiate the claim that the site was unavailable.
- 10.2.5 There is permission for a shopping centre (PL.218750) within the town centre area (Site 5 in Site Sequential Appraisals) which also would have offered an option for re-location. It appears that the First Party dismissed the site on the basis of not being available. However no details as to why the site was not available have been submitted other than that the site has permission and therefore was discounted from any further consideration.
- 10.2.6 In summary, having examined details submitted regarding the sequential testing, I remain unconvinced that the proposal for the convenience store of a such a scale which is mainly car dependent requires to be located on the appeal site which is considered to be a substantial remove from the existing town centre. The sequential test appraisal carried out by the First Party fails to demonstrate that there is no option but to accommodate the proposal on the appeal site in question. There are at least three town centre sites (one of which is the existing site where the anchor tenant currently operates from), which are considered to be suitable. The applicant has failed to demonstrate any willingness to re-configure the store format so as to remain within a town centre location. The Retail Planning Guidelines clearly set out that *'retailers should be prepared to make reasonable compromises and, if possible, adapt standard development formats in order to accommodate retail schemes on sites which are well located in relation to the sequential approach to retail development'*⁴. Further, it would appear that some of the sites were discounted on the

⁴ Paragraph 61, Retail Planning Guidelines for Planning Authorities, 2005.

basis that permission was sought by other third parties. Documentation clearly demonstrating how the first party sought to acquire/potentially acquire suitable sites should be have been provided so as to clearly demonstrate that such sites were not available within reason.

10.3 Design

10.3.1 The appeal site is located on a prominent site which is bounded by the N4 to the north. The site is located between the Red Cow Roundabout and the N4/Ballinalee Roundabout and as such is considered to be a gateway site at the edge of Longford Town. Accordingly, it is critical that any proposed development on this site which has a land-use zoning objective 'mixed-use/employment generating uses' would be of very high quality and would create a sense of identity at this gateway location.

10.3.2 The proposal is for a retail store ca. 10 metres in height (excluding the basement). The design is synonymous with many other retail units located at edge of towns which do little to create a sense of identity or create a building of key visual interest at such a prominent site into the town. The structure has an industrial appearance and lacks any creative architectural expression indicative of the town and/or appeal site on which it is to be located so as to create a focal point at this strategic location. There are also totem signs proposed which would be relocated so as to be more discreet. In essence, the overall design is an inappropriate architectural response for the site.

10.4 Access and Traffic

10.4.1 The appeal sites contained in this application and the concurrent appeal propose to construct a new access off the existing N5/Ballinalee Road. This access would provide a distributor road north of the current 'Green Isle' site and would connect to an existing road south of the appeal site. The proposed road infrastructure which is being provided as part of this appeal and the concurrent appeal would appear to be proposed so as to ensure delivery of a vital piece of infrastructure as identified in the Longford Environs Development Plan 2008-2014. An indicative master plan as to how the remaining lands could be developed has been enclosed with the application and appeal.

10.4.2 Having regard to the extant permission on the appeal site and lands immediately south of the appeal site where a mixed-use development has been permitted it is considered that the principle of uses which generate significant traffic levels have been accepted. However the main concern with regard to the proposal is the mainly car-dependent nature of the hypermarket which would effectively serve a catchment area that is wider than the town itself.

10.4.3 It is noted that a third party indicated that the proposal was considered premature by the NRA. The application was referred to the NRA who responded by setting out that the design approach did not respond to the concerns of the road safety audit. Consequently the First Party submitted unsolicited information which comprised of transport assessment clarifications. A revised drawing T0001.PL1 was submitted to which it is stated that the concerns raised in the road safety audit have been addressed. In any event, it is considered that all final details in relation to the proposed road infrastructure should be the subject of agreement with the relevant planning authority.

10.5 Planning Gain

10.5.1 Appellants have referred to Section 7.11 of the Development Management Guidelines and more specifically to the issue of 'planning gain'. The purported planning gain in this instance would appear to refer to the proposal by the First Party to re-develop the town centre site (PL.235798) but only on the premise that the hypermarket application on lands to the north east of Longford Town is successful. It was set out in

each of the respective applications that the First Party's involved were amenable to a Section 47 condition being attached to the permissions.

- 10.5.2 The Development Management Guidelines in the last paragraph of section 7.11 set out that:-

"Elements of "planning gain" – not strictly required as part of the development but of benefit to the public (e.g. transfer of specified land or buildings for public use) – maybe accepted as part of permitted development. (In such cases, it may be appropriate to refer in the decision to specific application documents that set out the offer). However, it is important to ensure that the decision whether to grant or refuse planning permission is not contingent on an offer of planning gain".

- 10.5.2 Section 1.3 of the EIS submitted is quite clear in that it states 'both the subject town centre application and parallel applications for convenience format at Ballinalee Road will be joined by a legally binding agreement between the applicants of both schemes and both local authorities. This agreement provides for a timetable for the phasing and delivery of programme in the town centre, and for the new convenience format at Ballinalee Road.' Having regard to the fact that this appeal and the appeal pertaining to the town centre site (PL.235798) are in different applicant names, albeit sister companies as stated by the First Party, it is considered that there maybe concerns regarding the validity of the condition. Incidentally it is also noted that the landholding maps submitted with each of the applications do not make any reference to lands elsewhere within the applicant's ownership.

- 10.5.3 The First Party do appear to have given undue weight to following statement in the Northern Environs Local Area Plan:- *"In accordance with the Longford County Retail Strategy, convenience retail will only be considered at strategic sites under this zoning, where it can be clearly demonstrated that a substantial and appropriate redevelopment of the town core can occur, that provides significant tangible benefits for the town including improved access circulation and car parking thus ensuring the continued vitality and vibrancy of the central area into the future."* It is argued that the redevelopment of the town centre site will have benefits for the town by ensuring the delivery of high end comparison retail units. However appellants have cited the Ashbourne Holdings v. An Bord Pleanála case setting out that a developer of lesser means seeking permission on the appeal site in question and who would not be able to carry out the town centre development would have been refused permission for the hypermarket. Whilst it could be argued that there is a perceived 'planning gain' with regard to the overall development, the proposal in this application should be assessed on its own merits. As already discussed heretofore, it is considered that there are more appropriate sites within the town centre for the proposal. Furthermore there are permitted retail developments one of which is unoccupied which could potentially be reconfigured to accommodate the tenant. Therefore, in the absence of a justifiable reason for considering a grant of permission in this instance it is not considered beneficial to the assessment of the proposal to discuss the cited case law in any further detail.

10.6 Archaeology

- 10.6.1 Section 13.7 of the EIS makes reference to mitigation measures to be implemented during the construction phase of the proposed development. It is considered that should permission be granted in this instance then an archaeological condition requiring all subsurface works in the area of the proposed development be subject to full monitoring by a qualified archaeologist.

11.0 CONCLUSION

- 11.1 Having reviewed all of the documentation submitted with the application and appeal pertaining to the sequential test, it is considered that there are several options available within the town centre for the proposed development that appear to have been too readily dismissed by the applicant. First and foremost, the site where the convenience store is currently located, whilst being identified by the First Party as being too small to accommodate the proposal and suffers from traffic/access issues is

considered to be the most appropriate location for a convenience store. Whilst the existing store may have a smaller floor area to other recently constructed independent units of similar nature for this particular tenant, there is scope for the existing site to accommodate a larger store. Further it is considered that access arrangements, parking areas could also be addressed in any re-development of the town centre site. The appeal site in this application is considered to be an 'edge of centre' site departed from the main residential and town core areas. The appeal site is a gateway site and accordingly warrants an appropriate design response. The proposal is considered to be contrary to the proper planning and sustainable development of the area.

12.0 RECOMMENDATION

REFUSE permission for the above proposed development for the reasons and considerations set out below:

13.0 REASONS AND CONSIDERATIONS

1. The proposed retail development is located on the outskirts of Longford town which is considered to be an 'out-of-centre' site rather than an 'edge-of-centre' site. Under the Retail Planning Guidelines for Planning Authorities, issued by the Department of the Environment, Heritage and Local Government in January, 2005, sites in such locations can only be developed for large scale retail development where it has been demonstrated that the existing town centre will not be adversely affected. Having regard to the scale of the proposed development, its location in relation to Longford Town, the availability of alternative sites within the town centre, and the strategic location of the appeal site with regard to the N4 and N5 National Primary Roads, it is considered that the proposed development would adversely impact on the vitality and viability of the town centre to an unacceptable degree. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the prominent positioning of the appeal site along the N4 national primary road and at the entrance to area zoned for major future expansion (employment/mixed use) it is considered that the proposed development does not provide an appropriate architectural response in terms of design quality and layout of this key site. The design and layout submitted is lacking in any real sense of place or coherent design quality. The proposal would therefore be seriously injurious to the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Joanna Kelly
Planning Inspector
30th September 2010