



An  
Bord  
Pleanála

## Inspector's Report ABP-306321-20

### Development

The demolition (1,300 sq.m) of all existing structures including the boundary wall with the adjoining Tesco site and the construction of a café building (232 sq.m gross floor area) to be used for the preparation and sale of food and beverages for consumption on and off the premises. The proposal also includes 2 no. elevational signs (measuring 3.34m x 0.6m on the western and southern elevations), hard and soft landscaping proposals, external seating areas, 111 no. car parking spaces integrated with the existing Tesco car park and the reconfiguration of existing spaces to provide for Universal Access Spaces, bicycle parking spaces, all ancillary site services and site development works.

### Location

Dublin Road (R750) and Church Hill Road, Wicklow Town, Co. Wicklow. The Transport Logistics and Warehouse site.

<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	191094
<b>Applicant(s)</b>	Tesco Ireland Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party v. Decision
<b>Appellant(s)</b>	Tesco Ireland Limited
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	5 <sup>th</sup> May, 2020
<b>Inspector</b>	Robert Speer

## 1.0 Site Location and Description

- 1.1. The proposed development site is located at the junction of Dublin Road / Church Hill Road / Station Road, approximately 650m northwest of Main Street in Wicklow town centre, where it occupies a prominent position along a key approach route to the town. It has a stated site area of 0.525 hectares and comprises an amalgam of lands assembled from an existing logistics / warehousing facility (formerly in use as a 'Cash and Carry' premises) and a section of the car park serving an adjacent Tesco store. Its primary frontage adjoins Dublin Road (the R750 Regional Road) to the west whilst the irregular shape of the site extends alongside Church Hill Road to the northeast and behind a service station on Dublin Road which is presently undergoing redevelopment. At present, the wider site includes a large warehouse structure and a truck trailer parking area with a dividing wall separating it from the Tesco lands.
- 1.2. The Tesco store comprises a single storey construction surrounded by surface car parking (including that area of car parking within the confines of the application site) and is accessed via an existing entrance / exit arrangement from Dublin Road. That part of the site occupied by the existing transport logistics / warehousing premises is accessed via a separate entrance / exit from Dublin Road shared with the adjacent service station. There are cycle lanes on both sides of Dublin Road which extend north-westwards away from the town centre whilst there is also a sheltered bus stop and a pull-in bay on the opposite side of the roadway and a pedestrian crossing.
- 1.3. The surrounding topography is characterised by a relatively steep fall in the ground level towards the site from the northeast across Church Hill Road and towards Dublin Road, the level of the site being noticeably lower than that of Church Hill Road.
- 1.4. The immediate site surrounds include a community college to the south of Tesco, the Westmount Clinic (a two-storey building with off-street parking that includes a GP surgery and a pharmacy) opposite the site on Church Hill Road, and the Coral Leisure Centre and playing pitches further north (accessed from Station Road). The wider area is predominantly residential with commercial activity increasingly prevalent on travelling south-eastwards towards the town centre although there is a notable element of commercial development further north along Dublin Road,

including a 'Sports Direct' outlet and a Lidl foodstore (which have been zoned 'town centre').

## 2.0 Proposed Development

2.1. The proposed development consists of the following:

- The demolition of all the existing warehousing structures on site in addition to the boundary wall with the adjacent Tesco store.
- The construction of a café / coffee pod building (floor area: 232m<sup>2</sup>) for the preparation and sale of food and beverages for consumption on and off the premises.
- The erection of 2 No. elevational signs (measuring 3.34m x 0.6m) on the western and southern elevations.
- Hard and soft landscaping, including external seating areas.
- The provision of 111 No. additional car parking spaces to be integrated with the existing Tesco car park in addition to the reconfiguration of the existing parking area to provide for universal access spaces.
- All ancillary site services and development works.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. On 29<sup>th</sup> November, 2019 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 4 No. reasons:

- The proposed development is located at a visually prominent and important gateway location at the junction of Church Hill and Dublin Road, the main entry points to Wicklow Town. Having regard to the design, scale and the standalone location of the proposed café structure, forward of the established building line, it is considered that this structure would create a discordant, inappropriate and visually incongruous feature, which would be out of character with the surrounding development. The proposed development

would, therefore, be contrary to the proper planning and sustainable development of the area.

- Having regard to the proposed site which is located on the edge of Wicklow Town and notwithstanding the location of the site on lands zoned for Town Centre in the Wicklow Town – Rathnew Development Plan, 2013-2019, it is considered that the applicant has not demonstrated to the satisfaction of the Planning Authority that the proposed site would not have an unacceptable impact on the vitality and viability of the established core retail area of Wicklow Town. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- The site is located on lands zoned Town Centre ‘To develop and consolidate the existing town centre to improve its vibrancy and vitality with the densification of appropriate commercial and residential developments’, and where the maximum plot ratio / density for lands zoned town / village centre is 2.5 (25,000sqm of development / hectare). Having regard to the scale of development proposed and the size of the subject site, it is considered that the proposed development would represent underdevelopment of the site and piecemeal and uncoordinated development and would therefore militate against the development of a coherent and comprehensive redevelopment scheme for this important gateway and prominent site. The proposed development would, therefore, by itself, and by the precedent it would set for the development of other Town Centre lands in the vicinity, be contrary to the proper planning and sustainable development of the area.
- It is considered that the proposed car parking is in excess of the requirements of both the existing supermarket and the proposed café. The provision of excessive car parking unnecessarily increases the visual impact of the proposed development and results in a poor use of a strategic development site. The proposed development would, therefore, be contrary to proper planning and sustainable development.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

States that notwithstanding the land use zoning as 'Town Centre' or the established use of the property for retail purposes, given the site location on the edge of the town, and as the proposed café will not be ancillary to the existing supermarket, it has not been demonstrated that the proposal will not have a detrimental impact on the vitality and viability of the core retail area of the Main Street. Further concerns arise as regards the wider implications of the proposal for the future coordinated redevelopment of this key 'gateway' site. From a design perspective, it is stated that the overall quality of the proposal is deficient in light of the visual prominence of the site along a key approach route to Wicklow town. A subsequent addendum to the report of the case planner also states that the excessive provision of car parking proposed as part of the development will have a negative visual impact and represents a poor use of a strategic development site. The report thus concludes by recommending a refusal of permission for the reasons stated.

### 3.2.2. Other Technical Reports

*Roads:* Recommends that consideration be given to improving pedestrian access between the existing Tesco store and the access to the garage. It is also stated that road signage arrangements should be agreed with the Local Authority and that covered bicycle parking should be provided.

*Wicklow Area Engineer:* No objection.

## 3.3. Prescribed Bodies

*Irish Water:* No objection, subject to conditions.

## 3.4. Third Party Observations

None.

## 4.0 Planning History

### 4.1. On Site:

PA Ref. No. 10/3409 / ABP Ref. No. PL86.240380. Was granted on appeal on 16<sup>th</sup> January, 2013 permitting Tesco Ireland Limited permission for a development

comprising the demolition of all existing structures on site (including the Tesco supermarket of 2,656m<sup>2</sup> gross) and construction of a commercial development having a gross floor area of circa 6,874m<sup>2</sup>. The development comprises: (i) a separate high quality public plaza of 2,369m<sup>2</sup> linked into recently upgraded pedestrian routes/facilities located to the north west of the proposed store; (ii) construction of a two storey structure incorporating an atrium and car parking at grade and a retail area at first floor level. The retail unit will have a gross retail area of circa 4,994m<sup>2</sup> (circa 3,498m<sup>2</sup> net retail area), including alcohol sales area, at first floor level with staff facilities at mezzanine level (circa 374m<sup>2</sup>); (iii) a service yard at first floor level with marshalling area (circa 558m<sup>2</sup>); (iv) a café (circa 134m<sup>2</sup>) at first floor level; (v) circulation space to include an atrium at grade; (vi) 405 No. car parking spaces to be provided at ground floor level; (vii) the provision of a new 'service only' access from Church Hill Road to access the service yard; (viii) the development necessitates a revised road layout at the junction of Dublin Road and Church Hill Road including the provision of a new roundabout that will link Church Hill Road to the Dublin Road; (ix) provision of customer access by way of a signalised junction onto the Dublin Road (to replace the existing priority controlled access) and alterations to the road layout on Dublin Road, Churchill Road and Station Road to improve vehicular and pedestrian safety; and (x) an ancillary substation, signage (including 1 No. double sided internally illuminated totem sign), CHP unit, and ancillary plant.

- PA Ref. No. 18/22: Was granted on 6<sup>th</sup> March, 2018 permitting Tesco Ireland Limited an 'Extension of Duration' of PA Ref. No. 10/3409 / ABP Ref. No. PL86.240380 until 15<sup>th</sup> April, 2023.

## 5.0 Policy and Context

### 5.1. Wicklow County Development Plan, 2016-2022:

*Chapter 6: Centres and Retail:*

*Section 6.2.6: Strategy for the County's Centres:*

*Strategy for Level 2 – Major Town Centres: Wicklow Town:*

Having regard to the role and function of Wicklow as a 'Large Growth Town I' under the Core Strategy and to the significant population expansion planned for the future, there is a need for significant enhancement and expansion of retail floorspace and town centre activities to provide for the needs of the substantial resident and working population of the centre.

Wicklow Town provides for the 'big shop' convenience and comparison needs of a wide catchment including Rathnew, Ashford, Glenealy, Roundwood, Rathdrum and a significant rural population. This centre should provide a full range of all types of retail services from newsagents to specialist shops and boutiques, department stores, foodstores of all types, shopping centres and high level of mixed uses including the arts and culture to create a vibrant, living place.

*Section 6.3: Objectives for Centres and Retail:*

*RT1:* To ensure the continued vibrancy and life of centres, to direct new development and investment into towns and villages in the first instance and to particularly prioritise actions that enhance business, retail, leisure, entertainment and cultural uses, as well as making town and village centres an attractive place to live.

*RT2:* To improve the 'public realm' of centres through the encouragement of high quality civic design, including but not limited to the provision of attractive street paving, furniture, lighting and seating etc.

*RT16:* To promote an appropriate mix and balance of different types and styles of retail within centres and to control the number of bookmakers, off-licences (including off-licences in convenience stores), takeaways, 'cash for gold' and 'Pound' type shops, and other uses that can adversely affect the character of a centre.

The mix and balance of different types of retail (including retail services) is important to attract people to centres, and to ensure centres remain the main meeting point for the community. Too many of certain types of outlet can destroy the balance of a centre.

*RT17:* Conscious of the fact that planning has an important role to play in promoting and facilitating active and healthy living patterns for local communities, the following criteria will be taken into account in the

assessment of development proposals for fast food / takeaway outlets, including those with a drive through facility:

- Exclude any new fast-food / takeaway outlets from being built or from operating within 400m of the gates or site boundary of schools or playgrounds, excluding premises zoned town centre;
- Fast food outlets/takeaways with proposed drive through facilities will generally only be acceptable within Major Town Centres or District Centres and will be assessed on a case-by-case basis;
- Location of vents and other external services and their impact on adjoining amenities in terms of noise/smell/visual impact.

*Appendix 1: Development and Design Standards*

**5.2. Wicklow Town - Rathnew Development Plan, 2013-2019:**

**5.2.1. Land Use Zoning:**

The proposed development site is located in an area zoned as 'TC: Town Centre' with the stated land use zoning objective 'To preserve, improve and provide for town centre uses'.

*Description:* To develop and consolidate the existing town centre to improve its vibrancy and vitality with the densification of appropriate commercial and residential developments ensuring a mix of commercial, recreational, civic, cultural, leisure, residential uses, and urban streets, while delivering a quality urban environment which will enhance the quality of life of resident, visitor and workers alike. The zone will strengthen retail provision in accordance with the County Retail Strategy, emphasise urban conservation, ensure priority for public transport, pedestrians and cyclists while minimising the impact of private car based traffic and enhance and develop the existing urban fabric.

**5.2.2. Other Relevant Policies / Sections:**

*Chapter 4: Key Areas:*

*Section 4.2: Wicklow Town Centre:*

*Section 4.2.5: Enhancing the 'Public Realm*

*PR2:* To strive to improve the appearance of junctions and gateway areas into the main street of the Town centre, particularly the Marlton Road – Abbey Street junction.

#### *Section 4.2.8: Mix of Uses in the Core Area:*

In order for the Main Street to remain vibrant, it will be necessary to ensure an appropriate mix of uses. In particular, ground floors will be encouraged in all locations to incorporate commercial uses, particularly uses with active frontage such as shops and restaurants / cafés. Furthermore, in order to ensure activity at night, specific encouragement will be given to residential use of upper floors.

*MU1:* To support and facilitate activities and developments that will improve the vitality and vibrancy of the Main Street area.

*MU2:* Redevelopment proposals in the town centre shall generally be required to provide commercial use at ground floor / street level.

*MU3:* All non-residential floors will be required to be designed to be suitable to a range of users.

#### *Section 4.2.9: Retail Role of the Core*

#### *Chapter 5: Enterprise & Employment:*

*EMP7: Wicklow town centre:*

For Wicklow Town Centre to remain the hub of activity in the wider settlement and wider region, where people come together to work, shop, recreate and interact, high levels of employment must be maintained in the town centre. It is the objective of the Council to support and facilitate all forms of employment development in Wicklow Town Centre, particularly retail and retail services uses, in accordance the objectives and standards set out in Chapter 6.

#### *Chapter 6: Retail:*

##### *Section 6.2.1: Strategy for Wicklow Town - Rathnew*

##### *Appendix 'C': Retail Strategy*

The proposed development site is located within the 'Core Retail Area' of Wicklow Town as identified in Map No. 10.02 of the Retail Strategy.

### 5.3. Natural Heritage Designations

5.3.1. The following natural heritage designations are in the general vicinity of the proposed development site:

- The Murrough Special Protection Area (Site Code: 004186), approximately 340m north of the site.
- The Wicklow Town Sites Proposed Natural Heritage Area (Site Code: 001929), approximately 420m northeast of the site.
- The Murrough Wetlands Special Area of Conservation (Site Code: 002249), approximately 500m north of the site.
- The Murrough Proposed Natural Heritage Area (Site Code: 000730), approximately 500m north of the site.

### 5.4. EIA Screening

5.4.1. Having regard to the limited nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The proposed development aims to provide for a significant public realm improvement along a key strategic approach to Main Street in Wicklow Town through the removal of the disused structures on site, the provision of a high-quality café building with landscaping, and additional car parking facilities.
- The application aims to supplement the current retail offer in the vicinity and to provide for an improved shopping environment for customers of the existing Tesco store.

- The overall outcome of pre-planning discussions was generally positive with the Planning Authority appearing to support the principle of the development. Accordingly, the proposal was progressed taking into consideration the issues raised by the Planning Authority with provision made for an improved café design that included for increased glazing and the relocation of the 'back-of-house' areas. In addition, a masterplan was submitted as part of the planning application to demonstrate that the siting and positioning of the proposed café building would not preclude the principal components of the development previously approved under PA Ref. No. 10/3409 / ABP Ref. No. PL86.240380 e.g. the through-road and a redevelopment of the existing Tesco supermarket.
- There are concerns that the onerous reasons for refusal given by the Planning Authority may limit the options for a grant of permission on appeal. Therefore, the Board is requested to consider the application '*de novo*' and to assess the proposal on its merits.
- There would appear to be a number of inaccuracies and discrepancies in the report of the case planner. It has failed to acknowledge that the application site is located within the Core Retail Area of Wicklow Town as identified in the Development Plan and instead incorrectly refers to it as being '*located c. 500m from the Main Street which is the core retail area of Wicklow Town*'.
- The car parking requirements have been miscalculated by reference to Table 7.1 of the Wicklow County Development Plan. The report of the case planner has concluded that the proposed development will result in the over-provision of parking by 56 No. spaces, however, this figure is incorrect.

A total of 213 No. parking spaces are required for the development site as follows:

<b>Use Class</b>	<b>Parking spaces to be provided</b>	<b>Requirement</b>
<i>Restaurant dining room</i>	10 No. per 100m <sup>2</sup> GFA	Café (232m <sup>2</sup> ): 23 No. spaces
<i>Other retail (town / village, district / neighbourhood centre, large foodstore)</i>	4 No. per 100m <sup>2</sup> GFA  Large foodstores: 'food retail' (1 No. space per 14m <sup>2</sup> ), 'non-food retail' (1 No. space per 20m <sup>2</sup> ).	Supermarket (2,656m <sup>2</sup> ):  190 No. spaces
<b>Total</b>		<b>213 No. spaces</b>

At present, the existing Tesco store is only served by 113 No. parking spaces and thus is under-provided for in terms of car parking. The proposed development will provide for an additional 111 No. spaces resulting in a total of 224 No. spaces to serve both the existing store and the new café. In this regard, there will only be a surplus of 11 No. spaces over the requirements of the Development Plan.

The provision of the additional parking spaces will improve the operational efficiency of the Tesco car park, reduce the pressure on the existing entrance point, and provide a customer-friendly car park layout with easier access.

- Neither the Roads Department nor the Municipal Engineer objected to the proposed car parking provision.
- Whilst the case planner miscalculated the parking requirement and asserted that there was an over-provision of spaces on site, it was ultimately concluded that the additional parking proposed was acceptable in terms of traffic safety and accorded with the Development Plan.
- With regard to Refusal Reason No. 1:
  - The modern contemporary design of the proposed café will provide for an attractive and welcoming approach to the town centre when viewed from Dublin Road. The design, layout and orientation of the structure has been carefully considered to ensure strong active elevations onto Dublin Road and at the junction with Church Hill Road. The proposed café will be set back from the roadways and a landscaped buffer will

also be provided that will serve to significantly enhance the existing viewpoint at this important entrance to the town.

- There is no established building line or uniformity of design on the site at present.
  - Standalone café / restaurant units are an increasingly established ancillary feature of retail sites across the country.
  - Views into the site are presently dominated by disused buildings and a car park that is frequently used by HGVs. The proposed development will greatly improve the overall viewpoint and the external seating areas etc. will help create a people-centred space. The proposal will substantially improve the site in terms of both use and visual appearance. It will not result in the creation of a discordant, inappropriate or visually incongruous feature.
  - There is no legible character within the overall site at present and the existing buildings are disjointed, unconnected and of a poor design quality. The Retail Design Manual states that *'high standards of design should be the objective of all new development, whether in historic centres or edge-of-centre sites, and particularly where there are opportunities for new development to have a positive impact on areas previously characterised by poor design quality'*.
  - It is considered that the initial reason for refusal has exaggerated the nature and extent of the proposal and the existing character of the site. Instead, the design and scale of the proposal will make a positive contribution to the public realm and this approach to the town.
- In response to Refusal Reason No. 2:
    - Although the subject site may be considered as being located on the edge of Wicklow town, it is zoned as 'Town Centre' and is situated within the established Core Retail Area. It is not accepted that a café of the scale and form proposed would have the potential to impact on the role and function of the town centre or its vitality and viability.

- The modest standalone café proposed would not alter the relationship between the application site and the town centre which acts as a higher order comparison centre offering a range of ancillary facilities / services.
- The proposed development accords with Objective Nos. RT3 & RT6 of the Retail Strategy appended to the Wicklow Town - Rathnew Development Plan, 2013-2019. By reason of its location within the Core Retail Area and the provision of new landscaping etc., in addition to direct pedestrian linkages through the site and the enhancement and encouragement of linkages to the Main Street, the proposed café will add to the vitality of the town centre.
- The subject site is surrounded by a variety of land uses, including residential, educational, community / institutional and health facilities. The proposal will supplement the current retail offer in the area and will provide an improved shopping service for customers of the Tesco store. It is the applicant's experience that where a café is introduced, customers to the supermarket will avail of the enhanced offer and extend their stay at the centre.
- The proposed café will be ancillary to the existing store and will not form an attraction in itself. Similar standalone café / restaurant units have previously been granted on appeal under ABP Ref. Nos. PL09.245905 & PL08.248682 (with further examples having been approved by local planning authorities throughout the country).
- Due to its small scale and nature, the proposed café will be ancillary to the existing Tesco store and will not negatively impact on the Main Street. Furthermore, the improved range of services and facilities on site will be of wider benefit to the town centre by discouraging leakage from within the catchment to larger convenience outlets further afield.
- No third-party objections were received as regards the potential impact of the proposed development.

- With respect to Refusal Reason No. 3:
  - Although there is an extant grant of permission for the redevelopment of the existing Tesco store (PA Ref. No. 10623409), given fundamental changes to the retail environment that scheme is no longer appropriate and will not be delivered by the applicant.
  - The subject proposal has been designed to ensure that it will not preclude a future redevelopment of the overall site.
  - The proposed café has been positioned so as to facilitate the provision of a future through-road between Dublin Road and Church Hill as was permitted under PA Ref. No. 10623409.
  - The Retail Design Manual states that '*Where permitted in town centre locations, surface car parking should be shown to be capable of being redeveloped in the future for viable town centre uses*'. In this regard, it has been demonstrated that the location of the additional car parking on site (to the rear of the petrol station and screened by the café building) can form part of a future redevelopment of the site.
  - The proposal does not represent an underdevelopment of the site or piecemeal / uncoordinated development. The ancillary café building, carpark upgrade and the internal refurbishment of the existing Tesco store form an initial phase of development at this site which will improve the overall retail offer and customer experience in the short term.
  
- With regard to Refusal Reason No. 4:
  - The proposed car park will result in a surplus of 11 No. spaces over Development Plan requirements. The purpose of this additional parking is to improve the operational efficiency of the Tesco car park and to reduce the pressure on the existing entrance while also supplementing the present shortfall in spaces for the supermarket. In this context, the proposed surplus cannot be considered 'excessive'.
  - From a visual perspective, the car park will be screened from Dublin Road by the proposed café building and the existing service station.

- The accompanying correspondence from Pinnacle Engineers has concluded that the 4.7% surplus in car parking is reasonable considering local population growth, current design standards, and seasonal variations.
- In response to the concerns raised as regards the visual impact of the car park, the Board is referred to the accompanying alternative car park design (Drg. No. APL-600) which will provide a total of 195 No. spaces across the whole site pursuant to Development Plan requirements. The alternative design option to the front of the Tesco store will:
  - o Provide a more efficient internal layout resulting in reduced search times.
  - o The larger and more accessible spaces arising from the realignment of the existing car park, along with the removal of the internal roundabout, will reduce internal dwell times and the possibility of queuing onto the regional road.
  - o Enhanced pedestrian routes and additional cycle parking will encourage non-car trips to the site.
  - o The new boundary treatment and the proposed public realm improvements will make a positive contribution to the streetscape along the approach to the Main Street.
  - o The alternative car park design will provide for a safer environment for both pedestrians and road users.
- It is considered that the parking provision as initially proposed is adequate to serve the needs of the development and is acceptable by reference to the Development Plan, however, should the Board consider the level of parking excessive, the alternative proposal provides for car parking well below Development Plan standards but in a more customer-friendly and efficient layout.
- Whilst the Planning Authority has asserted that the proposal represents a poor use of a strategic site, it is reiterated that the applicant is not in a position to enact PA Ref. No. 10623409 in its current form given

fundamental changes to the retail environment. Instead, the subject proposal, in conjunction with internal improvement of the existing Tesco store, will enhance the quality of the shopping experience at this location and will not undermine the future redevelopment of the wider site.

## 6.2. **Planning Authority Response**

None.

## 6.3. **Observations**

None.

## 6.4. **Further Responses**

None.

## 7.0 **Assessment**

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- The principle of the proposed development
- Impact on the town centre
- Overall design and layout / visual impact
- Car parking
- Appropriate assessment

These are assessed as follows:

### 7.2. **The Principle of the Proposed Development:**

7.2.1. The proposed development site is located in an area zoned as '*TC: Town Centre*' with the stated land use zoning objective '*To preserve, improve and provide for town centre uses*' and in this regard I would suggest that the proposed café use is likely to be comparable with that of a restaurant (i.e. the preparation and sale of food and

beverages for consumption on and off the premises) and thus would be *'typically permitted'* in accordance with the land use zoning provisions set out in Table 13.2 of the Wicklow Town - Rathnew Development Plan, 2013-2019. Further support is lent to the proposal by reference to the explanatory note describing the purpose of the land use zoning which states that the aim is to develop and consolidate the existing town centre by encouraging a mix of commercial, recreational, civic, cultural, leisure and residential uses in order to provide for improved levels of vibrancy and vitality within that area. Similarly, Objective EMP7: *'Wicklow Town Centre'* seeks to support and facilitate all forms of employment development in Wicklow Town Centre, particularly retail and retail services uses (in accordance with the objectives and standards set out in Chapter 6: *'Retail'* of the Development Plan) whilst the retail strategy for Wicklow town promotes the enhancement and expansion of retail floorspace and *'town centre activities'* in Wicklow Town to enhance its role and importance as a County town centre. It is also of relevance to note that the application site is located within the *'Core Retail Area'* of Wicklow town and that the extant grant of permission issued under PA Ref. No. 10/3409 / ABP Ref. No. PL86.240380 (albeit as part of the redevelopment of a wider landbank) has already approved the development of a café on site.

- 7.2.2. Accordingly, having regard to the foregoing, in my opinion, the development of a café at the location proposed is acceptable from first principles, subject to the consideration of all other relevant planning issues, including any potential impact on the vitality and viability of the wider town centre.

### 7.3. **Impact on the Town Centre:**

- 7.3.1. In its assessment of the subject proposal, the Planning Authority has indicated that it is not satisfied that the proposed café will not have an adverse impact on the vitality and viability of the town centre or the established core retail area. In this respect, whilst it is acknowledged that the subject site is zoned as *'Town Centre'*, reference is made to the site location approximately 500m distant from the retail core of Main Street and to the overall scale and nature of the development as a standalone premises i.e. that it will not function in ancillary capacity to the existing Tesco store. In effect, the Planning Authority would appear to be concerned that the proposed café could represent a destination in its own right which would seriously injure the

vitality and viability of the historical town centre along Main Street and thus would be contrary to the proper planning and sustainable development of the area.

7.3.2. Following a review of the available information, and having conducted a site inspection, whilst the proposed development site is zoned as '*Town Centre*' and is included within the '*Core Retail Area*', I am inclined to suggest that the situation on the ground is somewhat more borderline. In its determination of ABP Ref. No. PL86.240380 the Board referred to the site location as being at the '*edge of the town centre*' and, in my opinion, the circumstances of the site remain broadly unchanged since that decision in that it occupies a location at the far edge of the town centre on lands that would accord with the definition of '*edge-of-centre*' (i.e. a location within easy walking distance of the primary retail area of a town centre) as set out in the '*Retail Planning, Guidelines for Planning Authorities, 2012*'. Notably, the '*Town Centre*' land use zoning is used in several locations which are removed from both the traditional town centre and the core retail area which, in my opinion, serves to undermine what is perhaps the principle purpose of the zoning i.e. the identification of the town centre proper. Similarly, I would suggest that the expansive delineation of the '*Core Retail Area*' beyond the traditional town centre / shopping area of Main Street (seemingly in order to include the existing Tesco store) raises some difficulties in that on travelling west / northwest beyond the junction of Marlton Road / Abbey Street the designation includes a significant area of intervening lands which are not used for retail purposes i.e. The Abbey ruins, Wicklow Tennis Club and the grounds of the Community College. Indeed, although the wider landbank of which the application site forms part was granted permission for a substantial redevelopment of the existing Tesco store, the majority of the subject site is not presently in use for retail purposes. Therefore, in view of the foregoing, and considering the physical separation of the site from Main Street, in my opinion, there is a degree of uncertainty as to its inclusion within the '*Core Retail Area*'.

7.3.3. At this point, I would refer the Board to the '*Town Centre Strategy*' for Wicklow as set out in Section 4.2 of the Town Development Plan which aims to reinvigorate the town centre in order to counteract the trade draw that has occurred from the change in the economy and to revitalise the tourism potential of the town with a view to making the town centre more economically viable and attractive to visitors. This strategy relates to that area shown on Map 4.1: '*Wicklow Town Centre Strategy*' and refers to

Wicklow's traditional town centre thoroughfare as extending from the junction of Marlton Road / Abbey Street to include Main Street, Fitzwilliam Square, The Mall, Market Street & Market Square before ending at the Courthouse / Gaol. Notably, the identification of the '*town centre*' in this strategy does not correspond with the '*TC: Town Centre*' land use zoning in that it encompasses a much smaller area whilst the '*Active Town Centre*' shown on Map 4.1 is even more narrowly defined as incorporating Main Street and the eastern extent of Abbey Street. Moreover, the town centre strategy principally focuses on the retail, tourism and commercial functions of Main Street and states that it will be necessary to ensure an appropriate mix of uses within this '*Core Area*' e.g. Objective MU1 aims to support and facilitate activities and developments that will improve the vitality and vibrancy of the Main Street area. Section 4.2.9: '*Retail Role of the Core*' of the Development Plan continues as part of the town centre strategy and identifies Main Street as the traditional retail area of the town before further stating that the continuation of its retail function is essential to its future viability and that a main street will require the passing trade of shoppers to maintain both the pure retail offer and other retail services such as banks, cafés, hairdressers etc. It reiterates that Main Street is the traditional retail area of the town and should remain as such with Objective RC1 seeking to support the function of the main street and associated side streets as the principal retail area in Wicklow.

- 7.3.4. Further support for the siting of developments such as that proposed along Main Street and within the traditional town centre would also derive from the desire to reduce vacancy rates within these areas and the potential for greater commercial synergy and shared trips.
- 7.3.5. Whilst I would accept that the foregoing considerations lend weight to the position adopted by the Planning Authority, in my opinion, they do not in themselves immediately render the subject site unsuitable for the café use proposed. In this respect, I am cognisant that although the application site is not located within the 'traditional' town centre or the '*Core Area*' of Main Street as referenced in the '*Wicklow Town Centre Strategy*', it has nevertheless been zoned as '*TC: Town Centre*' and is within the '*Core Retail Area*' as defined by both the Town Development Plan and the County Retail Strategy. The fact that there are multiple instances of lands having been zoned as 'town centre' despite their being physically

detached from the town centre 'proper' would also seem to suggest that the purpose of this land use zoning is intended to be given a broader interpretation. For example, the land use zoning would seem to reflect the established commercial use of the site and its wider suitability for such purposes with the development of a café at the location proposed being acceptable from first principles.

- 7.3.6. It is of further relevance to note that the development in question is not of a 'retail' nature and thus should not be assessed as such in terms of its potential impact on the main shopping street. In this regard, I would suggest that parallels may be drawn between the subject proposal and the increasingly common practice of siting cafés / restaurants in more peripheral / out-of-town-centre locations such as retail parks where they are considered to be a compatible use. Furthermore, although the 'Town Centre Strategy' aims to revitalise that area along Main Street by providing for an appropriate mix of retail, tourism and commercial uses etc., in my opinion, this is not to the exclusion of any such uses being accommodated at suitable locations elsewhere, with particular reference to those wider lands zoned as town centre where such uses would typically be permitted in principle e.g. permission was previously granted on appeal under ABP Ref. No. PL27.248178 for a restaurant/café at a site along Wicklow seafront c. 300m from Main Street on lands zoned as 'town centre' which are physically separate from the wider town centre zoning. It is also only reasonable to note that the proposal involves the redevelopment of an under-utilised site at a key location on the approach to the town centre.
- 7.3.7. In terms of the overall scale and nature of the proposed development, whilst I would acknowledge that the subject proposal differs markedly from the café previously approved on site under ABP Ref. No. PL86.240380 in that it involves a larger standalone premises as opposed to a unit purposively integrated into the main construction in order to function in an ancillary capacity to the principle retailing activity, and although the proposal has the potential to act as a destination in its own right, I would reiterate that the subject site is located within the core retail area on lands zoned as 'town centre' where a café / restaurant would typically be permitted. Accordingly, it is difficult to accept that the proposal will detract from the town centre when it has already been accepted by the Planning Authority in its Development Plan that it is located within the town centre.

7.3.8. On balance, having regard to the foregoing, and given the site context, I am satisfied that the proposed development will not have a detrimental impact on the vitality and viability of either the established core retail area or Wicklow town centre as defined in the Development Plans.

#### **7.4. Overall Design and Layout / Visual Impact:**

7.4.1. The proposed development site occupies a visually prominent position at the junction of Dublin Road / Church Hill Road / Station Road along a key approach route to Wicklow town centre and in this respect the Planning Authority has determined that the overall design and layout of the proposal is not of a sufficiently high quality as to warrant a grant of permission. Comparisons have been made to the character, form and finish of similar facilities located within business / retail parks, the design of which are not considered to be appropriate to this high profile gateway site at the entrance to the town centre.

7.4.2. Given the site context, and noting the emphasis in the Town Development Plan on the need to improve the 'public realm' and to ensure a high quality of urban design and form, I would accept the Planning Authority's desire to enhance the visual amenities of this approach road and to better the overall architectural treatment of the proposal, however, I am not of the opinion that the design as submitted would be so discordant or visually incongruous as to be out of the character with the surrounding pattern of development or to warrant a refusal of permission. In my opinion, the proposed construction represents a considerable improvement in architectural / aesthetic terms over the existing logistics / warehousing operation on site and provides for a focal point at the junction. Similarly, the design of the proposal is of more interest than both the adjacent service station and the existing Tesco store which presently serve to define this section of Dublin Road.

7.4.3. With regard to concerns that the scheme will serve to undermine / compromise the comprehensive future redevelopment of the wider landbank, I note that the applicant has indicated that it does not intend to undertake the development previously approved under ABP Ref. No. PL86.240380 due to fundamental changes in the retail environment. The proposal has also been accompanied by a possible future masterplan with a view to demonstrating that the siting and positioning of the proposed café building will not preclude the principal components of the

development previously approved under PA Ref. No. 10/3409 / ABP Ref. No. PL86.240380 i.e. the through-road and a redevelopment of the existing Tesco supermarket.

- 7.4.4. Clearly, it would be preferable to maximise the development potential of these prominent 'town centre' lands, however, it would appear that the applicant is not presently in a position to put forward more comprehensive redevelopment proposals for the wider landbank and that its intention is simply to remodel / refurbish the existing Tesco store in tandem with the proposed development. In this regard, given the limited scale and extent of the construction proposed, and noting the general benefits arising from the reuse of this underutilised property, I am inclined to suggest that the subject proposal is acceptable in this instance and would not unduly militate against the future development potential of the applicant's wider landbank.
- 7.4.5. By way of additional comment, I would advise the Board that the subject application has not been lodged as a revision or amendment of the scheme approved under ABP Ref. No. PL86.240380 and thus both the subject proposal and the approved development would be obliged to comply in full with the terms and conditions of their respective grants of permission. In effect, the two development proposals are standalone.

## 7.5. **Car Parking:**

- 7.5.1. The proposed development includes for the provision of 111 No. additional car parking spaces as well as the reconfiguration of the part of the existing Tesco car park in order to provide for universal access spaces. In its decision to refuse permission, the Planning Authority has asserted that the resulting expanse of car parking is in excess of the requirements of both the existing supermarket and the proposed café and that it unnecessarily increases the visual impact of the development and constitutes a poor use of a strategic development site.
- 7.5.2. In accordance with Table 9.2: '*Car Parking Standards*' of the Town Development Plan, the car parking demands of both the existing Tesco store and the proposed café can be calculated as follows (although I would caution that the existing supermarket pre-dates the aforementioned Plan):

<b>Use Class</b>	<b>Car Parking Spaces to be Provided</b>	<b>Requirement</b>
Restaurant dining room	10 No. per 100m <sup>2</sup> gross floor area	Café GFA (232m <sup>2</sup> ): 23 No. spaces
retail (district / neighbourhood centre, large / discount foodstore)	4 No. per 100 <sup>2</sup> floor area	Supermarket GFA (2,656m <sup>2</sup> ): 106 No. spaces
<b>Total Requirement</b>		<b>129 No. spaces</b>

7.5.3. However, Table 7.1: 'Car Parking Standards' of Appendix 1 of the Wicklow County Development Plan, 2016-2022 provides for a further breakdown of the parking requirements for 'Other retail (district / neighbourhood centre, large / discount foodstore)' as follows:

- Large foodstores: 'Food retail': 1 No. space per 14m<sup>2</sup>  
'Non-food retail': 1 No. space per 20m<sup>2</sup>

7.5.4. In this respect, it has been asserted in the grounds of appeal that the parking requirement for the existing Tesco store can be calculated as:

$$\text{GFA: } 2,656\text{m}^2 @ 1 \text{ No. space per } 14\text{m}^2 = 190 \text{ No. parking spaces}$$

7.5.5. Notably, the foregoing calculation is based on the entirety of the existing store being devoted to food sales and has not taken account of the lesser parking demand associated with any non-food retailing activities. From a review of the information previously provided with ABP Ref. No. PL86.240380, it would appear that some of the floorspace (c. 278m<sup>2</sup>) of the existing Tesco store has been allocated to the sale of comparison goods, however, I would suggest that the limited extent of this floor area will not significantly impact on the overall parking requirement (a crude estimation of the associated parking demand can be calculated as follows: 278m<sup>2</sup> (Non-Food Retail) @ 1 No. space per 20m<sup>2</sup>: 14 No. spaces + 2,378m<sup>2</sup> (Food Retail) @ 1 No. space per 14m<sup>2</sup>: 170 No. spaces = Total: 184 No. parking spaces).

7.5.6. The proposed development will provide for a total of 224 No. parking spaces to serve the existing convenience store and the new café.

- 7.5.7. On the basis of the parking standards set out in the Town Development Plan, it is apparent that the subject proposal will provide for a level of car parking considerably in excess of the minimum requirement (for the purposes of clarity, the Board is advised that Objective CP4 refers to Table 9.2 as setting a minimum parking standard). However, on application of the car parking standards set out in the County Development Plan, the excess parking provision is only in the region of 11-17 No. spaces.
- 7.5.8. Whilst I would concede the overall parking provision proposed is considerable and in excess of the Development Plan requirements, the parking area will generally be sited to the rear of the property and thus will be screened from view along the key route of Dublin Road in large part by the proposed café building and the neighbouring service station. Furthermore, although it would be preferable if the development potential of this prominent town centre site were to be maximised, I would reiterate that cognisance should be taken of the current site context and the broader benefits arising from the proposed reuse of this underutilised property. In this regard, I am not of the opinion that the visual impact of the proposed car parking area serves to justify a refusal of permission and I would repeat my view that the proposal will not unduly militate against the future development of the wider landbank.
- 7.5.9. With regard to the revised parking proposal submitted with the grounds of appeal, I note that this will involve works outside of the application site on adjacent lands retained by the applicant.

#### 7.6. **Appropriate Assessment:**

- 7.6.1. Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment within the built-up confines of Wicklow Town, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

## 8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be granted for the reasons and considerations, and subject to the conditions set out below:

## 9.0 Reasons and Considerations

- 9.1. Having regard to the site location on lands zoned as 'TC: Town Centre' within the defined 'Core Retail Area' of Wicklow town centre, the policies of the planning authority as set out in the Wicklow Town - Rathnew Development Plan, 2013-2019 and the Wicklow County Development Plan, 2016-2022 for the area generally, the planning history and existing use of the site, the pattern of development in the area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an appropriate form of development at this location, would not have an adverse impact on the vitality and viability of the town centre, would not seriously injure the visual amenities or character of the area, would be acceptable in terms of traffic safety and convenience, would not have significant adverse effects on the environment and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such

works and services. A grease trap shall be fitted on the kitchen drain to the satisfaction of the planning authority.

**Reason:** In the interest of public health.

3. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

**Reason:** In the interest of public health.

4. Prior to commencement of development, details of the materials, colours and textures of all external finishes to the proposed development inclusive of fascia treatment and signage shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interest of visual amenity.

5. No advertisement or advertisement structure, other than those shown on the drawings submitted with the application, shall be erected or displayed on the building or within the curtilage of the site in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

6. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

7. The permitted premises shall be limited to use as a primary sit-down café with any sale of hot food or beverages for consumption off the premises to be subsidiary. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no change of use of the subject premises from the hereby permitted use as a café shall occur unless authorised by a further grant of planning permission.

**Reason:** In the interest of clarity and to allow the planning authority to assess the impact of any subsequent change of use of the subject premises through the statutory planning process.

8. The hours of operation shall be restricted to between 0700 hours and 2200 hours Monday to Sunday.

**Reason:** To protect the amenities of adjoining properties.

9. The developer shall control odour emissions from the premises in accordance with measures which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of public health and to protect the amenities of the area.

10. Comprehensive details of the proposed lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.

**Reason:** In the interest of public safety and visual amenity.

11. Site development and building works shall be carried out between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

12. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste. In particular, the plan shall ensure that, during the construction phase, adequate off-carriageway parking facilities shall be

provided for all traffic associated with the development, including delivery and service vehicles/trucks, and parking for all construction workers.

**Reason:** In the interests of public safety and residential amenity.

13. A plan containing details for the management of waste within the development, including the provision of facilities for its storage, separation and collection shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste, in the interest of protecting the environment.

14. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

15. The developer shall pay to the planning authority a financial contribution in respect of the Wicklow Port Access and Town Relief Road in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement

of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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Robert Speer  
Planning Inspector

19<sup>th</sup> May, 2020