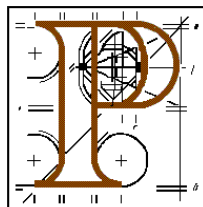


## An Bord Pleanála



## Inspectors Report

**Development:** Construction of 842sq.m. of retail shopping space at Prospect, Athenry, Co. Galway.

### Planning Application

Planning Authority: Galway County Council  
Planning Authority Reg. Ref. 15/701  
Applicant: Athenry Co-operative Livestock Mart  
Type of Application: Permission  
Planning Authority Decision: Refuse

### Planning Appeal

Appellant(s): Athenry Co-operative Livestock Mart

Observers: Don Ruane

Type of Appeal: First Party

Date of Site Inspection: 17/05/2016

**Inspector:** Gillian Kane

## **1.0.0 SITE LOCATION AND DESCRIPTION**

- 1.0.1 The subject site is located on the south-western side of Athenry town, approx. 900m east of M6 Motorway and 70m east of the train line. An electricity transmission line runs along the southern boundary of the site. The flat greenfield site is accessed via a newly constructed road serving the Lorro Gate residential estate. The Athenry Sports Grounds lie to the north of the area and the Athenry Shopping Centre is located to the east of the Mart complex.
- 1.0.2 To the north of the site is a row of detached and semi-detached dwellings, 5 of which are protected structures. To the north-west of the site is an area of unfinished residential development, separated from the subject site by a post and wire fence. To the east of the site is the Athenry Co-operative Livestock Mart. The Mart comprises a number of large open cattle and sheep pen sheds for the storage and showing of animals and a single storey office / sales building with surface car parking facing on to Prospect. A waste water treatment plant has been constructed to the rear of the cattle pen sheds. Access to the Mart site is directly off Prospect, with a road running south through the site and leading to an informal parking area to the rear of the pen sheds. The recorded monument GA084-112, disused quarry is located on the eastern side of the site.
- 1.0.3 Photographs and maps in Appendix 1 serve to describe the site and location in further detail.

## **2.0.0 PROPOSED DEVELOPMENT**

- 2.0.1 Permission was sought for the construction of a retail space of 986sq.m. GFA, 665sq.m. GFA of warehouse space and 61q.m. GFA of incidental office space, on a site of 1.202ha
- 2.0.2 The application was accompanied by a traffic survey and a cover letter.
- 2.0.3 Five objections to the proposed development were submitted to the Council.
- 2.1.0 Reports on File following submission of application**
- 2.1.1 **DAU of D.Arts, Heritage & Gaeltacht:** Proposed development lies in proximity to the medieval town of Athenry, recorded monument GA084-001 and its historic defences recorded monument GA084-0010001. Given the scale, extent and location of

the proposed development, it is possible that subsurface archaeological remains could be encountered during the construction phase. Archaeological monitoring is recommended and should be included as a condition of any grant.

2.1.2 **Architectural Conservation Officer:** Proposed development is situated adjoining the historic town centre of Athenry which is an ACA. Potential impact on the character of the townscape, including roofscape must be considered. Clarification should be sought as to final design in terms of height, scale, mass and finish. FI request should also include a visualisation of the building, including views into and out of the ACA.

2.1.3 **Roads and Transportation:** No objection.

2.1.4 **Planning Report:** Design detail is insufficient given location in an medieval town. Further details required regarding proposed uses. In the absence of a RIA, the impact of the proposed development on Athenry cannot be determined. In the absence of a Masterplan for the overall development, the proposed development is considered haphazard, an incongruous structure and an undesirable precedent. No TIA or RSA were submitted, required under DMStandard 24 of the CDP. The traffic count submitted serves no real purpose as it was a single day with no school traffic. Planning Authority has concerns that local road does not have capacity to accommodate traffic likely to be generated by proposed development. Full details of surface water disposal required. Refusal recommended.

2.2.0 An extension of time was granted to the applicant, following which unsolicited additional information was submitted to the Council. The UsAI comprised:

- Revised proposal details
- Retail Impact Statement
- Planning Statement
- Details of Soakaway

2.3.0 Following the submission of the UsAI, the **Planning Report** states that there is no provision for public participation in relation to the new information submitted and the recommendation to refuse remains.

### **3.0.0 PLANNING AUTHORITY DECISION**

3.0.1 By order dated 03/02/16 a notification of decision to **REFUSE** permission for the following reasons:

1. The proposed development would be premature pending the upgrade of the capacity of the public sewer and town wastewater treatment plant to serve the proposed development and to facilitate the orderly extension of Athenry. Therefore if permitted as proposed the development would materially contravene objectives DS5 and UI2 and the Athenry LAP 2012, objectives WW1 and DS12 of the Galway County Development Plan 2015-2021. If permitted as proposed the development would be prejudicial to public health, would pose an unacceptable risk to receiving waters, having the potential to adversely affect the integrity and conservation objectives of protected European sites for flora and fauna, and therefore would be contrary to the proper planning and sustainable development of the area.
2. Access arrangements have substantially departed from that originally proposed, with heavy truck vehicles indicated as accessing the site from the existing mart entrance, which is located outside the site boundary. Notwithstanding this, general access to the subject site is off a narrow local road which currently accommodates residential development only and an access point into the subject lands. Having regard to the capacity of this road, coupled with the scale and nature of the development proposed and in the absence of a Road Safety Audit, Traffic Impact Assessment (as required under DM standard 24 of the Galway County Development Plan 2015-2015) or an autotrack analysis for a HGV, it is considered that the development if permitted would seriously endanger public safety by reason of traffic hazard, obstruction of road users or otherwise and would be contrary to the proper planning and sustainable development of the area.
3. Notwithstanding the plans and particulars submitted including the Retail Impact Assessment carried out and noting the substantial departure from the original development proposal as advertised in the public notices (e.g. revised design, revised site layout, substantial increase in car parking, inclusion of storage and display area, revised access arrangements, changes to floor area and retail uses) and considering the lack of clarity regarding the intended retail use on site, the proposed potential amalgamation of retail use and retail warehousing on site, the scale and nature of the development proposed on these C2 zoned lands within a protected focal view, it is considered that the proposed development would be functionally detached and

removed from the town centre, is haphazard and non-integrated, would not therefore assimilate satisfactorily into the local environment and would materially contravene Objectives ED4, ED6, UD6 and DM Guideline ED2 of the Athenry LAP 2012. The development as proposed is also considered contrary to the Retail Planning Guidelines issued under section 28 of the Planning and Development Acts 2000 (as amended) and therefore contrary to the proper planning and sustainable development of the area.

4. Having regard to the proposed wastewater disposal proposals for the proposed development and in the absence of satisfactory detail regarding proposed measures to protect the Clarin River, it is considered that the development if permitted would pose an unacceptable risk in polluting this river, would compromise biodiversity, materially contravene Objective NH5 and NH6 of the Athenry LAP 2012 and would be contrary to the proper planning and sustainable development of the area.

#### **4.0.0 PLANNING HISTORY**

- 4.0.1 Planning Authority reg. ref. 04/204: Planning permission was granted for development of a supermarket, 8 no. ground floor retail units, 5 no. first floor retail/office units, signage, sewage treatment plant with percolation area, sewer pipes, roads, car parks and ancillary works, also for the construction of a roundabout and entrance on the junction.

#### **5.0.0 NATIONAL POLICY**

##### **5.1.0 Retail Planning Guidelines for Planning Authorities (April 2012)**

- 5.1.1 The aim of the Guidelines is to ensure that the planning system continues to play a key role in supporting competitiveness in the retail sector for the benefit of the consumer in accordance with proper planning and sustainable development. In addition, the planning system must promote and support the vitality and viability of city and town centres thereby contributing to a high standard of urban design and encouraging a greater use of sustainable transport. The Guidelines require that retail development be planned, appropriate to the scale and function of the settlement in which it is to be located, promote city/town centre viability through a sequential approach to development, with the overall preferred location for new retail development within city and town centres. There should be a general presumption against large out-of-town

retail centres in particular those located adjacent or close to existing, new or planned national roads/motorways.

5.1.2 The Guidelines provide five key policy objectives that must guide planning authorities in addressing retail development issues in their development planning and development management functions, namely:

- Ensuring that retail development is plan-led;
- Promoting city/town centre vitality through a sequential approach to development;
- Securing competitiveness in the retail sector by actively enabling good quality development proposals to come forward in suitable locations;
- Facilitating a shift towards increased access to retailing by public transport, cycling and walking in accordance with the Smarter Travel strategy; and
- Delivering quality urban design outcomes.

5.1.3 Section 4 of the Guidelines relates to the development management of retail proposals. The guidelines state that development proposals not according with the fundamental objective to support the vitality and viability of city and town centre sites must demonstrate compliance with the sequential approach before they can be approved. Retail impact assessment and transport impact assessments may be required for significant retail development which due to their scale and/or location may impact on the vitality and viability of city and town centres.

## **5.2.0 Regional Planning Guidelines – West Region 2010-2022**

5.2.1 Section 3.7 of the Guidelines contains a retail strategy and this dominates the retail hierarchy. This provides that Galway City's dominant position must be protected and enhanced, particularly in higher-order comparison goods. The central key objective should be to support the 'town centre first' approach in the context of the retail hierarchy, and to promote the vitality and viability of existing centres. This would support the objective of providing sustainable transport and travel patterns into the future, an objective less well supported by large out-of-town retail centres. Policies EDP73 to EDP77 and Objectives EDO25 to EDO27 relate.

5.2.2 Section 4.6 sets out the Core Settlement Strategy. Section 4.6.2.4 notes the 'Key Towns' in County Galway include Athenry. Section 4.6.2.6 refers to the Sustainable Development of Urban Areas which includes consolidating development capacity within central

urban areas as a priority rather than extending green field development.

## 6.0.0 LOCAL POLICY

### 6.1.0 Galway County Development Plan 2015-2021

6.1.1 Section 2.6 of the development plan outlines the County Settlement strategy. The six tier system identifies Athenry as a 'Key Town or Other Town', with a population of greater than 1500. Such towns are noted as providing an extensive range of services including health, community, financial, employment and retail. Many have a strong historical identity as market towns and in most cases have a relatively well-developed infrastructure. Sustained growth in these settlements is required to achieve their potential as self-sustaining towns in their own right. **Objective SS5** of the plan seeks to "support the development of the key towns of the County as outlined in the Core Strategy and Settlement Strategy in order to sustain strong, vibrant urban centres which act as important drivers for the local economies, reduces travel demand and supports a large rural hinterland, while providing a complementary role to the hub town of Tuam and the smaller towns and villages in the County".

6.1.2 In relation to retail development, section 4.3 and Table 4.2 of the plan sets out the five key policy objectives for the retail sector as follows:

- To secure plan-led development in alignment with the settlement strategy.
- To promote greater vitality in city and town centres by promoting a sequential approach to retail development.
- To ensure that the planning system continues to play its part in ensuring an effective range of choice for the consumer.
- To secure a general shift towards sustainable travel modes through careful location and design of new retail development. To ensure that retail development plays its part in realising quality outcomes in relation to urban design.

6.1.3 Section 4.15 refers to compliance with the Retail Planning Guidelines. Section 4.16 and 4.17 of the plan sets out the Council's policies for core shopping areas and the improvement of town centres. Of relevance to the subject appeal are the following retailing policies:

**Policy R1 – Retail Provision** Support and facilitate existing retail and promote and facilitate appropriate new retailing in the significant role that it plays in providing local employment,

sustaining local economies and enhancing the attractiveness of the County for residential, business and additional complementary services.

**Objective R1 – Retail Planning Guidelines and the Sequential Approach** Support and promote the retail sector in the County and to ensure compliance with the *Retail Planning Guidelines for Planning Authorities* DoECLG (April 2012, including any updated/superseding document), including the need for a sequential approach to retail development, the policies and objectives of any future Retail Strategy for Galway and the guidance set out in the *Retail Design Manual* DoECLG (April 2012).

6.1.4 Athenry is a medieval town, with two recorded monuments in proximity of the subject site. Section 9.7 of the plan outlines the Council's policies on Archaeological Heritage. Appendix III refers to Architectural Conservation Areas and includes Athenry town centre. Policies of relevance are: **Objective ARC 2 – Development Management** All planning applications for new development, redevelopment, any ground works, refurbishment, and restoration, etc. within areas of archaeological potential or within close proximity to Recorded Monuments or within the historic towns of County Galway (Ardrahan, Athenry, Dunmore, Eyrecourt, Loughrea and Tuam) will take account of the archaeological heritage of the area and the need for archaeological mitigation.

**Objective ARC 7 – Recorded Monuments** Ensure that any development in the immediate vicinity of a Recorded Monument is sensitively designed and sited and does not detract from the monument or its visual amenity.

6.1.5 Policies in relation to the disposal of waste water are: **Objective WW 1 – EU Policies and Directives**, Ensure that all waste water generated is collected, treated and discharged after treatment in a safe and sustainable manner, having regard to the standards and requirements set out in EU and national legislation and guidance and subject to compliance with the provisions and objectives of the *EU Water Framework Directive*, relevant *River Basin Management Plans*, *Urban Waste Water Directive* and the *EU Habitats Directive*. **Objective DS 12 – Service Led Development** Development shall only be permitted where there is satisfactory water and wastewater provision to service same, either existing or to be provided by the applicant in tandem with the development.



## 6.2.0 **Athenry LAP 2012 -2018**

6.2.1 The Athenry LAP refers to the significance of Athenry in historical terms, noting that it arises from the intact nature of much of the medieval fabric and scale of the enclosed town itself which ranks as the most extant walled town in Ireland after Derry City. A number of important heritage features remain in the town including Athenry Castle, the historic walls, market cross, the ruins of St Mary's Collegiate Church and the Dominican Priory. Galway County Council has promoted the development and enhancement of Athenry as a "Heritage Town" with a growing tourist, employment and residential base.

6.2.2 On Map 1A, the subject site is zoned C2- Commercial Mixed Use. Objective LU2 states that the zoning objective for such zones is to 'Promote the development of commercial and complementary mixed uses on suitable lands that can provide focal points for the provision of services to surrounding neighbourhoods/areas and opportunities for commercial enterprises, retail developments and employment creation and which do not undermine the vitality and viability of the town centre'. Within such zones offices of less than 100sq.m. and retailing (large scale convenience / comparison) are open for consideration. Retail warehouse use of less than 700sq.m. is open for consideration. Note no. 4 of the matrix states that for warehousing the development or subdivision of stores into less than 700m<sup>2</sup> shall not normally be permitted in edge-of centre and out-of-centre locations, in accordance with the Retail Planning Guidelines 2005/2011 (or any updated/superseding document).

6.2.3 Maps 2A and 2B show a buffer zone around the waste water treatment plant to the south-east of the subject site. **Objective UI 3** Wastewater Treatment Plant Buffer seeks to provide and protect a 100m buffer around the wastewater treatment plant (Public Utilities Zoning Objective) site and protect buffer zones around any other treatment plant in the town as appropriate. **Objective DS5** states that development under the Plan shall be preceded by sufficient capacity in the public waste water treatment plant and appropriate extensions in the existing public wastewater infrastructure. **Objective UI 2** states that new developments shall only be permitted where it can be clearly demonstrated that they can be serviced and that there is adequate capacity in the wastewater disposal infrastructure in accordance with applicable requirements and standards, including urban wastewater treatment disposal standards, in order to protect the River Clarin, the Galway Bay Complex and its qualifying interests. Any development will be

required to adhere to the relevant EPA Code of Practice and will be subject to monitoring in order to assess impacts on water quality.

- 6.2.4 In relation to economic development, **policy ED1** states that “It is the policy of the Council to support economic development and employment creation in Athenry through the identification of appropriately located and adequately serviced lands for business and enterprise, business and technology, retail, industrial, commercial and tourism developments, the promotion of investment in transportation and other support infrastructure and the creation of a high quality environment to encourage economic investment. The promotion of economic development and employment creation will be appropriately guided to ensure the protection of residential amenities, built and natural heritage, landscape/townscape/streetscape character and the vitality and viability of the town centre”.
- 6.2.5 **Objective ED4 – Retail Development** seeks to support the development of appropriate types, scales and patterns of retail development in suitable locations within the town and with high quality designs that, support the vitality and viability of the existing town centre and associated main streets, that are easily accessible particularly in terms of public transport, that protect investment in strategic roads and infrastructure and that contribute to the creation of a high quality retail environment, in accordance with the *Retail Planning Guidelines 2012* (and any subsequent review or update), and will require Retail Impact Assessments, including details of the application of a “*sequential approach*” and Design Statements, where appropriate, for retail development in accordance with the Retail Planning Guidelines and Development Management (DM) Guidelines ED1 and ED2 as contained within this Plan. The town centre (C1) zoning shall remain the primary focus for the location of new retail development and on Commercial/Mixed Use (C2) zoning where appropriate.
- 6.2.6 In relation to retail impact assessments design statements, **DM Guideline ED1 – Retail Impact Assessments** states that Retail Impact Assessments will be required with planning applications for large retail developments (such as shopping centres or large food/grocery chain stores), mixed use developments with a large retail component, developments that may have a significant effect on the vitality and viability of the town centre or as otherwise considered appropriate by the Planning Authority. Retail Impact Assessments will be in accordance with the Retail Planning

Guidelines, including details of the sequential test. **DM Guideline ED2 – Design Statements** states that Design Statements may be required with planning applications for major retail proposals, retail proposals that are located within a sensitive area or as otherwise considered appropriate by the Planning Authority. Design Statements should address the issues raised in Section 6.4 of the *Draft Retail Planning Guidelines 2011* (and any updated/superseding document), including an appraisal of the character of the area adjoining the site and proposals for high quality design that integrates successfully with the context. Design Statements should also take account of the design and layout guidance set out in the forthcoming *Best Practice Design Manual*.

6.2.7 In relation to transport, **Objective TI 14 – Road Safety Audits, Traffic Impact Assessment** shall require all proposed new commercial, industrial and retail developments and residential development greater than 4 units, or where significant changes are proposed to existing commercial, industrial or larger retail developments, to submit Road Safety Audits and Traffic Impact Assessments as part of their planning application documentation.

## **6.0.0 GROUNDS OF APPEAL**

6.0.1 A first party appeal has been lodged by an Agent on behalf of the Applicant Athenry Co-operative Livestock Mart. The Board is requested to grant permission. The grounds of the appeal can be summarised as follows:

- The Co-op has built a new private sewage treatment plant which serves the Mart. An issue with nitrogen levels in the effluent will be resolved prior to the plant being taken in charge by the Co-op. The plant will serve the small level of effluent generated by the proposed development. Irish Water plan to upgrade the existing municipal sewage treatment plant by 2017.
- The Roads dept. of Galway CC advised the applicant that a Traffic Impact Assessment and a Road Safety Audit were not required. The existing access to the site is via a newly constructed road off the existing roundabout. The access road is approx. 6.5m with a footpath on either side. No houses front on to the road and therefore the traffic risk to children is quite small. All heavy good vehicles will enter the site via the existing Mart access. No Mart sales occur on Wednesdays, Fridays or Saturdays. It is feared that mart sales will decrease.

- Most customers will access the site via the Mart site during Mart sale days. The proposed development is to serve the agricultural community. Items to be sold include farm gates, feeding pens, feeding troughs, animal feeds, milking equipment, disinfectants, small water pipes, light farm machinery etc. The town centre with narrow streets and limited parking is not a suitable location for the sale of such goods.
- The Clarin River is 6.25km from the subject site. An oil and silt trap is proposed as part of the surface water system and the risk to the Clarin River is small.
- The proposed development is an opportunity for the Co-op to develop. The Board is requested to grant permission.

## **7.0.0 RESPONSES**

### **7.1.0 Planning Authority Response**

7.1.1 No response on file.

## **8.0.0 OBSERVATIONS**

### **8.1.0 Don Ruane, Prospect, Athenry**

8.1.1 Mr Ruane and his family live next door to the subject site. They wish the Board to note the following:

- The intensification of the Mart in recent years has caused significant disturbance to the family through noise, smell and disruption
- Heavy duty traffic uses the access gate 24/7
- The live livestock export licence of the Mart means double decker lorries and double decker trailers enter the site 24/7, including bank holidays.
- Access and entry to the Ruane home is made very difficult by careless manoeuvring in and out of the mart.
- The Applicants agents assertion that there are no children living near Lorro Gate is incorrect. There are infants, primary and secondary aged children living in the area. Children cannot judge traffic.
- Current traffic on the road is very heavy serving commuters to Galway.
- Trade at the mart will increase, not decrease as suggested by the Applicants agent. It is suggested that use of the proposed development will not be for agricultural retail but Lidl or Aldi. Agricultural retail is already well served in the area.

- The Clarin River is 600m away and not 6.25km as stated by the Applicants Agent.
- Photos and copy of objection to Galway CC submitted.

## **9.0.0 ASSESSMENT**

9.0.1 On reading of all documentation submitted with the appeal, I consider the issues to be:

- Principle of the Proposed Development
- Traffic Impact
- Retail Impact
- Wastewater Disposal
- Appropriate Assessment

### **9.1.0 Principle of the Proposed Development**

9.1.1 Section 2.2.1 of the Athenry LAP 2012-2018 provides the development options for the expansion of the town 1 – 4. The preferred option is no.4 i.e. Managed Phased Development. It supports the vitality and viability of the town centre as the main focus for the retail sector while allowing for managed town centre expansion under Commercial/Mixed Use (C2) zonings located to the south and south west of the existing town centre. Table 1 of the LAP states that of the 12.11ha town centre lands, 7.2ha remains undeveloped and of the 16.62ha C2 zoned lands, 9.28ha remains undeveloped.

9.1.3 The subject site is zoned C2- commercial mixed use, within which the three proposed uses (office less than 100sq.m., retail use less than 700sq.m. and large scale comparison / convenience retail) are all open for consideration. I note that the RIS submitted with the application refers to the proposed development as being a comparison shop and therefore a permitted in principle use in a C2 zone. It is considered that the proposed retail store of 986sq.m. GFA<sup>1</sup> is more correctly considered a large scale comparison store rather than a comparison shop.

9.1.4 The Athenry LAP states that uses that are open for consideration are ones that the Local Authority may permit where it is satisfied that the suggested form of development will be compatible with the policies and objectives for the zone, will not conflict with the permitted uses and conforms to the proper planning and

---

<sup>1</sup> Land Use Zoning Matrix of the Athenry LAP refers to gross floor area.

sustainable development of the area, including the policies and objectives set out in the Plan.

## **9.2.0 Traffic Impact**

9.2.1 Section 2.1 and Table 2.1 of the NRA Traffic and Transport Assessment Guidelines (2014) quotes Table 1.4 of the Traffic Management Guidelines (DoT/DoEHLG/DTO, 2003). The thresholds, above which a Transport Assessment is automatically required are:

- Traffic to and from the development exceeds 10% of the traffic flow on the adjoining road.
- Traffic to and from the development exceeds 5% of the traffic flow on the adjoining road where congestion exists or the location is sensitive.
- Residential development in excess of 200 dwellings.
- Retail and leisure development in excess of 1,000m<sup>2</sup>.
- Office, education and hospital development in excess of 2,500m<sup>2</sup>.
- Industrial development in excess of 5,000m<sup>2</sup>.
- Distribution and warehousing in excess of 10,000m<sup>2</sup>

9.2.2 The unsolicited AI submitted to the Council by the Applicants agent states that a Traffic Impact Assessment is not needed as the proposed development equates to 927.90sq.m. of retail space and the NRA trigger for a TIA is 1,000sq.m. The applicant stated that 1sq.m. of office space equates to 1/2.5sq.m. retail space and 1sq.m. of warehouse space equals 1/10sq.m. of office space. His calculations therefore are 842 sq.m. retail + 24sq.m. office +61.9sq.m. warehouse space totalling 927.90sq.m.

9.2.3 Notwithstanding that the use of equivalent floor areas is not supported by the guidelines, in arriving at this calculation, the applicant uses the net floor areas of the proposed development rather than the more commonly used gross floor area. The gross floor area of the proposed development is 986sq.m. retail, 161sq.m. office and 665sq.m. warehouse use. The proposed development is clearly above the 1,000sq.m. threshold and therefore a Transport Assessment is required.

9.2.4 Notwithstanding the above, where a development is sub-threshold, according to the NRA / TII guidelines. it may still require a TIA where the following criteria are present:

- The character and total number of trips in / out combined per day are such that as to cause concern.
- The site is not consistent with national guidance or local plan policy or accessibility criteria contained in the Development Plan.
- The development is part of incremental development that will have significant transport implications.
- The development may generate traffic at peak times in a heavily trafficked/ congested area or near a junction with a main traffic route.
- The development may generate traffic, particularly heavy vehicles in a residential area.
- There are concerns over the development's potential effects on road safety.
- The development is in a tourist area with potential to cause congestion.
- The planning authority considers that the proposal will result in a material change in trips patterns or raises other significant transport implications.

9.2.5 The proposed development satisfies a number of the above criteria, namely it is not consistent with development plan policy on the location of retail, it may generate traffic near a heavily trafficked junction, and the existing development on site of which the subject development will be part causes concern to existing residents and so must be assessed cumulatively.

9.2.6 In the unsolicited additional information, the proposed development was revised to provide for the use of the existing Mart gate for all heavy good vehicles using the site. The cover letter submitted with the unsolicited additional information states that a connection will be made from the Mart site to allow attendees at the Mart to access the proposed development. The letter notes that Mart sales days occur on Monday's Tuesdays and Thursdays. I have a number of concerns about this significantly revised proposal. The access route, proposed truck and trailer park, truck turning area, access route to the loading bay and service yard are all outside of the subject site boundary. The traffic implications of this additional traffic on the existing Mart entrance and Mart operations have not been assessed and being outside of the site boundary cannot be assessed as part of this subject application. The Appellant notes his serious concerns about the volume and frequency of traffic generated by the Mart. The effects of the additional traffic likely to

be generated by the proposed development on this residential area requires a thorough and comprehensive assessment. No information has been presented on how traffic is to be managed or how the Lorro Gate entrance is to be restricted to cars, pedestrians and cyclists. A TIA and likely a Road Safety Audit is required in accordance with Objective TI 14 of the Athenry LAP.

### **9.3.0 Retail Impact**

9.3.1 Section 2.1 of the Athenry LAP states that one of the strategic aims of the LAP is to ensure a sustainable town approach in maintaining a strong, compact and vibrant town centre which sustains existing business while attracting new businesses in order to fulfil the retailing and service needs of the town and its surrounding hinterland, in addition to offering a pleasant and attractive environment for shopping, business, recreation, living and attracting visitors. Objective ED4, DM Guidelines ED1 and ED2 require the assessment of the proposed development against the Retail Planning Guidelines.

9.3.2 Section 4.4 of the Retail Planning Guidelines states that planning applications for retail development proposals must comply with the criteria on location, suitability of use, size and scale and accessibility set out in the retail guidelines and development plan/joint or multi-authority retail strategy to ensure that the site chosen is the most suitable and best available site for the type of retailing proposed. Where the location of a proposed retail development submitted on a planning application has demonstrated to the satisfaction of the planning authority that it complies with the policies and objectives of a development plan and/or relevant retail strategy to support city and town centre, additional supporting background studies such as a demonstration of compliance with the sequential approach, below, or additional retail impact studies are not required.

9.3.3 In relation to the location of the subject site at the edge of the town centre (as defined by section A1.6 of the retail planning guidelines), section 4.4.2 of the Guidelines states that where retail development in an edge-of-centre site is being proposed, only where the applicant can demonstrate and the planning authority is satisfied that there are no sites or potential sites including vacant units within a city or town centre or within a designated district centre that are (a) suitable (b) available and (c) viable, can that edge-of-centre site be considered.



- 9.3.4 A Retail Impact Statement (RIS) was submitted to the Council with the unsolicited additional information. The RIS notes that the intended use of the proposed buildings is the sale of comparison bulky goods, preferably a supplier of farm goods. The RIS refers to the land use zoning matrix of the LAP and states that warehousing of less than 700sq.m. is open for consideration and shop-comparison is permitted in principle. The subject development is for a retail unit of 986sq.m. GFA and therefore must be classified as a large scale comparison unit rather than a shop. Large scale comparison retail uses are open for consideration in C2 zones.
- 9.3.5 The RIS states that as the subject site is zoned for retail use and the relatively small scale of the proposed development it does not warrant a sequential test. The RIS notes that Athenry has a non-traditional retail structure which is dominated by two areas: the historic town centre and the Athenry Shopping Centre to the south of the historic core. The RIS states that most development since 2008 has occurred in the shopping centre which has over 3,000sq.m. of retail floor space. The historic town centre has a broader range of uses. Vacancy rates of 32% in the town centre and 24% in the shopping centre were recorded in 2015. The RIS explains the high vacancy rate as being the result of recent economic difficulties and a lack of car parking in the area.
- 9.3.6 The RIS states that the type of retailing proposed is not suitable for town centre locations. Referring to the limited bulky goods comparison shopping offer in the area, the RIS lists Maloney Pianos and Arrabawn Co-op in Cross Street, and a hardware store 2km outside of the town. The RIS notes that permission was granted (PL07.245198) for a discount foodstore on the Arrabawn site which will further reduce the level of comparison floor space for bulky goods. The RIS states that the catchment for the proposed development extends beyond the town and its environs, to a distance of 30min drivetime. The quantitative assessment of the RIS states that within this catchment there is 13,568sq.m. of bulky goods retail provision and a population of 100,000. This figure is arrived at using the Ardaun Centre RIS from 2007 and provides for 0sq.m. bulky retail floorspace in Athenry. Section 8 of the RIS states that the proposed development will have no impact on other retail centres in Athenry. I note that the floorspace provision of the three units noted above are not considered and no reasoning for their omission is presented. One must question the finding of “no adverse impact” where the existing retail floorspace was not

considered when calculating the quantitative impact of the proposed development.

9.3.7 Section 4.4 of the retail planning guidelines state that where a proposal complies with the policies and objectives of a development plan, compliance with the sequential approach is not required. Objective ED4 of the plan states that the Council seeks to promote the development of appropriate types, scales and patterns of retail development in suitable locations with the town, that support the viability and vitality of the existing town centre and that are easily accessible. As noted above, the subject site is zoned for commercial use which includes retail development. Notwithstanding the C2 zoning and that the land use matrix of the plan provides that retail warehouse use of less than 700sq.m. is open for consideration, note no. 4 of the matrix states that for warehousing the development or subdivision of stores into less than 700m<sup>2</sup> shall not normally be permitted in edge-of centre and out-of-centre locations, in accordance with the Retail Planning Guidelines 2005/2011 (or any updated/superseding document). The subject site is an edge-of centre site, being outside of the town centre zone and outside of the historic town.

9.3.8 Where the development plan policy is not definitive and where the proposed use is open for consideration, it is considered that the proposed development should have been assessed against sequential test, as recommended in the retail planning guidelines and Objectives ED4 and ED1 of the LAP. The RIS does not address the requirements of section 4.4.2 of the retail planning guidelines which require the applicant to demonstrate that where development is proposed on an edge-of-centre site, there are no sites or potential sites including vacant units within a city or town centre or within a designated district centre that are (a) suitable (b) available and (c) viable. It is considered that the Retail Impact Statement submitted has not given sufficient regard to the sequential approach and possible alternative sites within the town centre nor has it adequately assessed the impact of the proposed development on existing bulky good retail floorspace in Athenry and the surrounding hinterland

#### **9.4.0 Waste Water Disposal**

9.4.1 The applicant states that surface water run-off from the proposed development will be discharged to a soakaway, and that the sewage generated by the proposed development will be discharged via pumped sewer to the existing municipal sewage treatment network. In the appeal submission, the applicant notes

that Athenry Co-op has built a new private sewage treatment plant, that the issue with nitrogen levels in effluent treated by the plant will be resolved before it is taken in charge by Co-op and that the municipal sewage treatment plant will be upgraded by Irish Water by 2017.

9.4.2 Table 6.4 of the Galway County development plan lists the public waste water schemes which are included in Irish Waters Proposed Capital Investment Plan 2014-2016 for Co. Galway. The upgrade of the Athenry Sewerage Scheme network and waste water treatment plant is listed as being 'under review' by Irish Water. Table 6.6 of the Galway CDP lists the indicative infrastructure capacity for the core strategy settlements and in the case of Athenry, states that it has no wastewater capacity and adequate water capacity. Table 6.6 also shows that under the Water Service Investment Programme 2010-2012, the Athenry Sewerage Scheme-Network & Wastewater Treatment Plant Upgrade is listed as "contracts to start" but no timeframe is indicated.

9.4.3 Having regard to the difficulty the private co-op treatment plant is currently experiencing in treating nitrogen, it would be prejudicial to public health to permit further discharge to the plant, regardless of the limited volume of that additional discharge. The Galway CDP has clear policies that require that development shall only be permitted where there is satisfactory water and wastewater provision to service same either existing or proposed. Likewise, the Athenry LAP states that development shall be preceded by sufficient capacity in the public waste water treatment plant and appropriate extensions in the existing public wastewater infrastructure and that new development will only be permitted where it can be clearly demonstrated that they can be serviced and that there is adequate capacity in the wastewater disposal infrastructure. The proposed development has not demonstrated such compliance and therefore is considered to be premature pending the upgrade of the Athenry sewerage scheme network and treatment plant.

### **9.3.0 Appropriate Assessment**

9.3.1 The Athenry LAP notes that the River Clarin flows in a southerly direction through the town and drains into a designated site – the Galway Bay Complex cSAC (000268). The Clarin river is 279m to the south of the subject site, and is located approx. 12km east of the Galway Bay cSAC and 8km north of the Rahasane Turlough

SAC (000322). No direct source-pathway-connector exists between the subject site and the Rahasane Turlough SAC.

9.3.2 The Galway Bay Complex SAC is described by the NPWS as comprising the inner, shallow part of a large bay which is partially sheltered by the Aran Islands. The Burren karstic limestone fringes the southern sides and extends into the sublittoral. West of Galway city the bedrock geology is granite. There are numerous shallow and intertidal inlets on the eastern and southern sides, notably Muckinish, Aughinish and Kinvarra Bays. A number of small islands composed of glacial deposits are located along the eastern side. The qualifying interests for the site are as follows:

- Tidal Mudflats and Sandflats
- Coastal Lagoons\*
- Large Shallow Inlets and Bays
- Reefs
- Perennial Vegetation of Stony Banks
- *Salicornia* Mud
- Atlantic Salt Meadows
- Mediterranean Salt Meadows
- Turloughs\*
- Juniper Scrub
- Orchid-rich Calcareous Grassland\*
- *Cladium* Fens\*
- Alkaline Fens
- Otter (*Lutra lutra*)
- Common (Harbour) Seal (*Phoca vitulina*)

9.3.3 The conservation objectives for the site are to maintain or restore the favourable conservation condition of each of the listed qualifying interests, measured against set targets (see appended Conservation Objective Series). Threats to the SAC, according to the NPWS site synopsis include sewage effluent and detritus of the aquaculture industry which could be deleterious to benthic communities, eutrophication and the general threat to turlough and fen habitats from drainage.

9.3.4 Having regard to the proposal to discharge to the private waste water treatment plant on the Co-op site, which has acknowledged breaches in nitrogen levels and the proximity of this plant to the Clarin River and the Clarin River environmental management buffer (see Map 2B of the Athenry LAP, appended), it is considered that, in the absence of an assessment of the effects of the proposed

development on the Clarin River and therefore the Galway Bay SAC, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the SAC, or any other European site, in view of the site's Conservation Objectives.

**10.0.0 RECOMMENDATION**

**10.0.1** I have read the submissions on file, visited the site, and have had due regard to the provisions of the Retail Planning Guidelines for Planning Authorities, April 2012, the Galway County Development Plan 2015 -2021 and the Athenry LAP 2012-2018. It is considered that the proposed development of a retail unit, warehouse and ancillary office unit on an edge-of centre greenfield site, close to residential areas and other commercial development, on a road network that has not been demonstrated to be capable of accommodating the likely increase in traffic generated by the proposed development and having regard to the lack of consideration of alternative sites and the sequential approach to retail development, is not in accordance with national or local planning policies and is therefore contrary to the proper planning and sustainable development of the area. I recommend permission be REFUSED for the following reasons:

- 1 There is a high level of vacancy rates and of undeveloped lands in the Town Centre/Commercial C1 and C2 land use zoning areas as shown in the Athenry Local Area Plan 2012. It is considered that the Retail Impact Statement submitted has not given sufficient regard to the sequential approach and possible alternative sites within the town centre nor has it adequately assessed the impact of the proposed development on existing bulky good retail floorspace in Athenry and the surrounding hinterland. The proposed development would, therefore not, be in compliance with section 4.4 of the Retail Planning Guidelines issued by the Department of the Environment, Community and Local Government in April, 2012 and would accordingly, be contrary to the Ministerial Guidelines. Having regard to the edge of town location of the site, it is considered that the proposed development on this greenfield site on land outside the town walls of Athenry would represent a significant threat to the vitality and viability of the town centre, would contravene materially a development Objective ED4 of the Athenry Local Area Plan 2012 and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development would be premature pending the availability of the upgrade in the capacity of the public sewer and town wastewater treatment plant to serve the existing development and to facilitate the orderly expansion of the town of Athenry. The proposed development is considered to be contrary to objectives WW1 and DS5 of the Galway County Development Plan 2015-2021 and objectives UI2 and DS5 of the Athenry LAP 2012 -2018. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. In the absence of a Traffic Impact Assessment and Road Safety Audit, insufficient information has been submitted to the Board demonstrating how the proposed development would safely manage the likely traffic generated by the proposed development on the busy local road network that serves a number of residential and commercial developments. The development would generate a significant volume of traffic, including a high number of movements by heavy goods vehicles, which the road network in the vicinity of the site has not been shown to be capable of accommodating safely. The proposed development would, therefore, give rise to traffic congestion and would endanger public safety by reason of traffic hazard. The proposed development is considered to be contrary to policy TII 14 of the Athenry LAP 2012-2018.
4. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European site Galway Bay Complex SAC No.000268, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

---

**Gillian Kane**  
**Planning Inspector**  
**10/06/16**