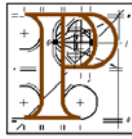


# An Bord Pleanála



## Inspector's Report

**Appeal Reference No:** PL 12.246575

### Development:

Permission sought for development on a site of 1.0 hectare on lands bounded by the N4 and Circular Road in the townlands of Attifinlay & Attyrory, Carrick on Shannon comprising: the construction of a two storey, licenced foodstore with ancillary off-licence sales, measuring 2,893 sqm gross internal area and 1,684 sqm of net sales space; the provision of one free standing totem sign, one poster display board, five external wall signs and two other external signs; the provision of external car parking and cycle parking; the provision of a vehicular and pedestrian access via the Circular Road; and the provision of boundary treatments, retaining walls, hard and soft landscaping, lighting, connections to drainage and water services and all other ancillary site and associated development works including the creation of a flood compensation area.

### Planning Application

Planning Authority:	Leitrim County Council
Planning Authority Reg. Ref.:	15/208
Applicant:	Avant Ireland Property S.A.R.L.
Planning Authority Decision:	Grant Permission with conditions

### Planning Appeal

Appellants:	(i) Avant Ireland Property S.A.R.L. (ii) Ciaran McGarry (iii) Gerry Murtagh (iv) Padraig Glancy
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Type of Appeal:	First Party – V – Condition Third Parties – V - Grant
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Observers:	(i) RGDATA (ii) Liam & Geralyn Farrell
Date of Site Inspection:	18 <sup>th</sup> July 2016

**Inspector:** Tom Rabbette

## **1.0 SITE LOCATION AND DESCRIPTION**

The appeal site is located within the designated development boundary of Carrick-on-Shannon in Co. Leitrim. It is located on the eastern side of the town. It is a greenfield site and is relatively flat but with a gentle fall in a southerly direction. It is bounded to the north-east by a local road known as the Circular Road, there is a low stone wall along this roadside boundary. The site is also bounded along its south-eastern side by the national primary route the N4, there is a row of poplar trees located along this boundary. There is a roundabout located at the intersection of the Circular Road and the N4, known as the Attifinlay roundabout, this roundabout is c. 65 m to the south-east of the application site. There is a car park (two-storey) located on lands adjoining the site to the north-west. There is a two-storey office development and associated surface car park on the opposite side of the Circular Road from the site. There is a retail park located to the south of the site, on the southern side of the Attifinlay roundabout and the N4. The river Shannon is located further south, c. 450 m from the application site.

## **2.0 PROPOSED DEVELOPMENT**

The applicant is seeking permission to construct a two-storey discount foodstore on the site. The site has a stated area of 1 ha. The foodstore has a stated gross internal floor area of 2,893 sq.m, the net sales area is 1,684 sq.m. The development proposal includes for a surface car park providing 145 car parking spaces. Bicycle parking is also to be provided for. A new vehicular entrance is proposed off the Circular Road along the site's north-east boundary. The application was accompanied by a Flood Risk Assessment, the proposal includes for a flood compensation area. Signage proposals also form part of the application.

## **3.0 PLANNING HISTORY**

I am not aware of any directly relevant planning history pertaining to the application site.

## **4.0 PLANNING AUTHORITY DECISION**

### **4.1 Planning and technical reports**

Planner's Report dated 25/01/16:

- Development acceptable in principle.
- Further Information recommended in relation to 12 items.

Report/Memo dated 13/03/16

- New public notices required.

Report dated 13/04/16

- FI response noted and considered.

- Permission recommended subject to conditions.

Leitrim County Fire Service Report dated 11/12/15

- Fire Safety Cert is required.  
Report dated 30/03/16
- FI response noted, Fire Safety Cert required.

Road Design Section Report dated 21/01/16

- The applicant needs to reassess the TIA report.  
Report dated 06/04/16
- Response to item 4 of the FI request is incomplete.

Economic Development, Planning, Environment & Transportation Report dated 07/01/16

- No objection from an accessibility perspective.
- Number of issues raised.  
Report dated 12/04/16
- No objection subject to conditions.

Transport Infrastructure Ireland Report dated 21/12/15

- A Traffic and Transport Assessment and Road Safety Audit sought.  
Report dated 31/03/16
- Development should be undertaken in accordance with the recommendations of the Transport Assessment and Road Safety Audit submitted.

HSE Environmental Health Officer Report dated 06/01/16

- The application should be examined from a flood risk viewpoint by the appropriate office.
- Conditions recommended in the event of permission being granted.  
Report dated 04/04/16
- Revised plans have now made provision for a cleaning store and a waste storage facility.

An Taisce Report dated 10/12/15

- The p.a. should ensure that the development would not undermine town centre functions.
- The p.a. should ensure that the proposed development complies with the current Retail Strategy for Leitrim and the Retail Planning Guidelines.

Inland Fisheries Ireland Report dated 05/01/16:

- Conditions recommended.

Dept. of Arts, Heritage & the Gaeltacht Report dated 11/01/16:

- Refers to flooding observed on the site.

- The infilling or development of the wetlands area and area of frequent inundation at this site may be in conflict with the Water Framework Directive.
- It is recommended that an assessment and consideration for cumulative wetlands habitat loss be carried out.

Report dated 13/04/16

- NPWS accept the findings of the applicant's ecological report on wetlands and waders.

Objections/observations: Objections/observations on file addressed to the p.a. make reference to the following: flood risk; traffic impact; traffic congestion; impact on vista entering town; compliance with the Retail Planning Guidelines; compliance with the County Retail Strategy; compliance with the LAP; impact on attractive landscape; building design, and impact on the town centre.

## **4.2 Planning Authority Decision**

By Order dated 19<sup>th</sup> April 2016 the p.a. decided to grant permission subject to 20 no. conditions.

## **5.0 GROUNDS OF APPEAL**

### **5.1 First Party Appeal**

Avant Ireland Property S.A.R.L. c/o Tony Bamford Planning

The contents of the first party grounds of appeal from the above can be summarised as follows:

- The appeal is against Condition 11.
- The wording of Condition 11 (a) and (b) is contradictory.
- In section (a) the obligation is not to erect any other signage in future, other than that already granted with the application.
- Section (b) notes that additional signs can be allowed subject to a prior grant of permission.
- Section (b) is the fairer approach.
- There are no specific reasons why additional signage should not be considered in future.
- The applicant cites the Carrick on Shannon LAP in relation to signage.
- The Board is asked to remove Condition 11(a).

### **5.2 Third Party Appeals**

Ciaran McGarry, Circular Road, Carrick on Shannon, Co. Leitrim.

The contents of the third party appeal from the above can be summarised as follows:

- The area concerned allows an open and clear view on the way into the town.
- The development will block this open vista and detract from the overall impression of the town.
- The development will give the town a generic building.
- The nearby roundabout cannot cope with the flow of existing traffic.
- Redirected traffic onto the Circular Road due to flooding on the N4 in the past resulted in almost constant traffic jam along this road.
- Concerns raised in relation to quantum of proposed parking.
- Part of the site is subject to flooding on an annual basis.
- Concerns raised in relation to the applicant's response relating to flooding.

Gerry Murtagh c/o Peter Gillett & Associates, Planning Consultants.

The contents of the third party appeal from the above can be summarised as follows:

- The proposal on a highly prominent landmark site on the approach to the town is inappropriate in land use and visual amenity terms.
- The traffic generated on the heavily trafficked N4 will cause further adverse traffic congestion and serious inconvenience.
- The existing roundabout does not have the capacity to cater for the additional traffic generated.
- The construction of a large two storey food store and open surface parking would detract from the appearance of this scenic part of the town and also from the setting of the MBNA building and premises which design was based on a campus/parkland setting of a very high standard.
- Part of the site and the land area immediately adjoining to the south and south-west is prone to serious flooding.
- Continuous flooding as which occurred over 6 weeks in the middle of last winter will have very adverse impact on traffic congestion and store parking availability.
- The proposal does not represent a sound or sustainable planning decision based on the need to maximise the potential of the old MBNA premises to provide for over 1200 jobs which will be severely undermined if a bland and visually incongruous large store is built in the green space which is an inherent and important setting for the premises.
- The design of the MBNA premises features parkland on this side of the road with a two storey car park set into it in a seamless and visually successful manner.
- The provision of another large convenience store significantly exceeds the capacity level set out in the County Retail Strategy 2015-2021.
- The appellant resides in the town and has run a number of successful businesses and shops there, his main objection is that a new store on the parkland opposite the MBNA building which is to replace one that

already exists is very likely to reduce the prospect of achieving new enterprise and employment by the current owners.

- The p.a. decision raises a legal issue in that the decision made is probably a contravention of the original permission granted to MBNA.
- The p.a. rely heavily on the zoning for their decision, environmental and other important impacts relating to traffic, economic/employment are also critical in determining the application.
- It is a standalone development that could be dropped into any field in Ireland that had a good road frontage.
- The proposed development on a sensitive and prominent site is, in the context of the visual approach to the town along the N4 and the parkland setting of the MBNA prestigious premises, inappropriate and unnecessary.
- The proposed store can be readily located on numerous less conspicuous sites that would not prejudice the potential for desirable office employment that is likely to be adversely affected if the store is built opposite the existing MBNA premises.

Padraig Glancy c/o Peter Gillett & Associates, Planning Consultants.

The contents of the third party appeal from the above can be summarised as follows:

- The proposal on a highly prominent landmark site on the approach to the town is inappropriate in land use and visual amenity terms.
- The traffic generated on the heavily trafficked N4 will cause further adverse traffic congestion and serious inconvenience.
- The existing roundabout does not have the capacity to cater for the additional traffic generated.
- The construction of a large two storey food store and open surface parking would detract from the appearance of this scenic part of the town and also from the setting of the MBNA building and premises which design was based on a campus/parkland setting of a very high standard.
- Part of the site and the land area immediately adjoining to the south and south-west is prone to serious flooding.
- Continuous flooding as which occurred over 6 weeks in the middle of last winter will have very adverse impact on traffic congestion and store parking availability.
- The proposal does not represent a sound or sustainable planning decision based on the need to maximise the potential of the old MBNA premises to provide for over 1200 jobs which will be severely undermined if a bland and visually incongruous large store is built in the green space which is an inherent and important setting for the premises.
- The design of the MBNA premises features parkland on this side of the road with a two storey car park set into it in a seamless and visually successful manner.

- The provision of another large convenience store significantly exceeds the capacity level set out in the County Retail Strategy 2015-2021.
- The appellant is a resident of the town and owns and operates the Supervalu Store which is located opposite the existing Lidl premises in Cortober.
- The appellant's main objection is that a new store on the parkland opposite the MBNA building which is to replace one that already exists is very likely to reduce the prospect of achieving new enterprise and employment by the current owners.
- The appellant is particularly concerned about the continued expansion of convenience stores which far exceeds the needs of the town and a reasonable catchment area.
- Having two complimentary convenience stores on either side of the river makes retail planning sense and reduces traffic congestion.
- The p.a. decision raises a legal issue in that the decision made is probably a contravention of the original permission granted to MBNA.
- The p.a. rely heavily on the zoning for their decision, environmental and other important impacts relating to traffic, economic/employment are also critical in determining the application.
- It is a standalone development that could be dropped into any field in Ireland that had a good road frontage.
- The proposed development on a sensitive and prominent site is, in the context of the visual approach to the town along the N4 and the parkland setting of the MBNA prestigious premises, inappropriate and unnecessary.
- The proposed store can be readily located on numerous less conspicuous sites that would not prejudice the potential for desirable office employment that is likely to be adversely affected if the store is built opposite the existing MBNA premises.

## **6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL**

### **6.1 Planning Authority response**

The contents of the planning authority's response to the grounds of appeal can be summarised as follows:

- Response to first party appeal:
  - The p.a. propose an amended wording in relation to condition no. 11.
- Response to G.Murtagh and P. Glancy appeals:
  - The p.a. is comfortable with the decision that has been made.
  - The p.a. contends that the subject site is the closest available site to the retail core of the town which can accommodate the retail model required for convenience outlets.
  - The p.a. has not exceeded the indicative retail floorspace guidance provided in the County Retail Strategy.

- The p.a. is satisfied that the s.47 agreement which requires the agreed closure of the existing store in Cortober provides certainty, clarity and is legally enforceable as it will be an agreement between 2 parties.
- The amended design does not contravene any design guidance provided or other policy/objective contained in the LAP.
- There has never been suggestions that it is the capacity of the Shannon or Attifinlay roundabouts or the more recently constructed Attirory roundabouts on the N4 which are causing the congestion in Carrick-on-Shannon.
- The recorded AADT on the N4 is not considered a high volume of traffic in comparison to other national primary roads.
- The p.a. acknowledges that during a 5 week period in December 2015-January 2016, the section of the N4 between Shannon and Attifinlay roundabouts was closed due to flooding.
- The p.a. is committed to working with TII in remedying this solution.
- The p.a. is confident that a successful resolution to this issue can be found within an acceptable timeframe.
- It is a statement of fact that a portion of the subject site is liable to flooding, this does not however render the application site in its entirety unsuitable for appropriate development.
- The submitted Flood Risk Assessment has applied the sequential approach and has positioned the store within Flood Zone C in accordance with the recommendations of the Flood Risk Management Guidelines.
- The relaxation of car parking standards has been presented in a logical and reasoned manner consistent with the approach of ABP in their assessment of the Aldi store proposed in Carrick-on-Shannon under PL 12.237890.
- Response to C.McGarry appeal:
  - Refers to the Planner's Report already submitted and to the response to the Murtagh and Glancy appeals.
  - At no stage did the AvantCard office building employ 1,150 people in a single shift.
  - TII have not indicated a need to upgrade the Attifinlay roundabout and there is no suggestion in the submitted documentation with the p.a. of such a view.
  - The p.a. would refute the suggestion that a larger part of the site flooded in Dec. 2015/Jan. 2016 than had previously.
- The p.a. respectfully recommends that its decision be upheld.

## 6.2 First party response

The contents of the applicant's response to the grounds of appeal can be summarised as follows:



- The application represents a relocation of an existing business in the wider town of Carrick-on-Shannon.
- Refers to the Leitrim County Development Plan 2015-2021.
- Refers to the Leitrim County Retail Strategy 2015-2021.
- Refers to the Carrick-on-Shannon LAP 2010-2016 (as varied).
- Responds to issues raised in relation to the visual amenity.
- The proposed Lidl store and the drive-through granted in 2013 both seek to present modern, innovative facades to the N4 roundabout in a manner that the applicant believes is a positive addition to the area.
- Responds to issues raised in relation to retail impact.
- Refers to the sequential approach.
- Responds to issues pertaining to flood risk.
- Responds to issues raised in relation to traffic and parking.
- Submission includes, *inter alia*, a submission on Traffic, Parking & Roads Issues by NRB Consulting Engineers.

### 6.3 Observations on grounds of appeal

#### RGDATA

The observer submission from the above can be summarised as follows:

- RGDATA disagrees with the p.a. decision to grant permission.
- Refers to the appeals as prepared by P. Gillett.
- No new retail developments should be approved until a full Town Centre Health Check is undertaken as contained in the Retail Planning Guidelines 2012.
- Refers to Annex 2 of the Retail Planning Guidelines 2012.
- Quotes from the LAP section 2 'policies & objectives – retailing'.
- The p.a. decision should be reversed.

#### Liam & Geralyn Farrell, Liberty Hill, Carrick-on-Shannon

The observer submission from the above can be summarised as follows:

- Fully endorse the Glancy appeal.
- Significant additional traffic and congestion onto the N4 and Circular and Summerhill access roads.
- Creation of a traffic hazard.
- The site is a flood plain and the roadway system was seriously compromised in December 2015/January 2016.
- The visual of the proposed development is horrendous and incompatible with the existing Advant Card building.
- An additional Lidl store is not required and will severely impact on retail in the Cortober area of Carrick-on-Shannon

## 7.0 FURTHER RESPONSES

Gerry Murtagh c/o Peter Gillett & Associates, Planning Consultants.

In a submission dated 03/06/16 the above appellant indicated full support for the appeal submission by C. McGarry.

Padraig Glancy c/o Peter Gillett & Associates, Planning Consultants.

In a submission dated 03/06/16 the above appellant indicated full support for the appeal submission by C. McGarry.

RGDATA

In a submission dated 27/06/16 the above observer acknowledged the p.a. submission and the first and third party appeals. The observer has no further comment.

Ciaran McGarry, Circular Road, Carrick on Shannon, Co. Leitrim.

The response from the above to the planning authority's submission can be summarised as follows:

- The proposed building design bears absolutely no relation to the design and character of the MBNA/Avantcard building opposite.
- Maintains concerns in relation to trip generation arising from the future use of the MBNA/Avantcard building and the proposed foodstore in place.
- Maintains concerns in relation to the flooding of the application site.
- The appellant cannot recall how many times the N4 has been raised to alleviate the same problem only for the road to sink (or river to rise) and back to the same situation again.
- Another floodplain is being built on.

Liam & Geralyn Farrell, Liberty Hill, Carrick-on-Shannon

The further submission from the above observer can be summarised as follows:

- The p.a. are simply facilitating 'rates migration' from Roscommon to Leitrim.
- A retail imbalance will occur.
- Maintains concerns in relation to traffic, flooding and the environment.

Gerry Murtagh c/o Peter Gillett & Associates, Planning Consultants.

and

Padraig Glancy c/o Peter Gillett & Associates, Planning Consultants.

The contents of the further submissions from the above two appellants dated 11/07/16 can be summarised as follows:

- Submission is a response to the p.a. submission.
- Maintains the position in relation to the design and siting of the proposed structure.

- This unsuitable proposal should never have been considered for this site in the first instance with reference to traffic, flood liability and visual prominence reasons.
- The existing two foodstores, one of which is the existing Lidl's, located on the western side of the town are convenient for town residents living on that side of the river and for the wider catchment population in Roscommon.
- In certain flood conditions a significant amount of parking will be inoperable, the appellants question how the store can trade without adequate parking.
- The suitability of this site in terms of location and size to adequately deal with sufficiently of parking given the flooding history of the site is very questionable and should be rejected by the Board.
- The appeal submission includes a letter addressed to the appellants' agent from a company that states they recently exchanged contracts to purchase the office building located across the Circular Road from the application site.

## **8.0 POLICY CONTEXT**

### Carrick-on-Shannon Local Area Plan

- The LAP 2010-2016 was varied in 2011. In that Variation No. 1, amendment No. 2, the land-use zoning objective for the site was changed to 'Commercial Town Expansion'.
- The Carrick-on-Shannon LAP 2010-2016 was extended in 2016 and is now the Carrick-on-Shannon LAP 2010-2019.
- As per Map 1a of the LAP the application site is located in an area where the land-use zoning objective is 'Commercial Town Expansion'.
- As per Table 2.1 'Land Use Zoning Matrix' both 'shop (convenience)' and 'shop (comparison)' are acceptable in principle on such zoned lands. That matrix adds that with regard to determining the suitability of retail developments, applications will be assessed having due regard to current County Retail Strategy and the Retail Planning Guidelines for Planning Authorities.
- The policies and objectives relating to enterprise and employment, which includes retailing, are addressed under s.2.06 of the LAP.
- 'Retail Development' management standards are addressed in s.3.03 of the LAP.
- Policies and objectives relating to Transportation (Traffic, Cycling and Pedestrian Movement) are addressed under s.2.05
- Car Park standards are addressed in s.3.01.04 and associated Table 3.1. Parking for the Disabled is addressed in s.3.01.07 and bicycle parking is addressed in s.3.01.09.
- Flood Risk Management is addressed under s.2.13. Appendix E is titled 'Guidelines on Flood Risk and Development'.

- Map 7 of the LAP indicates that a portion of the site, at its southern section, is 'susceptible to flooding'.
- Urban Design Policies and Urban Design Specific Objectives are addressed in s. 2.04.02 and 2.04.03 respectively.
- S.2.11.05 addresses 'Views and Prospects' and s.2.11.05a outlines the policy in relation to views and prospects. S.2.1105b contains an objective to protect specified views and prospects. Maps 2a and 2b further identifies the views and prospects.

Extracts of the above mentioned directly relevant sections of the statutory LAP for the area are included in the attached appendix for ease of reference for the Board.

The Leitrim County Retail Strategy 2015-2021 was adopted alongside the adoption of the County Development Plan 2015-2021. In that strategy it is indicated in Table 5-14 that the estimated future additional retail floor area in the county to 2021 for convenience shopping is 1,158 sq.m.

## **9.0 ASSESSMENT**

9.1 I have examined all the plans, particulars and documentation on file. I have carried out a site inspection. I have had regard to relevant provisions of the statutory plans (LAP and CDP) for the area. In my opinion the main issues arising are:

- Visual Impact
- Traffic Impacts & Car Parking Provision
- Flood Risk
- Retail Impact
- Appropriate Assessment

### Visual Impact

9.2 Concerns have been raised by the third party appellants and one of the observers to the appeal in relation to the design of the foodstore given its location. They hold that the development is proposed on a highly prominent landmark site on the approach to Carrick-on-Shannon and that the proposed development is inappropriate in visual amenity terms. It is stated that the foodstore would detract from the appearance of this scenic part of the town, it is also held that it would adversely impact on the visual setting of the AvantCard/former MBNA office development located across the road from the application site. Concerns have also been raised that the proposal will block an existing open vista and detract from the overall impression of the town, the proposed building is described as 'generic' in design. It is also described by an appellant as a "bland retail development" that should have been rejected by the p.a. on design terms. An observer to the appeal refers to it as a "homogenous industrial-like structure" that would be incongruous.

- 9.3 In response to the grounds of appeal the applicant holds that the development is a high-quality business premises and that it represents a new generation of Lidl store (the named operator of the facility). It is further stated that the development is not a traditional, functional building, typical of that company's older retail stock. The applicant rejects the description of the store as being non-descript that could be found in most towns, the applicant states that Lidl is investing heavily in replacing their first generation stores and that Carrick-on-Shannon is one of the first towns to get a next generation, high quality store.
- 9.4 The p.a. did seek further information on a number of issues. Design issues were raised in the 'Advice Note' to that request. The applicant did respond to the advice note regarding the design issues. Changes were proposed to aspects of the design, photomontages were submitted indicating the proposed development in context and the response also included a Design Statement which sought to justify the layout and design of the development (ref: submission to the p.a. received on the 11/03/16).
- 9.5 I do consider that the applicants have sought to integrate the proposal with its location, it does have due regard to its context. The scale, massing and height of the proposed building is not dissimilar to that of the existing commercial and retail buildings in the vicinity, including the office development located on the opposite side of the road from the application site, the retail park located in close proximity to the south of the N4 and the development granted by the Board under PL 12.240704 (file attached). The building is setback from the public road as are the existing decked parking structure to the north-west of the site and the office development opposite the site. In that regard, I do not consider that the proposed development is out-of-character with the established pattern of development in the area. Likewise with the external finish of the proposed foodstore. The palette of materials to be used on the exterior of the proposed store are not dissimilar to those used on the structures in the retail park located to the south. The proposed foodstore is of a modern idiom, so too are the surrounding commercial, leisure and retailing developments. The primary facades of the foodstore address both the Circular Road to the north-east and the N4 and existing retail park to the south, this is appropriate in my opinion. The south facing façade was improved in response to the FI request where it is now indicated that large areas of natural stone cladding are to be added to this façade. It should also be noted that the row of mature poplar trees along the N4 site boundary are to be retained as is the natural stone wall along the front boundary of the site. Additional landscaping and planting on the site is also proposed (ref: 'Soft Landscape Plan & Planting Plan', drg. no. 15-427-PD-01) In terms of impacts on open vistas, the proposed development is not impacting on any of the views and prospects listed in section 2.11.05b and Maps 2a and 2b of the statutory LAP. The site is zoned for development such as that proposed, it is not zoned for open space use (ref: Variation No 1, Amendment 2 of the LAP).

- 9.6 Having regard to the forgoing I do not consider that the proposed development would adversely impact on the visual amenities of the area or adversely impact on the setting of neighbouring structures. I would not therefore recommend that permission be refused in relation to the visual impact or in relation to the design proposed.

#### Traffic Impacts & Car Parking Provision

- 9.7 The third party appellants and one observer have raised concerns in relation to potential traffic impacts. It is held that the nearby roundabout at the N4/Circular Road intersection to the south-east, known as the Attifinlay roundabout, does not have the capacity to accommodate the trip generation associated with the proposed development. Reference is made to existing traffic congestion in the area both on the nearby N4 and on the Circular Road off of which it is proposed to access the development. Reference is also made to the congestion experienced on the Circular Road when the N4 became impassable due to a flooding event in December 2015/January 2016. Some have also raised concerns about the proposed car parking quantum, they hold that it is inadequate.
- 9.8 The national primary route, the N4, bounds the site to the south. There is a roundabout on this route, as stated above, it is known as the Attifinlay roundabout. It is located immediately to the southeast of the site. The Circular Road is accessed off this roundabout. The Circular Road (L3412) runs along the north-east boundary of the site. A vehicular entrance is proposed off the Circular Road into the application site. There is an office development with a large surface car park and two entrances located on the opposite side of the Circular Road from the site. This office development and associated car park is within the blue line boundary in the site layout plan submitted with the application. There is a decked car park building located on lands adjoining the application site to the northwest. It appears that this deck car park provided car parking for the office development on the opposite side of the road (this office development was previously occupied by MBNA). It appears this adjacent car park is not now in use. There is a low stone wall running along the site's roadside boundary with the Circular Road. There is a footpath running along the north-western section of this frontage but this becomes a grass verge for the south-eastern section as it approaches the roundabout on the N4. The Attifinlay roundabout also provides access to the retail park located to the south of the N4. The retail park includes a Tesco store in addition to a number of other retail outlets and restaurants. The site and the roundabout are well within the 50 kmph urban speed limit.
- 9.9 Under 11/267 (PL 12.240704) permission was granted for a petrol filling station, a drive-through restaurant and car parking in the retail park located to the south of the Attifinlay roundabout. That development included proposals for geometric improvements to increase the capacity and operational

efficiency of the adjoining roundabout. The development has not commenced to date. The Board's decision to grant permission included conditions relating to the upgrade of that site's junction with the N4. In the original 'Transportation Assessment Report & Stage 1 Road Safety Audit' submitted with the current application (ref: by NRB Consulting Engineers received by the p.a. on the 27/11/15) that neighbouring development, and the associated works to the roundabout, were considered as committed development for the purposes of the applicant's analysis. The p.a. Roads Design Section in a report dated 21/01/16 raised concerns in relation to this assumption. It was stated that the applicant cannot assume that the geometric improvements at the roundabout will have been completed before the proposed development opens. That report also raised concerns about allowances for trip generation in relation to the office development across the Circular Road from the proposed development. It appears that the current occupancy rate of that existing development is well below previous occupancy rates. The Road Design Section report held that the potential traffic associated with this office building should be assessed on the overall floor area of the building. The p.a. Planner's Report dated 25/01/16 raised similar concerns. An FI request was issued by the p.a. Item 4 of that FI request raised both of these issues. In response the applicant submitted a further Traffic Impact Assessment having regard to the parameters set out in item 4 of the FI request. Traffic Flow diagrams were submitted with the scenario of the office building at full occupancy and the proposed foodstore operational. The analysis indicates an absolute worst case increase in traffic flow through the roundabout of 5.8% during the weekday PM peak hour. The applicant holds that a 5.8% increase would not even be noticeable and that this robust figure is based on an onerous assumption that 70% of the proposed foodstore traffic is new to the local roads. The applicant also undertook a capacity assessment of the existing unmodified roundabout using ARCADY. While the Roads Design Section in a report dated 06/04/16 indicated that the response to item 4 was incomplete, the p.a. Planner's Report indicated satisfaction with the response and recommend permission be granted subject to conditions.

- 9.10 In an initial report to the p.a. TII raised concerns about the proposal in relation to control of development on/affecting national roads and went on to request a Traffic & Transport Assessment and a Road Safety Audit. However, this appears to have been an oversight by the TII, as indicated above both a Transport Assessment Report & Stage 1 Road Safety Audit was submitted with the application. In a subsequent report to the p.a. TII did not indicate any objection to the proposal and acknowledged the submitted Transport Assessment and Road Safety Audit.
- 9.11 I am of the opinion that the applicant's Transport Assessment submissions are robust. There is nothing on file to indicate that the proposed development would exacerbate traffic congestion or obstruct traffic in the area. The analysis on file would indicate that the Afttfinlay roundabout as existing has capacity to serve the proposed development and the office development on

the opposite side of the Circular Road. Documentation on file would indicate that the Circular Road is relatively lightly trafficked adjacent the subject site, carrying a weekday pm peak hour traffic volume of 200 PCUs. The site is located well within the 50 kmph urban speed limit. The sight distances achievable at the proposed entrance exceed the guidelines of DMURS for such distances. The site is within walking distance of established urban residential areas to the west and the retail park, which includes Tesco, to the south. There are advisory cycle lanes indicated on the Circular Road. Condition No. 4 of the p.a. decision required that the existing footpath in front of the site be continued at the applicant's expense down to the roundabout and to tie in with the existing footpath network, this condition was not the subject of the first party appeal. I note here that the Board granted permission for a discount foodstore on a site c. 0.5 km further out the N4 from the application site, that foodstore has been constructed and is now operational, ref: PL 12.237890. The proposed development does not pose an unacceptable risk to traffic or pedestrian safety, in my opinion. I consider the proposed development to be acceptable in terms of traffic safety and convenience.

- 9.12 The gross floor area of the proposed store is 2,893 sq.m., the net sales area is 1,684 sq.m. The applicant is proposing 145 car parking spaces including family friendly spaces and disabled parking provision. Cycle parking is also proposed. The p.a. sought FI on the car parking provision. Under item 6 the p.a. cited the LAP requirements in relation to car parking provision and also cited compliance requirements in relation to Condition No. 4 of the Board's decision on PL 12.237890 relating to car parking provision of that discount foodstore. In compliance with the Board's condition under PL 12.237890 the p.a. agreed a car parking provision at 1 no. space per 15.4 sq.m. gross floor area or 1 no. space per 10.3 sq.m. of net sales area. The current applicant is proposing c. 1 no. space per 20 sq.m. gross floor area or 1 no. space per 11.6 sq.m. net sales area. In response to the FI request the applicant maintained its position in relation to car parking provision. It cited a comparison with current parking provision at Lidl stores throughout Ireland, a car parking occupancy survey at the existing Lidl store in Carrick-on-Shannon and a TRICS Parking Accumulation Study. The applicant held that the 145 spaces is more than adequate to serve the needs and worst case demands of the proposed foodstore.
- 9.13 I consider the applicant's justification in relation to the car parking provision to be comprehensive and robust. The p.a. Planner's Report indicates satisfaction with the applicant's response to item 6 of the FI request. I note that the Roads Design Section of the p.a. did not raise concerns about the car parking provision in either of their reports on file. As stated previously, this site is within walking distance of large residential areas, it is also within walking distance of the retail park to the south that also contains a large area of surface car parking. There is a two-storey car park structure immediately to the north-west of the site, this appears not to be in use. There is a large



surface car parking area serving the office development on the opposite side of the Circular Road from the site, this appears underutilised, that car park and office building is located within the blue line as indicated on the site layout plan submitted with the application. In the circumstances I do not consider it in the best interests of the proper planning and sustainable development of the area to seek the provision of yet more car parking, especially when it appears unjustifiable.

- 9.14 Having regard to the foregoing I would not recommend refusal on either traffic impact grounds or car parking provision.

#### Flood Risk

- 9.15 All three third party appellants and one of the observers have raised concerns in relation to flooding. It is held that part of the subject lands is prone to flooding. Reference is made to the recent flooding event in Carrick-on-Shannon in December 2015 and January 2016 when part of the N4 in proximity to the site was closed due to that flooding event.
- 9.16 Map 7 of the LAP does indicate that the southern section of the application site is susceptible to flooding.
- 9.17 A Flood Risk Assessment was submitted with the application. The Drummagh Stream is located approximately 100 m to the west of the site, it flows into the Shannon which is located c. 450 m to the south. There is a surface water drainage channel parallel to the N4 along the southern boundary of the site. The FRA acknowledges that historical flooding events on the River Shannon are characterised by a prolonged flood duration that can extend for several weeks. The FRA notes, with reference to the OPW's floodmaps.ie, that the subject site is prone to flooding. The FRA refers to three historical flood events: 1957, 1999 and 2009 (the FRA pre-dates the winter 2015/2016 event). The main risk to the site arises from fluvial flooding. The mechanism of flooding in Attifinlay is that the Shannon forms the dominant control on water levels and causes backing up of the Drummagh Stream and consequently the surface water drainage channel that runs parallel to the N4. Levels overtop the N4 and effectively bypass the culvert beneath. The FRA states that the Drummagh Stream does not present a risk of flooding to the proposed site without the influence of the Shannon. It goes on to state that the OPW Preliminary Flood Risk Assessment (PFRA) and the Shannon Catchment Flood Risk Assessment and Management Study (Shannon CFRAM) maps do not represent the subject site but it is known that flooding from the Shannon will potentially impact the site. Historical records confirm limited flooding along the southern and western boundary and the FRA does include an aerial photograph of such flooding from the 2009 event. The FRA confirms that c. 80% of the 1 ha site is located within Flood Zone C and is at low risk of fluvial flooding, c. 10% of the site is within Flood Zone A and a further 10% in Flood Zone B. The FRA goes on to outline mitigation

measures arising from the assessment and having regard to the '*The Planning System and Flood Risk Management – Guidelines for Planning Authorities*' and the LAP policies regarding flood risk management. The mitigation measures include: locating the foodstore in Flood Zone C (as per the Guidelines); applying a FFL to the store of 43.365 m OD Malin 9 (as per policy 13.4c of the LAP); thus providing a freeboard of 710 mm above the River Shannon 0.1% AEP flood level of 42.66 m OD Malin; some areas of car parking and landscaping to be in Flood Zones A & B; minimising the loss of natural floodplain; the provision of a compensatory storage area on site to compensate for the loss of some 64 cu.m. of Flood Zone A lands; the preparation of an emergency plan, and surface water drainage, including attenuation, proposals. The FRA, as prepared by JBA Consulting, concludes that the mitigation and management measures presented demonstrate that flood risk to the proposed foodstore has been mitigated in a robust and sustainable manner which minimises risk to staff and customers.

- 9.18 The Planner's Report on file dated 25/01/16 states that it is clear from the most recent flood event which occurred in December 2015/January 2016 and "the even more dramatic flood event which occurred in November 2009" that the portion of the subject site which adjoins the N4 is liable to flooding. The p.a. reiterates this as a matter of fact in its response to the grounds of appeal but holds that this does not render the application site in its entirety unsuitable for appropriate development.
- 9.19 I am satisfied that both the p.a. and the applicant have taken full cognisance of the flood risks involved in the development of the site. The mitigation measures appear to be reasonable. The foodstore itself is to be located on that part of the site where the risk of flooding is lowest, part of the car park is designed to inundate during extreme flood events and a compensatory storage area is also to be provided on the site. The foodstore is located on a part of the site which it appears was not flooded during the historic flooding events referred to, the proposed FFL of the foodstore complies with the statutory LAP, and it is not the intention of the applicant to displace flood waters onto adjacent lands in the event of a flooding event. The proposal has had regard to the '*The Planning System and Flood Risk Management – Guidelines for Planning Authorities*' and the statutory plan for the area in relation to flood risk management policies. I am also aware that the Board granted permission in 2013 for a petrol filling station, a drive-through restaurant and car parking, as previously referred to, on a site to the south of the N4 under PL 12.240704. That site lies within Flood Zone A whereas the proposed foodstore subject of the current application lies within Flood Zone C. The same land-use zoning objective applies to both sites. In that decision the Board held that the land where that site is located has been deemed strategic for town expansion purposes. In the circumstances, it might be considered unreasonable to refuse permission for the current proposal on the grounds of flood risk. (I note also the following decisions by the Board for development in close proximity to, and to the south of, the current appeal site: PL 12.207774 -

the Board granted permission in 2004 for the Tesco foodstore in the retail park to the south of the N4; PL 12.207837 - the Board granted permission in 2004 for retail warehousing units on a site to the south of the N4; PL 12.211457 - the Board granted permission in 2005 for a drive-through restaurant in the retail park to the south of the N4, and PL 12.211458 - the Board granted permission in 2005 for a retail warehousing to the south of the N4.)

### Retail Impact

- 9.20 It is stated on file that the proposed foodstore is to accommodate Lidl. There is a Lidl foodstore located in Cortober in Carrick-on-Shannon, that store is on the western side of the River Shannon, it is within the administrative area of Roscommon County Council.
- 9.21 All three third party appellants and both observers to the appeal have raised concerns in relation to retail impact. It is held by some that the provision of another large convenience store significantly exceeds the capacity level set out in the Leitrim County Retail Strategy 2015-2021. One appellant is particularly concerned about the continued expansion of convenience stores which, it is held, far exceeds the needs of the town and a reasonable catchment area. It is further held by that appellant that having two complimentary convenience stores on either side of the river makes retail planning sense and reduces traffic congestion. One of the observers, RGDATA, holds that no retail developments should be approved until a full Town Centre Health Check is undertaken as contained in the Retail Planning Guidelines 2012. The other observer to the appeal, L. & G. Farrell, consider that an additional Lidl store is not required and will severely impact retail in the Cortober area of Carrick-on-Shannon.
- 9.22 As stated previously, this site is zoned for 'Town Centre Expansion' and, as such, the proposed use is acceptable in principle as indicated in the statutory LAP. The LAP post-dates the Retail Planning Guidelines for Planning Authorities, 2012, as does the Leitrim County Retail Strategy 2015-2021. Reference to those Ministerial Guidelines is contained in both documents. The Leitrim County Retail Strategy 2015-2021 was adopted alongside the adoption of the County Development Plan 2015-2021. In that strategy it is indicated in Table 5-14 that the estimated future additional retail floor area in the county to 2021 for convenience shopping is 1,158 sq.m. The strategy states that Carrick-on-Shannon is the principal town of the County and as such, maintaining and enhancing retailing in this town is essential. It is recorded at 'Tier 1 – County Retail Centre' in the retail hierarchy of the strategy. The strategy, at section 8.2.4 states, *inter alia*, that Carrick-on-Shannon is expected to absorb one-third of the overall population and housing growth over the lifetime of the Plan. It is anticipated that the majority of future retail applications in the County will be primarily attracted to the County town of Carrick-on-Shannon, whilst there may be some scope for Tier

2A centres of Manorhamilton and Ballinamore. The proposed foodstore is to replace the existing Lidl foodstore in Cortober, therefore the net floor area proposed in the foodstore does not equate to a net additional convenience retail floor area for the County in the context of the County Retail Strategy (the retail strategy did have regard to the retail park in Cortober which is in Co. Roscommon). The actual additional convenience retail floor area is 400 sq.m. (ref: s.4.9 of the applicant's response to the grounds of appeal), I therefore cannot find that the proposed additional floor space contravenes the County Retail Strategy. In relation to the sequential test, I note that the proposed location is approximately the same distance from the town core as the current Lidl store that it is to replace. I would also draw to the Board's attention the fact that the application site is closer to the town core than the Tesco store to the south in the retail park and is closer to the town core than the Aldi foodstore off the N4 as granted under 10/228 (PL 12.237890). In relation to concerns raised about the impacts of the relocation of the existing Lidl store in Cortober to the eastern side of the town as now proposed the County Retail Strategy at page 92 states, *inter alia*, the following: "*The area referred to as Cortober on the southwestern bank of the river Shannon forms part of the town of Carrick-on-Shannon and lies within the planning jurisdiction of Roscommon County Council. Based on the small area population statistics from Census 2011, Cortober and its environs is populated by 724 no. persons. The extent of retail floorspace, convenience, comparison and bulky goods is exorbitant for the areas residential population, a fact emphasised by the extent of vacant premises currently in the area.*" In relation to the call by RGDATA for no new retail developments being approved until a full town centre health check is undertaken, I note that the County Retail Strategy is relatively new, being adopted in 2015, and it does contain such health checks.

- 9.23 Having regard to the foregoing I do not consider that the proposed development contravenes the County Retail Strategy. It is compatible with the land-use zoning objective for the area.

#### First Party Appeal

- 9.24 The first party has appealed Condition 11 of the p.a. decision relating to commercial signage. The applicant holds that the wording of Condition No. 11a in particular is unreasonable. It is held that the wording is unfair as it could be construed as meaning that no further applications could be made for signage at the site.
- 9.25 The p.a. have responded indicating that it is not the intention of the p.a. to use Condition No. 11a to prohibit further applications for signage. The p.a. suggest an alternative condition very similar to the standard condition used by the Board for retail advertising. This issue can be clarified by way of condition should the Board be disposed to a grant of permission.

## Appropriate Assessment

- 9.26 The application was accompanied by an Appropriate Assessment Screening Report as prepared by R. Goodwillie & Associates (ref: Appendix 2 of the 'Planning Report' received by the p.a. on the 27/11/15). That report evaluates the site as being of no interest ecologically as it is managed grassland without features that would attract wildfowl or waders. It states that the treeline along the southern side is of poplars and therefore of little wildlife importance. That Screening Report goes on to note that there are no Natura 2000 sites within 15 km of the development. However, it does note that the site is close to the River Shannon which flows into Lough Forbes complex cSAC and Ballykenny-Fishertown Bog SPA at a distance of c. 20 km downstream. Having assessed the relevant conservation objectives and likely effects, the report concludes that the project will not have significant effects on the Natura 2000 site network.
- 9.27 In a report on file from the Department of Arts, Heritage and the Gaeltacht dated 11/01/16 (addressed to the p.a.) the Department indicated that it carried out two site visits around the time of the December 2015/January 2016 flood event in the area. Sustained flooding had been noted on the lower section of the site. It is stated that the sloping lands at this section host wetland plant species, it consists of wetland grass and sedge species, wetland plants and mosses. Snipe, mallard duck, and moorhen were all observed on the lands. It is stated that the snipe species is considered vulnerable and declining. It is further stated that the wetlands form part of, and are connected to, the more extensive active floodplain of the River Shannon lying to the west. The report notes that the public road (the N4) has been raised two or three times over the last two decades and that the active flood plain to the west has been partially infilled as part of a development in the last decade. The report concluded stating that the infilling or development of the wetlands area and area of frequent inundation at the site may be in conflict with the Water Framework Directive and may require assessment for active wetlands loss and also as incremental and cumulative infilling of the flood lands in the region. The Department recommended that an assessment and consideration for cumulative wetlands habitat loss be carried out.
- 9.28 The p.a. in its FI request on the matter specifically referred to the Department's submission (ref: item 8 of the request). In response the applicant submitted a further report as prepared by R. Goodwillie, Applications Ecologist (ref: dated 08/03/16 and received by the p.a. on the 11/03/16). That report states that the ground in the southwest that floods in most years during the winter period and whose vegetation can properly be called a wetland lies entirely outside of the development site. It goes on to describe the flora present on the lands. It states that snipe would feed in all this area at times in the winter, it is stated that they are attracted to recently flooded ground because the water brings soil invertebrates to the surface. It further states that fourteen snipe were seen in early February 2016 (in addition to the

sightings referred to by the Department). The report holds that the snipe is the most widespread wader in Ireland, it occurs in farmland, marshes and even in peri-urban situations wherever rainwater collects. It is stated that it also breeds widely in the northwest half of the country including the Shannon valley. The report states that the reason the snipe is considered vulnerable is that it has an unfavourable conservation status in Europe as a whole. The Goodwillie report concludes that the Water Framework Directive requires analysis of the potential loss of active wetland in the context of planning or development, in this case, it is stated, there is no loss of active wetland and the only impact is on 64 sq.m. of the surrounding Flood Risk A lands which is mitigated by on-site storage and attenuation.

- 9.29 In a subsequent report from the Department to the p.a. dated 13/04/16, it is stated that the NPWS accept the (Goodwillie) report's findings. It makes a recommendation in relation to the protection of the poplar trees during the construction period (the application as originally submitted does contain tree protection proposals, ref: plans and particulars by 'The Tree File').
- 9.30 Having regard to the foregoing, and also to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise.

## **10.0 CONCLUSIONS AND RECOMMENDATION**

I recommend that the Board uphold the p.a. decision and grant permission for the proposed development subject to the conditions as indicated below.

### **REASONS AND CONSIDERATIONS**

Having regard to the nature and scale of the proposed development, the pattern of development in the vicinity of the application site, the 'Town Centre Expansion' zoning objective for the site as set out in the Carrick-on-Shannon Local Area Plan and also having regard to the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government, April, 2012 and the Leitrim County Retail Strategy 2015-2021 it is considered that, subject to compliance with the conditions set out below, the proposed development would not unduly impact on the vitality and viability of the town centre, would not seriously injure the amenities of the area or of property in the vicinity, would not give rise to an unacceptable risk of flooding in the area, would be acceptable in terms of traffic safety and convenience and would be in accordance with the proper planning and sustainable development of the area.

## CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 11<sup>th</sup> day and 23<sup>rd</sup> day of March 2016, 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. Prior to the commencement of development, the developer (Lidl Ireland GmbH) shall enter into an agreement with the planning authority pursuant to section 47 of the Planning & Development Act 2000 (as amended) requiring the developer to cease trading at the existing Lidl foodstore located in Cortober, Carrick-on-Shannon, Co. Roscommon within 14 days of the commissioning of the foodstore at the application site.

**Reason:** In the interests of clarity, the proper planning and sustainable development of the area and to ensure compliance with the Leitrim County Retail Strategy.

3. The foodstore shall not be commissioned prior to the construction and commissioning of a footpath along the southern side of the Circular Road from the proposed entrance to the application site. The footpath shall tie in with the existing footpath to the west of the proposed entrance and with the footpath on the south-western side of the Attifinlay roundabout to the east of the proposed site entrance. Prior to the commencement of development the applicant shall submit to, and agree in writing with, the planning authority proposals for the compliance with this condition.

**Reason:** In the interests of pedestrian safety and sustainable modes of transportation.

4. The site entrance, car parking, bicycle parking and internal road network serving the proposed development, including turning bays,

junctions, disabled parking provision, 'parent and child' parking provision, trolley bay locations, footpaths, pedestrian crossings, Totem Pole Sign location and kerbs, shall be in accordance with the requirements and detailed standards of the planning authority for such works.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.

5. All mitigation measures, including the drafting of the Emergency Plan and the provision of on-site compensatory storage, contained in the 'Flood Risk Assessment' submitted to the planning authority on the 27<sup>th</sup> day of November 2015 (as prepared by JBA Consulting) shall be implemented in full to the written satisfaction of the planning authority prior to the commissioning of the foodstore.

**Reason:** To reduce the risk of, and mitigate impacts arising from, a flooding event at the site.

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

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

Details of the materials, colours and textures of all the external finishes to the proposed foodstore shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

7. 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.

8. 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.

9. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

10. 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. 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

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Tom Rabbette  
Senior Planning Inspector  
17<sup>th</sup> August 2016