



An
Bord
Pleanála

Inspector's Report PL.15.247383

Development	Single storey licensed convenience retail supermarket, commercial kiosk, 86 no. car parking spaces, 15 no. bicycle parking spaces, landscaping and associated site works.
Location	Sean O'Carroll Street, Cappocksgreen, Ardee, Co. Louth.
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	16/485
Applicant(s)	Ballygowan Samplar Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellant(s)	1. Escadia Ltd. 2. Tesco Ireland. 3. RGDATA.
Observer(s)	None.
Date of Site Inspection	17 th January 2017
Inspector	Deirdre MacGabhann

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision.....	4
4.0 Planning History.....	9
5.0 Policy Context.....	10
6.0 The Appeal	14
7.0 Assessment.....	20
8.0 Recommendation.....	28
9.0 Reasons and Considerations.....	29

1.0 Site Location and Description

- 1.1. The appeal site lies c.600m east of Ardee Town, immediately south of the N33 and east of Sean O'Carroll Street. It lies immediately south east of the roundabout junction of the N33 with Sean O'Carroll Street.
- 1.2. The N33 is a national primary road which links the M1, north of Dunleer, to the N2, joining the N2 at a roundabout junction north east of Ardee town. Sean O'Carroll Street links the N33 to Ardee town centre. The road serves existing residential and commercial development alongside the road and varies in width. In the vicinity of the appeal site it is a wide road with footpaths on both sides of the road and a cycle lane on the northern side. Towards Ardee, footpaths of both sides of the road continue but the road itself narrows and, with on street parking, the width of the carriageway is, at times, limited to a single lane. Traffic calming measures (speed ramps) are in place along much of the road, west of the appeal site. Sean O'Carroll Street joins Market Street/Castle Street/ Ash Walk in Ardee town centre via a simple T-junction (Ash Walk is one way west of Market Street/Castle Street).
- 1.3. The appeal site is in agricultural use and is bounded by timber fencing along Sean O'Carroll Street and by timber fencing and semi-mature trees alongside the N33. A mature hedgerow extends along the southern boundary. To the south of this is a public footpath along the disused railway line to the south of the site. To the south west of the site is a collection of industrial buildings, some of which are vacant and some are in use.
- 1.4. Access to the site is provided via a mini-roundabout on Sean O'Carroll Street. This roundabout also provides access to land on the northern side of Sean O'Carroll Street.

2.0 Proposed Development

- 2.1. The proposed development comprises a single storey retail supermarket (gross floor area 1,608sqm, net floor area 1,140sqm) and separate retail kiosk (120sqm gross floor area) with associated surface car parking (86 no. spaces), bicycle parking

spaces (15 no.), landscaping and new public plaza. The site is 1.5153ha in size. The retail supermarket is situated to the north of the site with the long side of the rectangular building facing the N33 and the short western side facing the public plaza. The building has 'butterfly roof'. External walls are finished principally in metal rainscreen cladding and, to a lesser extent rendered concrete. The retail kiosk is similarly finished. It lies to the south west of the supermarket building and to south of the proposed public plaza. Car parking and bicycle spaces are provided to the south of the building. Service access is to the east. An attenuation pond is proposed to the east of the site.

2.2. Vehicular access to the site will be directly from the existing roundabout on Sean O'Carroll Street. Pedestrian access will be from Sean O'Carroll Street and a new pedestrian footpath will connect the site with the adjoining pedestrian walkway along the former railway line to the south east of the site (Drawing P-002).

2.3. The planning application for the proposed development is accompanied by the following documentation:

- Supporting Planning Statement.
- Urban Design Statement.
- Traffic and Transportation Assessment Report.
- Engineering Assessment Report
- Retail Impact Assessment
- Sequential Test Analysis
- Natura 2000 Screening Report.

3.0 Planning Authority Decision

Decision

3.1. The planning authority decided to grant permission for the development (12th September 2016) subject to 24 conditions. Most of these are standard conditions however, the following site specific conditions apply:

- Condition no. 2 – Restricts the use of the premises to self-service sale of food and small household goods. Electrical products, clothes or other comparison goods shall not be displayed or sold on the premises.
- Condition no. 3 – Requires that the development shall not proceed until a solution to the predicted traffic congestion at the Sean O’Carroll Street/Castle Street/ Ash Walk junction has been provided and in the event that no additional roads infrastructure is provided that the applicant provide a full traffic signal control at the junction. If additional road infrastructure is provided the applicant is required to demonstrate that adequate junction capacity is available and that traffic congestion at Sean O’Carroll Street/Castle Street/Ash Walk junction will not arise. Requires that traffic safety measures set out in the application documentation are implemented prior to the opening of the development.
- Condition no. 10 – Requires completion of the proposed vehicular access, lighting and tie in to the existing cycle way and footpath prior to occupation of the retail unit.

Planning Authority Reports

3.2. There are two reports on file by the Planning Officer. The first (31st August 2016) refers to the planning history of the site, relevant policies and objectives of the Louth County Development Plan, Louth County Retail Strategy, Ardee Local Area Plan (LAP) and the government’s Retail Planning Guidelines (2012), the submissions made and pre-planning consultation in respect of the proposed development. It states:

- The application site is specifically zoned for supermarket development up to 2,500sqm. There is a presumption set out in the Ardee LAP for development within the Town Centre despite the zoning afforded to the site.
- The application site falls significantly outside the core retail area and outside edge of centre sites.
- The applicant’s sequential test is materially deficient. Other more suitable sites are available in the Town Centre (such as the Market Street site).

- The proposed development would not contribute to an improvement of the town centre (Retail Design Manual).
- There has been no substantive change in policy or the nature of the development since the Board's determination of the application (made under PL15.245481) to change or reconsider the decision to refuse permission on retail grounds.
- The application does not address issues relating to congestion and/or traffic movement in the town centre. The development is predominantly car dependent (no town bus service).
- The applicant's TIA has demonstrated that the development will result in significant increase in traffic along Sean O'Carroll Street which would impact significantly on the Sean O'Carroll Street/ Castle Street/ Ash Walk junction and concludes that traffic signals would be required in the short to medium term.

3.3. The report concludes by recommending that permission is refused for the development for two reasons, impact on vitality and viability of town centre and that the development is premature pending a solution to the predicted Sean O'Carroll Street/ Market Street/ Ash Walk junction and would, therefore, impact on the safety and free flow of traffic within the town.

3.4. The Planning Officer's subsequent report (7th September 2016) refers to the comments made by TII, received by the planning authority on the 1st September 2016. It states that having regard to the recommendation to refuse permission for the development for matters which relate to retail planning, it would be inappropriate to seek further information to address the matters raised by TII. The report recommends refusing permission for the development for the reasons stated in the first report.

3.5. An internal memo from the Senior Planning Officer to the Director of Services (9th September 2016) refers to the history of refusal on the appeal site for retail development and the scale of the proposed development, which is stated to be 55% smaller in overall floor area compared with the history application. It states that *'Notwithstanding the adoption of the Louth County Development Plan 2015-2021 on the 26th October 2015... it is considered that there has been no significant national,*

regional or county level planning policy change that would materially alter the decision¹ made by the Planning Authority on the 25th August 2015'. Accordingly, it is considered, that on balance the proposed development should be granted permission subject to condition.

Internal Reports

- 3.6. On file is a report from Infrastructure Planning (23rd August 2016) it notes that the development will result in a very significant increase in traffic on Sean O'Carroll Street and the Sean O'Carroll arm of the junction with Castle Street/Ash Walk. It recommends further information in respect of detailed plans to upgrade the Sean O'Carroll Street/ Castle Street/ Ash Walk junction to a signalised junction, a road safety audit (site to Sean O'Carroll Street roundabout) and clarification of the scenarios used for the determination of impacts in Chapter 7 of the report.

Prescribed Bodies

- 3.7. The following reports have been made in respect of the application:
- Irish Water (25th August 2016) - Raise no objections in respect of the proposed development.
 - The Department of Arts, Heritage and the Gaeltacht (22nd August 2016) - State that the development lies in proximity to the town of Ardee and Recorded Monument Nos. LH017-101 and LH017-091 (a souterrains) and, consequently, recommend that a pre-development testing condition be included in any grant of permission.
 - TII (1st September 2016):
 - Object to the development on the grounds that it is at variance with official policy in relation to control of development on/affecting national roads (*DoECLG Spatial Planning and National Roads, Guidelines for Planning Authorities 2012*) and would adversely affect the operation and safety of the national road network.

¹ In respect of PA Ref. 15/419, PL15.245481.

- State that the development should be considered in the context of decisions made by the Board in respect of the appeal site and other relevant sites (PL15.245481, PL15.246457 and PL15.245128) which consider objectives related to safeguarding the strategic function of the national road network in the area.
- Consider that insufficient data has been submitted with the application to demonstrate that it would not have a detrimental impact on the national road network. It recommends that the Traffic and Transportation Assessment Report be revised to include this.

Third Party Observations

3.8. On file are the following observations from third parties:

- RGDATA (23rd August 2016) – Out of town location of development. Wholly car dependent. Precedent set by previous refusal of applications for retail development on the site, including most recent refusal by the Board in January 2016 (PA Ref. 15/419). Acknowledge that the development is smaller than that previously proposed, but would nonetheless have a profound negative impact on the existing town centre and would not adhere to the principles and provisions of the Retail Planning Guidelines, Louth County Development Plan or the Retail Strategy for Ardee.
- Tesco Ireland Ltd (23rd August 2016) – Development is removed from town centre, has not addressed the previous reasons for refusal, conflicts with policies of the Ardee Local Area Plan 2010-2016, would act as a counter attraction to the retail core, would adversely impact on the vitality and viability of the town centre and be contrary to the Retail Planning Guidelines 2012 (sequential approach).
- Escadia Limited (22nd August 2013) – Out of town location, contravenes policies of the Ardee LAP (Policy ACT1) and Louth County Development Plan (Policy EDE 33). The previous reasons for refusal remain valid (PA Refs. 08/724; 09/705 (PL15.236120); 15/419 (PL15.245481)). The sequential test submitted is unsound and unreliable dismissing 11 no. town centre sites. The development is contrary to NRA and Development Plan policy and

undermines investment in the national strategic road network and carrying capacity of the N33. The development would interfere with the safety and free flow of traffic in Ardee Town Centre because of the unsuitability of Sean O'Carroll Street to cope with the significant additional traffic that would be generated. Similar precedent set by the Board under PL15.246457.
Deficiency in car parking space provision.

4.0 Planning History

4.1. The following planning applications have been made in respect of the appeal site:

- PA Ref. 08/724 (PL15.232823) – Permission for a two storey retail unit (4,905sqm GFA), 265 car parking spaces and associated works refused by the planning authority. Appeal lodged but withdrawn.
- PA Ref. 09/705 (PL15.236120) – Permission for a single storey retail unit (4,004sqm), 295 car parking spaces and associated works. Granted permission by the planning authority, refused at appeal by the Board on the grounds of impact of additional traffic turning movements on safety and free flow of traffic on national road network, that the proposed use would materially contravene the zoning objective for the site and impact on vitality and viability of town centre.
- PA Ref. 15/419 (PL15.245481) – Permission for a single storey supermarket (2,950sqm GFA), 146 car parking spaces, 26 bicycle spaces and associated works. Granted permission by the planning authority and refused at appeal by the Board on the grounds of impact of additional traffic turning movements on safety and free flow of traffic on national road network and impact on vitality and viability of town centre (applicant had failed to demonstrate under the sequential test that there are no alternative or sequentially preferable sites within the town centre).

4.2. In addition to the above, the following applications have been determined on land in the vicinity of the appeal site:

- PA Ref. 08/1220 – Planning permission was sought for 143 dwellings and a three storey retail/commercial and single storey building on land to the north

of Sean O'Carroll Street and to the north west of the appeal site. Planning permission was granted, by the planning authority, for 143 dwellings but refused for the retail/commercial component of the development. Access to the site is from Sean O'Carroll Street.

- PA Ref. 15/721 (PL15.246457) – Planning permission was sought for alterations to parent permission, PA Ref. 09/509, a light/industrial business park development on land to the north of the N33 and north west of the appeal site. Alterations include the omission of three no. light industrial/warehouse units and their replacement with a petrol filling station (557sqm GFA), associated car parking (34 no.), forecourt area etc. Permission was granted by the planning authority and appealed by TII. Permission was subsequently refused by the Board (August 2016) on the grounds that the additional turning movements onto and off the N33 would impact on priority for strategic through traffic on the national road, contrary to the *Spatial Planning and National Roads – Guidelines for Planning Authorities* and of Section 7.3.3 of the Louth County Development Plan 2015-2021

5.0 Policy Context

National Planning Policy

- 5.1. The government's *Retail Planning Guidelines for Planning Authorities 2012* set out key policy objectives for retail planning in the State. These include ensuring that retail development is plan-led, promoting city/town centre vitality through a sequential approach to development, increasing access by public transport, cycling and walking and delivering quality urban design outcomes. Further, the guidelines set out 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 (Section 2 and Section 4).
- 5.2. Section 4.4.2 of the Guidelines states that only when it has been satisfactorily demonstrated that there are no sites or potential sites within a town centre that are (a) suitable (b) available and (c) viable, can an edge-of-centre site be considered. In exceptional circumstances, similar approach is advised in respect of out-of-centre sites.

- 5.3. Where the consideration of an edge-of-centre site becomes necessary, the Guidance (section 4.7) states that applicant and the planning authority must ensure that edge-of-centre sites are within easy walking distance of the identified primary retail area of the city or town (generally not be further than 300 to 400 metres). Section 4.8 of the document states that *'An out-of-centre site is defined as a location which is clearly not classifiable as a city or town centre location as defined in these Guidelines but which is within the urban area, including planned extensions to the urban area in a development plan'*.
- 5.4. The companion document *Retail Design Manual – A Good Practice Guide 2012* sets out guidance on achieving good quality design in retail development and, consequently, the built environment.
- 5.5. The Department's *Spatial Planning and National Roads Guidelines* (DoECLG, 2012) refers to the primary purpose of the national road network to provide strategic transport links between the main centres of population and the need to safeguard this infrastructure. Section 1.4 of the guidelines state that *'the planning system must ensure that the strategic traffic function of national roads is maintained by limiting the extent of development that would give rise to the generation of short trip traffic on national roads or alternatively by ensuring that the trip demand from future development will primarily be catered for on the non-national network'*

Development Plan

- 5.6. The appeal site falls within the administrative area of the Louth County Development Plan 2015 – 2021 adopted on the 26th October 2015. Section 2.6 of the Plan identifies Ardee as Level 2 settlement, a moderate sustainable growth town.
- 5.7. The CDP refers to County Retail Strategy and its designation of Ardee as a Level 3 Centre in the County retail hierarchy and, in Section 6.7.1, states that *'To retain the primacy of town centres for shopping purposes and to enhance their vitality and viability, new retail development should be located within or as close to these identified core retail areas where possible'*. It refers to opportunity sites identified for Ardee which are considered to be suitable locations for modern retail development but states that this does not preclude additional sites suitable for retail development coming forward over the lifetime of the Plan.

- 5.8. Policy EDE 32 seeks to ensure that applications for retail development comply with the Retail Planning Guidelines for Planning Authorities, 2012, the Retail Design Manual, 2012 and the provisions and policies of the Louth Retail Strategy 2014 and Policy EDE 33 seeks to promote a healthy competitive retail environment within the county and to maintain the vitality and viability of towns and villages and their role as primary retail core areas.
- 5.9. Under Section 7.3.3 the Plan states that, in respect of National Routes in County Louth, including the N33 Charleville Interchange (M1 Junction 14) to Ardee National Primary Route, the Council will continue to implement measures to safeguard the capacity and safety of these national routes so that they can continue to perform their strategic role and maintain their importance to the future development of the County.
- 5.10. Car parking standards are set out in Table 7.6 and require for retail development 1 space per 20sqm for lands located adjacent to high level public transport services or lands serving local catchment area or 1 space per 10sqm for all other areas. In Section 7.3.10 of the Plan the N2-Ardee Bypass and the N52-Ardee Bypass are listed as proposed road improvements.

Louth County Retail Strategy 2012

- 5.11. The Louth County Retail Strategy 2012 identifies the existing core retail area of Ardee as the linear street comprising Irish St, Market St, Castle St to the north of the town and Bridge Street to the south of the town (Map 12.7, see attachments). The document identifies four no. opportunity sites are identified in the town centre (Map 12.9). The Retail Strategy identifies an indicative potential for an additional 373 sqm of convenience floorspace to 2021 in the town and a further 629sqm of convenience floorspace to 2024.
- 5.12. Section 9.3 of the Plan states that the overall preferred location for new retail development is within city and town centres. Other policies of the Retail Strategy include:
- To support planning applications which will maintain and enhance the supremacy of the core shopping areas.
 - To apply the sequential approach when considering any significant new retail development outside of the core retail area.

Ardee Local Area Plan 2010-2016

- 5.13. The Ardee Local Area Plan zones the appeal site for RT 'To provide for the development of a single modern format supermarket of up to 2,500sqm of net retail floorspace (including food and non-food floorspace)'. Land to the north west of the site is zoned for residential land uses and is identified as coming forward within Phase 1 and Phase II of the residential phasing strategy (Section 8.3 of the Plan). Section 8.2 refers to a masterplan for the Northeast Ardee area the objective of which is to provide for new residential development and supporting community facilities in accordance with the Northeast Ardee Masterplan (there is no Masterplan available on the planning authority's website).
- 5.14. Retail policies of the LAP seek to preserve and strengthen the role of the town as the principal sub county retail centre to serve the needs of the towns people and the wider rural hinterland (Policy EE 6), to preserve and strengthen the town centre as the main focus for retail and commercial development (Policy ATC 1) and to subject proposals for large scale retail development outside of the town centre to the sequential test and to demonstrate that the existing town centre will not be adversely affected (Policy EE 8).
- 5.15. Transportation policies seek to secure the construction of bypasses for the N52 and N2 to the east and west of the town respectively (Policy INF 12). With regard to the roundabout junction on the N33 link road, the Plan states that '*A new roundabout is being provided on the N33 Link Road. This will afford access and facilitate the development of substantial tracts of lands zoned for industrial and related uses to the north of the Link Road and for residential development south of it*'. Policy INF 14 seeks to upgrade footpaths and to install a cycle path along Sean O'Carroll Street in order to accommodate additional pedestrians and encourage the use of smart travel.

Natural Heritage Designations

- 5.16. No natural heritage designations directly affect the appeal site or land in proximity to it.

6.0 The Appeal

Grounds of Appeal

6.1. There are three appeals lodged against the planning authority's decision to grant permission for the development. Each raises similar issues and refer to matters set out in observations on the planning application.

Escadia

- Cost - Cost of making a third party appeal for what is essentially a 'repeat' development (PL15.232823, PL15.245481 and current appeal). Compensation is sought under section 145(1) of the Planning and Development Act 2000 (as amended).
- Precedent set by planning history – The planning history of the site has consistently found the site to be unsuitable for retail development of the nature and scale proposed (PA Ref. 08/724; 09/705 (PL15.236120); 15/419 (PL15.245481). The previous reasons for refusal remain valid, notwithstanding that the current proposal is smaller.
- Impact on town centre - The site is out-of-centre and functionally disconnected from its core. The ability of the development to create synergy and promote linked trips would be severely limited. Development will draw business and footfall away from the Town Centre materially undermining and compromising the viability and vitality of the town centre, in direct and material conflict with national and local planning policies and guidance (including Policy ATC1 of Ardee LAP, Policy EDE3 of Louth County Development Plan).
- Sequential test - The sequential test submitted in support of the application is unsound and unreliable.
- Failure to address shortcomings of application - The decision of the planning authority is contrary to the recommendations of its own Planning Officer and ignores recommendations of TII and its own Infrastructure Engineer to address shortcomings in the application.

- Conditions of the permission - Condition no. 3 is unreasonable, unsound and contrary to the recommendations of Development Management Guidelines because of potential impacts on third parties.
- Impact on national road - The development is located south of a national road and would have a negative impact on the safety and carrying capacity of the national road network. It is therefore contrary to NRA and development plan policy, undermines the investment in the national strategic road network and erodes the carrying capacity of the N33.
- Impact on local road network - The development would interfere with the safety and free flow of traffic in Ardee town centre because of the unsuitability of Sean O'Carroll Street to cope with significant additional traffic generated by the development. A recent appeal by TII (PL15.246456) strengthens reasons for refusing permission for the development.
- Car parking - The number of car parking spaces proposed (68 no.) is substantially below that required by the Ardee LAP (172 no.).

Tesco Ireland Ltd

- Impact on town centre – Arising from out of town location, size and poor pedestrian and cyclist connectivity, the development will have a negative impact on the viability and vitality of the Town Centre of Ardee and would be contrary to the Retail Planning Guidelines.
- Conditions of the permission - Condition No. 2 is insufficient to combat the impact of a foodstore at this location.
- Sequential test - The development would be contrary to the policies and objectives of the Ardee LAP 2010-2016 and inconsistent with the Retail Planning Guidelines 2012. The applicant has not demonstrated that the sites identified in the sequential test are not suitable to accommodate a foodstore development.
- Design and layout - The design and layout of the development offers no active frontages onto Sean O'Carroll Street or the N33.
- Impact on local road network and national road network - The proposed development would generate increased traffic at the junction of the N2/Ash

Walk/Sean O'Connell Street and traffic safety issues along the inadequate Sean O'Connell Street. The infrastructure section of the planning authority requested further information on this matter which was not followed through. TII also noted deficiencies in the application and have advised that the application is at variance with *DoECLG Spatial Planning and National Roads Guidance for Planning Authorities (2012)*.

- Precedent set by planning history - Applications for retail development on and in the vicinity of the appeal site have been refused by the planning authority and/or the Board (PA Ref. 08/724; 09/705 (PL15.236120); 15/209 (PL15.245481) and 14/81 (PL15.243454). Whilst smaller than previous retail development, the only change that has occurred since the earlier refusals on the site is that the LAP states that a supermarket may be appropriate on the subject site. The retail environment of Ardee has not changed considerably since the Board's previous refusal. The recommendations of the Inspector and the decision of the Board are therefore still relevant.
- Failure to address shortcomings of application - Internal reports differ in their approach towards decision making. The Planning Officer had concerns regarding the quality of the sequential test, the out of centre nature of the development and traffic generation/policy issues.

RGDATA

- Planning history of the site - Proposals for large scale retail development on the appeal site have all been refused on grounds of land use zoning, impact on vitality and viability of town centre and impact on safety and traffic flow on national road network (PA Ref. 08/724, 08/501, 09/705 and 15/419).
- Impact on town centre - Whilst the current proposal is smaller in scale than the previous developments, it will have a profound effect on the existing designated and established town centre. The development, detached from the existing town centre, does not therefore adhere to the principles and provisions of the Retail Planning Guidelines, policies and objectives of the Louth County Development Plan or the Retail Strategy for Ardee.
- Failure to address shortcomings of application - The Senior Executive Planner recommends refusal and is not satisfied with the applicant's conclusions in the

sequential test (including the suitability of the former Kerr's Builders Provider's site). Town centre sites may be problematic for a retailer with a fixed format but the retailer/developer should be asked to redesign their development to adapt to the space available. Further investigation of vacant sites in the town centre is essential to see if the proposed development could be accommodated in the town centre. No new large convenience stores should be permitted in Ardee in the absence of a proper Town Centre Health Check.

- Car parking - The planning application includes car parking for 68 no. cars and will be almost wholly reliant on the private car. As such it is contrary to the Sustainable Transport Strategy and the third objective of the Retail Planning Guidelines.
- Sequential test - The scale, large car park and out of town location will make the proposed development a location for a weekly shop by car. The sequential test fails to show that the out of town site is the most appropriate.
- Impact on town centre - The extent to which the site is removed from other town centre activities will not encourage any connection or movement between the site and the town centre except by car. It would not, therefore, contribute to enhancing the vitality and viability of the town centre and should be refused.

Applicant Response

6.2. The applicant makes the following comments on the appeals made:

- Planning history – The proposed development (1,608sqm GFA) is significantly smaller than that proposed under PA ref. 15/419 (2,950sqm GFA) and comprises only convenience floorspace (the previous application was a mix of convenience and comparison). It is therefore materially different from the previous applications on the site and will facilitate the increased demand for convenience shopping in Ardee and mid-Louth.
- Out of town location – Alternative sites were assessed to determine whether the subject site was the best and most appropriate site for the proposed development. Whilst the applicant has some flexibility in the form and layout

of the proposed facility, within certain operational requirements, there was and still is a distinct lack of viable opportunity sites in the town centre. The subject site and surrounding area should be considered as an emerging urban part of Ardee. The residential lands to the north west of the site have been subject to a masterplan for large scale residential development and industrial land zoned to the north is earmarked as a major source and location for employment for Ardee and mid-Louth. The proposed site is the most suitable location for the proposed development and will create synergistic benefits with the nearby industrial and residential lands and will not have any negative impact on the vitality and viability of the town centre.

- Road and traffic considerations – The traffic and transport assessment of the proposed development found that it would not have any adverse impact on the safety or capacity of the adjoining road network, including Sean O’Carroll Street and the N33 link road. There is a significant catchment population within a 10-minute walking distance of the appeal site which will promote a positive modal split between car and pedestrian borne traffic. TII did not recommend that permission be refused or lodge an appeal against same. Condition no. 3(a) requires additional road infrastructure work to be carried out prior to the commencement of development. The applicant considers that this provides suitable additional protection to the surrounding road network in terms of the increase in traffic that would be associated with the development. From a traffic and transportation perspective the site is considered to represent the optimum site available (see Appendix 1 of submission). The development will not give rise to any significant adverse impact on congestion or road traffic hazards and is in accordance with the *Spatial Planning and National Roads Planning Guidelines (2012)*.

Planning Authority Response

- 6.3. The Planning Authority does make any further comments in respect of the appeals made.

Further Responses

6.4. Further responses are made by the three appellants. Additional points raised are summarised below:

Escadia Ltd.

- Whilst a supermarket use is permitted in principle on the RT zoned lands, this does not in itself make the development automatically acceptable or appropriate. National and local planning policy presume overwhelmingly in favour of the development of town centre first and foremost (including ATC 9 in Ardee LAP).
- The applicant's submission fails to further elaborate in any meaningful way how the appeal site is more sequentially preferable than town centre sites, in particular opportunity site nos. 3 and 7.
- Land zoning in the vicinity of the appeal site (Residential and Commercial/Residential and Light Industrial Uses) limits convenience retail development to 100sqm floorspace and precludes comparison retailing. These restrictions highlight the remote and unsuitable location of the appeal site relative to the Town Centre.
- The traffic report acknowledges that the development will generate 'local' traffic on the national road network, highlighting the car dependent nature of the development and its impact on the national road network. National road guidelines expressly provide that the strategic road network should not be used to facilitate development that would give rise to the generation of short trip traffic. Due to the sub-standard nature of Sean O'Carroll Street the majority, if not all, of the traffic associated with the development will use the N33 to access it, in conflict with national roads policy.

Tesco Ireland Ltd.

- Some of the conditions of the permission are inconsistent with the Development Management Guidelines for Planning Authorities (2007). In particular, Condition no. 3 relates to the implementation of road safety measures and junction improvements, some of which are outside the control of the applicant, and may therefore be unenforceable.

- There is no significance in TII not appealing the planning authority's decision. The lack of an appeal does not allow for Ministerial Guidance to be ignored.

RGDATA

- The appellant states that whilst the applicant may have concluded that on traffic and transportation grounds the appeal site is the optimum site, their concerns remain unchanged in that the development will be detrimental to the vitality and viability of the town core and on existing businesses in Ardee.

7.0 Assessment

7.1. Having regard to the nature of the proposed development, the policy context for it, the appeal file and my inspection of the appeal site, it is my view the key issues for this appeal comprise the following;

- Policy context/ zoning.
- Planning history/ precedent.
- Sequential Test.
- Impact on town centre.
- Impact on national road network
- Impact on local road network.
- Other matters (car parking, design and layout)

Policy Context/ Zoning

7.2. The government's guidelines on retail planning support the role of town centres as the appropriate location for retail development. A key objectives of the guidelines is, therefore, to promote city/town centre vitality through a sequential approach to development i.e. facilitating edge/out of centre development only where no suitable, available and viable sites do not exist in the city/town centre (sequential test). This objective is reflected in policies of the Louth County Development Plan 2015 – 2021 (Section 6.7) and the Ardee Local Area Plan 2010 – 2016. Section 7.4 of the LAP specifically states *'It is a key strategic objective of this Plan to consolidate and*

protect the role of the town centre as the principal retail and commercial centre of the town’.

- 7.3. The appeal site is zoned for RS uses in the Ardee Local Area Plan 2010-2016, to provide for the development of a single modern format supermarket of up to 2,500sqm of net retail floorspace. The proposed development with its net floor area of 1,140sqm is clearly consistent with this objective. However, the site also lies c.600m to the north east of the core retail area of Ardee Town². It is therefore removed from the town centre and the edge of the town, as defined in the government’s Retail Planning Guidelines (see section 5 above).
- 7.4. Notwithstanding the zoning of the site, having regard to national, county and local planning polices all which clearly seek to protect and promote the vitality and viability of the town centre, I consider that it is appropriate that any application which is brought forward for retail development on the appeal site, even if zoned for such land uses, must demonstrate compliance with the sequential test.

Planning History/ Precedent

- 7.5. The planning history of the appeal site is set out in section 4 above of this report. Retail development has consistently been refused on the site by the planning authority (under PA Ref. 08/724) and the Board (PL15.236120 and PL15.245481). Reasons for refusal have included zoning, impact on the vitality and viability of the town centre (failure to demonstrate no alternative or sequentially preferable site available) and impact of additional traffic flows on the national and local road network. The Board’s most recent decision (PL15.245481) was made in the context of the same national and local planning policy which currently exists and within the context of the Ardee Local Area Plan 2010-2016 which zoned the appeal site for retail development.
- 7.6. The proposed development differs from those previously made in the following ways:
- a. Size. The proposed development has a gross floor area of 1,608sqm, whereas the previous refusals were all substantially larger with gross floor areas of 4,905sqm, 4,004sqm and 2,950sqm respectively.

² Comprising Irish Street, Market Street, Castle Street to the north of the town and Bridge Street to the south – see Map 12.7 of Louth Retail Strategy, Appendix 12 of County Development Plan.

- b. Type of goods on sale. The proposed development is expressly for the sale of convenience goods. Previous applications were for a mix of comparison and convenience goods.

7.7. It is possible therefore that the reduction in size of the development has the potential to reduce traffic movements and consequential impacts on the road network. Further, the exclusion of comparison goods and additional material provided by the applicant in particular in respect of alternative sites may, in principle, address the other reasons for refusal. I consider, therefore, that whilst there is a strong precedent for refusing planning permission on the site for a substantial retail development, for these reasons the proposed development should be assessed on its own merits. (I do not consider therefore that there should be any entitlement to costs, as stated by one of the appellants).

Retail Impact Assessment and Sequential Test

- 7.8. The applicant's Retail Impact Assessment identifies a catchment area for the proposed development of Ardee Town and its environs and a significant part of mid Louth, all within a 10-minute driving time of the site (Figure 4). Further, it identifies that there is spare capacity for additional retail floorspace in the area to accommodate the proposed development. The conclusion is not disputed by any party to the appeal and the County Retail Strategy itself makes reference to the Louth County Retail Strategy 2009 which stated that there was an additional retail store of up to 2,500sqm was required for Ardee. Further, the additional quantum of floorspace coming forward would be commensurate with the role of Ardee as a Level 3 retail centre in the County.
- 7.9. The proposed development lies c.600m to the north east of Ardee town centre. Consequently, in the context of government guidelines (section 5 above) it would comprise an out of town development, being over 400m from the town centre. I note that applicant's argument that the proposed development will serve the emerging residential area to the north east of the town. However, this type of residential development is typically better served by a district centre. Further, the Retail Impact Assessment specifically justifies the development on the basis that it will serve the town and its wider hinterland. Whilst I accept that the proposed development may

serve the needs of this emerging area, it clearly serves a substantially wider area, and, due to its scale and form may impact on the town centre.

7.10. A key objective of the Government's guidelines on retail planning is to promote greater vitality in city and town centres by promoting a sequential test to retail development, specifically with:

1. The overall preferred location for development in city and town centres, and
2. Consideration of edge of town centre sites, and in exceptional circumstances, out of town sites, where there are no sites or potential sites (or vacant units) that are suitable, available and viable within a city, town centre or designated district centre.

7.11. The applicants Sequential Test Analysis identifies 11 alternative sites, nine within Ardee town centre and two on the edge of the town, for the proposed retail development. These include four no. opportunity sites identified in the County Louth Retail Strategy.

7.12. Ardee is traditional Irish town with a long main street and typically narrow linear retail plots. I would accept therefore that some of the sites identified by the applicant would not be suitable for a retail supermarket (nos. 2, 4 and 6). I would also accept that some of the sites are constrained by zoning, the presence of Protected Structures, proximity to the river and issues regarding flooding and would not readily lend themselves to a supermarket with a large format (site nos. 5, 8, 9 and 11).

7.13. The remaining sites are of a size which could, in principle, cater for a large format retail supermarket (nos. 1, 3, 7 and 10). The government's guidelines on retail planning acknowledge the constraints that exist in town centres for retail development and encourage (a) planning authorities to bring forward sites which have been identified as suitable for development, and (b) flexibility from retailers, adapting retail formats to accommodate retail schemes on sites which are well located in the context of the sequential approach to development. The planning authority has, through the development plan process, identified Opportunity Sites in Ardee town centre and the applicant's site nos. 1, 3 and 7 fall within Opportunity Site nos. 1, 2 and 4 respectively.

7.14. Within this context, I would have concerns that the applicant's Sequential Test Analysis has dismissed the remaining without thorough analysis. For example, for

site no. 7 (Opportunity Site no. 4) the applicant overlaid the proposed site plan for the proposed development onto the Kerr's Providers site confirming that the site was too small. No consideration has been given to adapting the retail format to the site available (or other available sites). Further, there has been no attempt to explore solutions to vehicular access issues or robustly demonstrate the unavailability of sites. In the absence of this analysis, I consider that the applicant has failed to adequately demonstrate that there are no alternative or sequentially preferable sites available that could accommodate the proposed development within the town centre. Further, substantially removed from the town centre and located close to the national road network, the development would not readily support multiple trips or the traditional role of the town centre, could act as a destination in its own right and therefore adversely impact on the vitality and viability of the town centre.

Impact on National Road Network

- 7.15. The proposed development is located immediately south of the N33, a national primary road linking the M1 with the N2. National transport policy states that the primary purpose of this network is to provide strategic links between the main centres of population and that the planning system must ensure that this function is maintained by limiting the extent of development that would give rise to the generation of short trip traffic on national roads (*The Department's Spatial Planning and National Roads Guidelines, DoECLG, 2012*).
- 7.16. The applicants Traffic and Transportation Report predicts vehicle trips likely to be generated by the proposed development (Section 3.1) and the impact of these on the national road network (Section 7.5 and 7.6), with other development coming on stream including residential development on lands to the north east of Ardee and industrial development to the north of the appeal site.
- 7.17. The Report estimates that the development would generate c.964 in/out vehicle trips per day with 56 in and 38 out in the AM peak hour and 105 in and 113 out in the PM peak. The report concludes (a) that the proposed development will increase traffic flows on the N33 for a short stretch (1.3km) between the N33/N52 roundabout to the north of Ardee and the N33/Castleguard Link Road junction to the immediate south of the River Dee, and (b) the N33 is capable of absorbing the additional traffic

(including that generated by other planned development) without suffering any tangible deterioration in operational service offered to road users.

7.18. The report also considers the likely effect of the development on the N33/Sean O'Carroll Street roundabout with 50% of the full residential zoned lands developed and 50% of the full industrial lands zoned developed. It concludes that as RFCs are all well below the recommended design threshold value, the development would have no adverse effect on the operation of the roundabout.

7.19. Whilst I accept that the proposed development is substantially smaller than that previously proposed on the appeal site, having regard to the above, it is evident that the applicant's assessment nonetheless clearly acknowledges that the proposed development will give rise to short trip traffic on the N33. In principle the development is, therefore, inconsistent with national transport policy which seeks to limit the extent of development which could give rise to such trips. It is also inconsistent with the approach taken by the Board in their determination of the previous application in respect of the site (PL15.245481), lands to the north of the N33 (PL15.246457) and in the vicinity of the N33 (PL15245128³).

7.20. I note the applicant's references to the development coming forward within the wider strategic context for the development of lands north east of Ardee and north of the N33. However, I would refer the Board to:

- a. Section 2.6 and 2.7 of the *Spatial Planning and National Roads Guidelines for Planning Authorities* which sets out exceptional circumstances where a less restrictive approach to traffic generating development affecting accesses onto or junctions of the national road network can be adopted, notably for developments of national or strategic importance.
- b. Table 7.2 of the County Development Plan which sets out circumstances where exemptions to the TII's restrictive policy in respect of development affecting then national road network apply. In particular, the Plan states that for single carriageway national primary routes exemptions may apply where a new access (or the intensification of use of an existing access) is required for

³ Under this reference permission was refused by the Board for alterations to a car showroom and offices on land to the north of Ardee adjoining a roundabout junction of the N2/N33 and the R171 to incorporate a gym, modification of test centre, revisions to petrol station, change existing building to shop, cafe, offices and develop forecourt area. Reasons for refusal were that it would intensify traffic movements on the major roundabout junction, give rise to traffic hazard and impact on the vitality and viability of the town centre.

any major employment generating activity, including tourism or development of national or regional employment.

- 7.21. The proposed development does not fall within any of these categories, is a large supermarket development, with the clear potential to generate short trip traffic on the N33. In the absence of agreement with TII regarding the role and function of the N33 east of Ardee in plans for the growth of the town, and in the absence of a strong justification for the proposed development on the appeal site (sequential test), I do not consider therefore that any exemption is warranted and that the proposed development remains contrary to the national guidelines on spatial planning and national roads.
- 7.22. I note that TII recommend that the applicant's Traffic and Transportation Assessment Report be revised and updated to address a number of issues, including additional junction analysis (N33/N52 roundabout, N33/Castleguard Link Road, site access mini-roundabout), projected queue lengths, junction analysis with and without development scenarios etc. I also note the issues raised by the planning authority's Infrastructure Engineer in his report of the 23rd August 2016. I consider that these are significant omissions from the TIA and if the Board are minded to consider a grant of permission, that these matters should be addressed.

Impact on local road network.

- 7.23. The applicants traffic impact assessment states that, based on the width of c.6.0m and, therefore its similarity with an Urban All Purpose Road Type 4 (TA 79/99), Sean O'Carroll Street is capable of carrying 750 veh/hr in one direction or a two-way flow of 1,250 veh/hr. Predicted flows, at a maximum of 656, (shown in Tables 7.1 to 7.6) are considered to be well within these limits. It is concluded, therefore that Sean O'Carroll Street is capable of catering for the predicted traffic load even when allowance is made for the carriageway being slightly less than 6.1m.
- 7.24. With regard to the junction of Sean O'Carroll Street/Castle Street, the traffic impact assessment notes the delays currently beginning to occur during the AM and PM peaks and that the continued operation of the junction as a simple priority junction is

not a viable option and that the provision of traffic lights would be required, with or without the proposed development in the medium term.

- 7.25. Having regard to the analysis presented, I would accept that the junction of Sean O'Carroll Street/Castle Street is sub-standard and would require upgrading in order to accommodate traffic associated with the proposed development (and additional development if it comes forward). However, with regard to Sean O'Carroll Street, with its on street parking, speed ramps and narrow carriageway, it is difficult to accept the capacity assumed in the traffic impact assessment i.e. that the road is capable of accommodating vehicle flows of 750/hr in one direction and, of more concern 1,250 veh/hr in two directions (current peak flows amount to 180 – 200 veh/hr). Whilst predicted flows on Sean O'Carroll Street are themselves relatively small (south of site, AM peak 38 pcu/hr, two way flow, PM peak 87 pcu/hr, two way flow) given the substandard nature of this road, I am not satisfied that the applicant has adequately demonstrated that traffic arising from the proposed development can be adequately accommodated on the road without giving rise to traffic congestion or traffic hazard e.g. works to achieve proposed two way flow capacity, method and timescale to implement works. Further, any deficiency would encourage traffic to travel via the N33 increasing the use of the National road for short trips.
- 7.26. In granting permission for the development the planning authority requires the applicant to provide a full traffic signal junction at the junction of Sean O'Carroll Street and Castle Street or demonstrate, in the event that other road infrastructure is provided, the capacity of the junction to ensure that congestion will not arise. However, I consider that this approach is inappropriate and premature as there are no details regarding the works required or the ability of the applicant to implement the necessary works.

Other matters

- 7.27. The appellants question the quantum of car parking space to be provided. I note that the County Development Plan (Table 7.6) sets out a requirement for 1 space per 20sqm for lands located adjacent to high level public transport services or lands serving local catchment areas or 1 space per 10sqm for all other areas. As an out of centre site, with no public transport service and serving wide catchment area, I would consider that the upper requirement of 1 space per 10sqm would be required. The

applicant has provided 1 space per 20sqm of gross floor area and I am not confident that this quantity is, therefore, appropriate for the site.

- 7.28. The design and layout of the proposed development are typical of contemporary retail developments on large flat sites. The proposed supermarket has been designed to address key site frontages, to address the proposed public plaza and includes detailed hard and soft landscaping for the site. I consider that it is, therefore, acceptable in terms of design and layout.

Appropriate Assessment

- 7.29. With regard to appropriate assessment, I note that the appeal site is removed from any Natura 2000 site (Stabannan-Branganstown SPA lies c.5.23km to the north east of the site, but it is not directly linked to it in any way). However, the River Dee lies c.130m to the south and east of the appeal site and it discharges into Dundalk Bay c.12km to the north east of Ardee. Foul water from the appeal site will discharge into the public sewer and surface water runoff will be managed in accordance with a sustainable urban drainage system and incorporate petrol interceptors. The construction site would be removed from the immediate environs of the River Dee and standard construction practices would prevent contaminated discharges to the River. Having regard to these factors, it is unlikely that any impact on a Natura 2000 site would arise.
- 7.30. It is reasonable to conclude, therefore, that on the basis of the information on the file, including the applicant's Stage 1 Screening for Appropriate Assessment Report, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that planning permission for the proposed development be refused for the following reasons.

9.0 Reasons and Considerations

1. The proposed retail development is located in close proximity to an important junction on the N33 'Link' Road between the N2, Ardee town and the M1 Motorway. Having regard to the location, nature and scale of the proposed development, it is considered that the additional traffic-turning movements which would be generated by the proposed development would interfere with the safety and free flow of traffic on the national road network, in contravention of the Spatial Planning and National Roads – Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in January, 2012 and in contravention of Section 7.3.3 in the 2015-2021 Louth County Development Plan where it is stated policy 'to safeguard the capacity and safety of the national routes' including the N33. Furthermore, to grant permission for this development in those circumstances would create an undesirable precedent for similar types of development adjacent to junctions/interchanges on the national road network, which would conflict with national policy. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The site is located on a substandard urban road, Sean O'Carroll Street, and it is considered that the applicant has failed demonstrate how this, and the associated junction with Castle Street/ Ash Walk, could be satisfactorily upgraded to accommodate the proposed development. It is considered, therefore, that that the development is premature and that vehicle movements generated by the development would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed retail development is located on the outskirts of Ardee. Under the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in April, 2012, and under the provisions of the Ardee Local Area Plan 2010-2016 and in particular Section 7.4 of this Plan wherein it is a "key strategic objective to consolidate and protect the role of the town centre as the principal retail and

commercial centre of the town”, sites in such locations may only be developed for large scale retail development where it has been demonstrated that the existing town centre would not be adversely affected. It is considered that the applicant has failed to adequately demonstrate under the sequential test, in accordance with the provisions of these Guidelines, that there are no alternative or sequentially preferable sites available that could accommodate the proposed development, within the town centre. Accordingly, it is considered that the proposed retail development would adversely impact on the vitality and viability of the town centre of Ardee to an unacceptable degree, and would materially contravene an objective indicated in the local area plan for the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Deirdre MacGabhann
Planning Inspector

23rd January 2017