



An  
Bord  
Pleanála

## Inspector's Report PL03.249250

### Development

Construction of foodstore with five illuminated signs, entrance sign, 109 car parking spaces, vehicular access, substation, bus shelter relocation and associated site works.

### Location

Tullyvarraga, Shannon, Co. Clare.

### Planning Authority

Clare County Council

### Planning Authority Reg. Ref.

P17/500

### Applicant(s)

Aldi Stores (Ireland) Ltd.

### Type of Application

Permission

### Planning Authority Decision

Refuse Permission

### Type of Appeal

First

### Appellant(s)

Aldi Stores (Ireland) Ltd.

### Observer(s)

Skycourt Management Co.

### Date of Site Inspection

15<sup>th</sup> January 2018 & 24<sup>th</sup> April 2018

### Inspector

Rónán O'Connor

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	4
3.3. Prescribed Bodies .....	5
3.4. Third Party Observations .....	6
4.0 Planning History.....	7
5.0 Policy Context.....	7
5.1. National Policy .....	7
5.2. Project Ireland 2040: National Planning Framework .....	7
5.4. Development Plan.....	8
5.6. Natural Heritage Designations .....	10
6.0 The Appeal .....	10
6.1. Grounds of Appeal .....	10
6.2. Planning Authority Response .....	11
6.3. Observations.....	12
6.4. Further Responses.....	14
7.0 Assessment.....	15
8.0 Recommendation.....	28
9.0 Reasons and Considerations.....	28
10.0 Conditions .....	29

## **1.0 Site Location and Description**

- 1.1. The appeal site is located to the north of Shannon Town Centre, on the opposite side of An Bothar Mor (R741). The site is undeveloped and is in agricultural use at present. It is bounded by substantial mature trees to the front and by hedgerow to the other boundaries. It is bounded by undeveloped land to the west and north, and by woodland to the east. The stated site area is 1.05ha.
- 1.2. There is no existing formal access to the site and there are no existing pedestrian footpaths serving the site. There is an existing bus stop close to the site which is not served by any pedestrian footpath.
- 1.3. In the immediate surrounds of the site is Shannon Town Centre, located to the south of the site, which has a mix of uses including standalone retail and office and a shopping mall (Skycourt Centre).

## **2.0 Proposed Development**

- 2.1. Construction of foodstore with five illuminated signs, entrance sign, 109 car parking spaces, vehicular access, substation, bus shelter relocation and associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Refuse permission for 3 no. reasons as follows:

1. Proposed development fails to provide a satisfactory level of urban design and street frontage, height, presence, definition.
2. Proposed development, by virtue of its sole retail use, would not provide for an appropriate mix, range and type of uses consistent with the zoning objectives of the site/car parking would prevent further development of the wider site.
3. Lack of safe, convenient and attractive pedestrian linkages to the existing primary retail area in Shannon Town Centre.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The report of the planning officer reflects the decision of the planning authority.

Points of note are as follows:

- Notes the site is zoned mixed use – the proposed development by virtue of its single nature use i.e. retail and lack of proposals to include secondary uses does not comply with the mixed used zoning objective for the area and Objectives 5.7 to 5.14 of the LAP and undermines the objectives to strengthen the core retail area (Objectives 5.1 to 5.6).
- Design and layout does not comply with the policy for the future town centre area as set out in Section 5.4 of the Shannon Town and Environs LAP 2012-2018
- By virtue of the site's location north of Bothar Mor, the proposal does not comply with the requirements for edge of centre retail development as per the principles of the Retail Planning Guidelines.
- Proposal is not acceptable in principle.
- In relation to Retail Impact Assessment, it was not considered that the proposal would impact on town centre trading.
- Pedestrian connection from the town centre is not direct, convenient or visually attractive – in practice would act as a major deterrent for shoppers.
- Site is physically and visually separated from the primary centre and is isolated from the main area of activity – if permitted would dissipate commercial activity across a larger area reducing footfall and reducing potential for synergy.
- Development is premature - R471 functions as a road rather than a street.
- Poor functional linkages to the primary retail area – no strong complementary attraction between the proposed use and existing retail uses.
- Proposed car parking is unlikely to be used by users of both proposed and existing development.
- Design response aligns more strongly with the standard format of layout for Aldi Stores than with a genuine attempt to address the site and the setting.

- Proposal will likely address the leakage of convenience expenditure from Shannon to Limerick and Ennis.
- No objection on traffic grounds save for the proposed location of the car parking area.
- Does not comply with Objective 5.1 of the LAP which envisages a building of large scale at this location.
- Proposed development by virtue of its design, low density layout and set back from the public road and access arrangements does not enhance the streetscape and does not set a suitable landmark design precedent for the northern future town centre area required by Objective 5.10.
- No objection to the proposed development having regard to flooding.
- Not considered that there will significant effects on European Site.
- Recommends refusal for 3 reasons.

### 3.2.2. Other Technical Reports

Shannon M.D.O – Footpath required on the northern side of Bothar Mor to link with the traffic lights at the junction with Bealach Bri/drop kerbs, tactile paving at the proposed site entrance/covered bike area required/proposals to deal with abandoned trollys/standards for bus stop set down area.

Environmental Assessment Officer – No objection

Clare County Fire and Rescue Service – Request further information relating to access, location of fire hydrants, details of water supplies for firefighting.

### 3.3. Prescribed Bodies

H.S.A. – Does not advise against the granting of planning permission.

T.I.I. – PA to abide by National Policy.

Irish Water- Request FI – require an exclusion zone of 5m from the existing asbestos watermain to allow for maintenance.

IAA – Recommend conditions.

### 3.4. Third Party Observations

Two. No. 3<sup>rd</sup> Party Observations raising the following issues:

#### Skycourt Management

- Proposal would not help Shannon achieve a stronger identity and sense of place.
- Does not create a 'street feel' and the design is not major departure from the standard Aldi Template/not suitable for Shannon.
- Visual impact is not clearly demonstrated.
- Proposal would damage the vitality and viability of the existing town centre.
- Existing town centre is vulnerable/substantial commercial development outside the centre could seriously harm the centre.
- Sequential tests rules out a 2000 m<sup>2</sup> site in the town centre (Site A) which has been vacant for many years.
- Average store size required for Aldi is 1495m<sup>2</sup>.
- Sequential test appears to be an artificial exercise/Site A has an extant permission for an Arts Centre/site B, an office block is unsuitable/Skycourt Management met with Aldi and advised of other serviced, town centre land available for development/this is not included in the assessment.
- Will not enhance the streetscape of An Bothar Mor.
- 63m between the existing buildings in the town centre and the edge of the subject site/Difficult to see how this can be a consolidation of the existing core retail area/contributes little to the streetscape/10m wayleave separates development from the road – this is not flagged in the LAP.
- Not on or near the proposed north-south walking spine.
- Absence of an east-west road link/does not reflect the planning road network grain of the expanded town centre.
- Large surface car park is unsuitable for a planned core retail area.
- Would be in competition with the nearby Skycourt Centre.

Ana Ryan Ltd.

- There are enough retail units in Shannon.
- Appearance of the building.
- Need for another supermarket in the Shannon Area.
- Proposed site is detached from the Town Centre.

## 4.0 Planning History

4.1.1. None.

## 5.0 Policy Context

### 5.1. National Policy

#### **Project Ireland 2040: National Planning Framework**

- 5.1.1. From 16th February 2018, the National Planning Framework has replaced the National Spatial Strategy (NSS) and now represents the overarching national planning policy document. The National Planning Framework sets a new course for planning and development in Ireland, to achieve a shared set of goals for every community across the country, focused on ten National Strategic Outcomes. Chapters of particular relevance to this appeal include chapters 1, 2, 3, 4, 6, 9, 10 and 11.
- 5.1.2. The following is a list of Section 28 Ministerial Guidelines considered of relevance to the proposed development.
- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (2009).
  - Retail Planning Guidelines for Planning Authorities (2012).
  - Urban Design Manual – Best Practice Guidelines.
  - Design Manual for Urban Roads and Streets (2013).

- The Planning System and Flood Risk Management (including the associated 'Technical Appendices') (2009).

## **5.2. Development Plan**

5.2.1. The relevant Development Plan is the Clare County Development Plan 2017-2023.

5.2.2. Objectives regarding the management of retail development are set out in Chapter 7 of the Development Plan. Section 7.4.2 refers specifically to Shannon. Relevant objectives include:

- Objective CDP7.5 Shannon Town Centre- support development of retail facilities in Shannon Town Centre/encourage growth of retail floorspace/create distinct shopping character.
- Objective CDP 7.17: Edge-of-Centre Retail Development – apply sequential test/apply Retail planning Guidelines/permit only where it will integrate into the existing town centre.
- The CDP notes that there is an identified requirement for additional convenience and comparison retail floorspace to serve Shannon town and the surrounding hinterland.

Also of particular relevance to this appeal are:

- Chapter14: Biodiversity, Natural Heritage and Green Infrastructure
- Chapter 17 refers to the Design and Built Environment
- Chapter 19 refers to Land Use and Zonings.
- Appendix 1 refers to Development Management Guidelines.

## **5.3. Shannon Town and Environs Local Area Plan 2012-2018**

5.3.1. The Shannon Town and Environs Local Area Plan 2012-2018 sets out the land use plan for the proper planning and sustainable development of the settlement of Shannon and its environs. Of most relevance to this appeal are:

- LAP Objective 2.1: To increase the appeal of the central areas, the town centre and the town park.



- Section 2.4.2 The Central Area - considers the requirements for development for the area north of the existing town centre including the need for greater definition of built form and creation of a sense of place.
- LAP Objectives 2.3/2.4 - To improve the sense of place and way-finding on key circulation nodes/routes.

5.3.2. Chapter 5 refers to Shannon Town Centre and Retail. A goal of the LAP is to secure a vibrant and viable town centre. Objectives include:

- LAP Objective 5.1 -consolidate the existing retail core, develop a streetscape onto Bothar Mor, improve access and facilitate a growth in retail floorspace.
- LAP Objective 5.2 – Environmental sustainability.
- 5.3 – support town centre expansion to the north of Bothar Mor, provide strong pedestrian linkages.
- 5.4 – viable and vibrant town centre, growth in retail floor space, evening uses.
- Section 5.3 refer to the previous Masterplan for the development of the area north of the Town Centre and notes that while the LAP now drives development, the overriding principles of the Masterplan remain valid, namely the need for a strengthened, viable and vibrant town centre supporting a quality, varied retail offer, connectivity and the development of a streetscape.
- Section 5.4 refers to the Future Town Centre Area – North of An Bothar Mor includes the need for pedestrian connectivity, a building of large scale and a major anchor facility on the lands, generation of footfall.
- LAP Objective 5.7 – Facilitate the development of an expanded town centre.
- LAP Objective 5.8 – Pedestrian and road linkages, development of public realm along Bothar Mor, new civic park.
- LAP Objective 5.11 – development of lands north of An Bothar Mor focuses on ‘walk to’ and ‘daily’ shopping – enhance the range of convenience and comparison goods.
- LAP Objective 5.14 – improved access, parking and circulation.

#### 5.4. Natural Heritage Designations

5.4.1. None.

### 6.0 The Appeal

#### 6.1. Grounds of Appeal

6.1.1. The grounds of appeal, as submitted on behalf of the First Party appellants, are as follows:

##### Reason for Refusal No. 1 -Layout

- The proposed development has been designed specifically for the subject site.
- Planner's report expresses concern with the placement of the building to the front of the site while the first reason for refusal cites concern with the setback from the street.
- Proposed development provides an active frontage on the Airport Road/An Bothar Mór – a glazed curtain elevation is provided along both the north and south elevations/building line has been brought forward to the most southerly point on the site/10m setback from the road is due to the presence of a 300mm diameter watermain on the nearside of the road/a 10m wide wayleave has been provided as agreed with Irish Water.
- Landscaping is proposed along this wayleave.

##### Reason for Refusal No. 1 – Car Parking

- Quantity of parking has been deemed acceptable by Clare County Council.
- Location of the car parking is in line with the Retail Design Manual which recommends that surface parking should be to the rear, so as not to detract from the quality of the urban environment.
- Location to the rear reflects the planning authority's requirement to provide a strong frontage along An Bothar Mór.
- Location of the car parking would not materially impact walking times to the existing town centre.

#### Reason for Refusal No. 1 – Design

- A discount foodstore is typically designed in single storey form.
- Height of the southern elevation and south west corner has been substantially increased above that of the standard Aldi design in order to provide a prominent frontage.
- Contemporary design – combination of limestone cladding and glazed curtain.
- A revised elevation has been submitted as an Appendix to the planning appeal – includes additional limestone cladding fronting onto An Bothar Mór.
- It is proposed to retain existing mature vegetation on the site.
- Photomontages included as an Appendix to the planning appeal.

#### Reason for Refusal No. 2 – Mix of Uses

- Site is zoned Town Centre/Mixed Use as well as other lands to the north of the existing town centre – zoning allows for a mix of uses to be provided across these lands – does not imply that all development proposals shall contain a mix of uses.
- The existing discount foodstore to the south of An Bothar Mor was permitted as a standalone store and a mix of uses was not required.
- A Masterplan has been prepared for the development of the designated future town centre area – proposed store is envisaged as the first phase of development within the Masterplan area.

#### Reason for Refusal No. 2 – Layout

- Location of the car parking facilitates synergies with the existing Shannon Town Centre area and future land uses envisaged by the Masterplan though linked trips to the Aldi store.

### **6.2. Planning Authority Response**

- Key aim of the Shannon Town Centre and Environs LAP 2012-2018 is to improve place making and wayfinding/manage northern expansion/create better linkages between the existing and proposed new uses.

- Development of the town centre will require a masterplan rather than an ad hoc approach.
- Development, by virtue of its sole retail use, design and layout, and lack of connectivity to the primary retail area, fails to comply with the overall objectives of the LAP.
- Does not address the main issue of how the town centre works in terms of pedestrian and vehicular access and how the proposed development will fit into that pattern/car parking does not enhance the rest of the town centre/separation distance from town centre/potential for synergy is reduced.
- Alterations proposed by the appellant do not radically depart from the standard Aldi store design.
- Is not clear if a diversion of the existing watermain is possible.
- No analysis of pattern of footfall or desire lines in the area/if proposed position of pedestrian crossing is convenient and likely to be used/how it ties into existing footpaths/if new paths will need to be constructed.
- Contravenes requirements for edge of centre retail facilities as set out in Section 4.7 Retail Planning Guidelines.
- Does not comply with Policy 5.4 of the LAP requiring a building of large scale to provide a landmark/reference point/appropriate tenant to generate a significant footfall/making build out of the remainder of the town centre lands a viable and realistic proposition/sole retail use would not generate sufficient volume of footfall.
- Proposal does not enhance streetscape/does not a suitable landmark as required by Objective 5.10.
- Sole retail use and lack of proposals to include secondary uses does not comply with the mixed use zoning objective for the area.

### 6.3. Observations

One observation has been received from Brendan McGrath and Associates, on behalf of Skycourt Management Company. This is summarised as follows:

- As the main landowner in the town centre has a strong interest in facilitating sustainable development in the town.
- Proposal would not help Shannon achieve a stronger identity and sense of place.
- Would damage the viability and vitality of the existing town centre.
- Would not enhance the streetscape of an Bothar Mor, the planned main thoroughfare in the town.
- Observation aims to provide the Board with a broader development perspective than that offered by the statutory plans and the reports on the file and to challenge aspects of the proposal and the Retail Impact Assessment.
- Northern extension of the town centre, although part of the adopted LAP, is not sustainable at this time and threatens to undermine the existing town centre.
- Expected population growth of Shannon has not materialised.
- Recurrent overestimation of growth potential and failure of planning initiatives to produce growth.
- First detailed statutory plan for Shannon in 2003 envisaged a 500% expansion of the town centre by a northward expansion – a rail line connecting Limerick City and Shannon Airport was envisaged /potential unlocked by the construction of the N19 and resultant downgrading of the Airport Road (An Bothár Mor).
- 2009 Masterplan, part of the South Clare LAP envisaged a high density, town centre precinct with a mix of uses.
- 2012 LAP retains the town centre designation.
- None of these plans have resulted in development of any kind at this location.
- Existing developed town centre and car park – vacant units/car park underutilised/low footfall.
- However represents a very substantial piece of urban infrastructure /wide range of shops and services.
- Providing for the expansion of the town centre is premature – could seriously affect the viability of the existing centre – standalone store would siphon off retail growth from the established centre.

- Proposal would represent 25% of the existing convenience floorspace provision – will have a long-lasting and detrimental impact on the established retail pattern in the catchment.
- All of the existing town centres in the Aldi catchment (Shannon, Sixmilebridge and Newmarket-on-Fergus) are struggling.
- Vacancy rate in Shannon Town Centre is currently 20% - excluding reserved units and temporary licences vacancy rate is 34%.
- Retail strategy for the Mid-West concludes that there is no requirement for additional convenience retail floor space in Shannon for the foreseeable future – this is ignored by both the first party and the council.
- RIA is deficient for the following reasons – sequential test does not present available alternative options/impact on town centres in catchment not adequately assessed /quantum of convenience expenditure may be overestimated.
- Proposal is contrary to development plan objectives to support existing town centres including Shannon Town Centre, Sixmilebridge and Newmarket as these fall within the catchment of the proposed store.

#### 6.4. Further Responses

The First Party has submitted a response to the Planning Authority's observations. This is summarised as follows:

- Each of the points raised in the Planning Authority's submission has been examined in the First Party Appeal document.
- Masterplan submitted with the application and included as part of the appeal submission/proposed development is first phase of this Masterplan/access road will be provided as part of this appeal providing access to the lands to the north and west of the appeal site/will provide an anchor store.
- Revised pedestrian link will provide the optimum pedestrian route between the proposed development and the existing town centre/location of car park will not materially impact walking times.
- There is no natural footfall to the appeal site as it is currently undeveloped.

- Irish Water have advised that they would not be in favour of diverting the watermain due to its size and type of construction.
- Height of the store has been increased above that of the standard Aldi design/respects the woodland character of the adjacent site.
- Complies with zoning objective for the site.
- Unrealistic to require Aldi to provide a range of other uses and buildings as this would result in no development being viable for the foreseeable future.
- Submitted survey indicates strong public support for the store.

## 7.0 **Assessment**

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of Development
- Design/Layout
- Pedestrian linkages and Location of Car Parking/Transport Issues
- Retail Impact
- Other Matters
- Appropriate Assessment

### 7.2. **Principle of Development**

- 7.2.1. The appeal site is zoned 'Town Centre/Mixed Use'. Appendix 1 of the Shannon Towns and Environs Local Area Plan (LAP) notes the use of land as 'Town Centre / Mixed Use' shall include the use of land for a range of uses, making provision where appropriate, for primary and secondary uses e.g. commercial/retail development as the primary use with residential development as a secondary use.
- 7.2.2. Secondary uses will be considered by the local authority, having considered the particular character of the given area. A diverse range of both day and evening uses is encouraged and an over-concentration of any one use will not normally be permitted.

- 7.2.3. Within the Land Use Zoning Matrix, a shop use is permitted in principle.
- 7.2.4. The proposed development in this instance is a retail (shop) use with ancillary car parking. I note a reason for refusal refers to the mix of uses, and the planning authority considered that the proposed development, by virtue of its sole retail use, would not provide for an appropriate mix, range and type of uses, consistent with the zoning objectives of the site. In addition the location of the car parking would prevent further development of the wider site.
- 7.2.5. The appellants argue that the site is zoned Town Centre/Mixed Use and that this zoning allows for a mix of uses to be provided across these lands and that the zoning does not imply that all development proposals shall contain a mix of uses. Furthermore, it is pointed out that the existing discount foodstore to the south of An Bothar Mor was permitted as a standalone store and a mix of uses was not required.
- 7.2.6. Additionally it is stated that a Masterplan has been prepared for the development of the designated future town centre area and the proposed store is envisaged as the first phase of development within the Masterplan area.
- 7.2.7. My interpretation of the zoning principles of 'Town Centre/Mixed Use' zoning is that, where appropriate, a mix uses, or a primary and secondary use, shall be provided on a site. The LAP does not specify explicitly under what circumstances this mix of uses should be provided. However, it is my view is that the zoning does not explicitly require a range of uses to be provided on each individual site, as this would have the effect of stymying development in the expectation that a mixed-use development for every site would come forward, which is unrealistic in my view. However a range of uses is expected over the entire area that is zoned 'Town Centre/Mixed Use'. Given that the site forms part of a larger bank of land zoned 'Town/Centre/Mixed use', there is the opportunity for further development to come forward to provide other uses, as set out the in the submitted Masterplan, as submitted by the applicant at application stage.
- 7.2.8. Given that the use is permitted in principle under the zoning matrix table, I consider that the provision of a standalone retail use on this site, that forms part of a landbank of zoned land, is acceptable in principle, subject to the detailed considerations below.

### 7.3. Design/Layout



- 7.3.1. A reason for refusal refers to the failure of the development to provide a satisfactory level of urban design and street frontage. The observer on the appeal contends that the proposal would not enhance the streetscape of An Bothar Mor, the planned main thoroughfare in the town.
- 7.3.2. A Retail Design Statement was submitted at application stage and I have had regard to same.
- 7.3.3. The applicant contends that the proposed development provides an active frontage on the Airport Road/An Bothar Mór and notes that the height of the southern elevation and south west corner has been substantially increased above that of the standard Aldi design in order to provide a prominent frontage. A revised elevation has been submitted as an appendix to the planning appeal, which includes additional limestone cladding fronting onto An Bothar Mór. It is proposed to retain existing mature vegetation on the site.
- 7.3.4. An overriding principle of the LAP is to create a sense of place and to improve the streetscape and definition along An Bothar Mor. It is the concern of the planning authority that the proposal fails to achieve this.
- 7.3.5. It appears that the location of the watermain on the northern edge of An Bothar Mor is curtailing development on this area of the site. The applicant, in their discussions with Irish Water, state that Irish Water are not in favour of relocating this watermain.
- 7.3.6. I note the response of Irish Water requiring a 5m exclusion zone for the purposes of maintenance and their observation that the proposal appears to be within 3m of the watermain.
- 7.3.7. The main issues, in my view, is whether the proposed development, as submitted with the planning application, and as revised by drawings submitted with the appeal, achieves the required definition in order to enhance the streetscape of An Bothar Mor.
- 7.3.8. I concur to some degree with the Planning Authority in relation to the need for a strong presence along the northern side of An Bothar Mor. The existing town centre is set well back from the southern side of the road and does not contribute to the creation of a defined edge. Any developments therefore, including this current proposal, should seek to resolve this issue.

7.3.9. The applicants have also recognised the need to provide increased definition on this site and have raised the height accordingly, over and above the standard Aldi format. The frontage onto An Bothar Mor is 7.56m in height, and set back approximately 10m from the road edge. The existing mature vegetation on the boundary of the site is maintained. I do not consider it necessary to build directly on the road edge in order to achieve a satisfactory urban form in this instance. The retention of the mature vegetation with a building of the equivalent of two and a half storeys set back from the road edge, provides an attractive urban form that starts to provide definition and form to this side of the road. Indeed, it does not appear to be possible to build onto the road edge, given the existing watermain and associated wayleave. In this regard, I note the requirement of Irish Water to set the building further back from the watermain, maintaining a 5m exclusion zone. This additional setback can be achieved by way of condition. I do not consider the additional setback will have a significant impact in relation to the visual presence of the proposal.

#### **7.4. Pedestrian Linkages and Location of Car Parking/Transport Issues**

- 7.4.1. A reason for refusal refers to the lack of safe, convenient and attractive pedestrian linkages to the existing primary retail area in Shannon Town Centre. I note that the applicant has submitted drawings with the appeal, which provides for a pedestrian crossing to the existing town centre, crossing An Bothar Mor. This is however, located outside of lands that they control. The planning authority, in their response to the appeal, and specifically in relation to the revised pedestrian crossing, have stated that there is a lack of footfall analysis demonstrating the pattern of footfall or desire lines in the area, and have concerns whether the crossing will be used. I take it from the planning authority response therefore they are not in agreement with same, given the lack of analysis referred to above. As such, given the lack of written consent to the revised crossing proposals, the provision of which is not within the control of the First Party, and have not been agreed by the landowners (the Planning Authority), I cannot consider same in this appeal.
- 7.4.2. I note the comments of the District Engineer requiring the applicants to provide a footpath on the northern side of An Bothar More, to link with the existing pedestrian crossing to the east of the site.

- 7.4.3. I concur with the planning authority that additional pedestrian linkages are required, in order for the greater connectivity to existing town centre to be realised, as per the objectives of the LAP. This connectivity can be greatly enhanced by the provision of both a footpath connecting to the existing pedestrian crossing to the east of the site, and the provision of a further pedestrian crossing in a similar location to where the applicants have already proposed in the drawings submitted with the appeal. As such I recommend that a condition be imposed on any permission requiring the details, including location, of a pedestrian crossing to be provided to the council for written agreement, prior to the commencement of development. This should be provided by the applicant, or provided on their behalf. Further to this I consider that a footpath should be provided by the applicant, or on their behalf, linking the appeal site to the existing pedestrian crossing to the east of the site. Both of these measures will result increased accessibility to the site, in line with the objectives of the LAP.
- 7.4.4. The second reason for refusal also highlighted concerns in relation to the location of the car parking to the rear of the proposed development, which potentially would result in excessive walking times/distance from the proposed development to the existing town centre. I do not concur that walking times or distance would be materially impacted as a result of the car parking to the rear, and there are design benefits to the proposed location, which allows for the built form to create definition along An Bothar Mor, a key objective of the LAP. I do not consider the location, and provision of car parking and associated access road, would stymie development of the remainder of the town centre zoned lands. Conversely, the provision of the access road to the western and northern edges of the site, creates opportunities for the development of lands to the west and north of the site.
- 7.4.5. In relation to the level of car parking provision, and the level of cycle provision, this is in line with CDP standards and the Planning Authority did not raise an objection to same.
- 7.4.6. In terms of the impact on the surrounding road network, I note a Traffic Impact Assessment has been submitted with the application. This concludes that the traffic associated with the development can be accommodated with the existing road network. It is further concluded that there is sufficient capacity at the proposed access junction to accommodate traffic associated with the proposal.

## **7.5. Retail Impact**

- 7.5.1. The planning authority consider that the lack of pedestrian linkages to the existing town centre reduces the potential for commercial synergy, resulting from the location of the car park and the lack of pedestrian linkages to the existing town centre, and consider that such deficiencies result in the contravention of Section 4.7 of the Retail Planning Guidelines which relates to edge of centre retail sites. However, the Planning Authority does not consider the proposal, in and of itself, would impact adversely on the vitality and viability of the existing town centre.
- 7.5.2. Skycourt Management, an observer on the appeal, contends that that the proposal would, in fact, damage the viability and vitality of the existing town centre and note that the existing developed town centre and car park is underutilised with a low footfall and a high number of vacant units. The impact on same has not been adequately addressed by with the applicant nor the planning authority.
- 7.5.3. National and local retail planning policy, as set out in the retail planning guidelines and the retail strategy in the CDP, seeks to protect and enhance the vitality and viability of the town centres within the established retail hierarchy. The site is zoned town centre/mixed use and therefore is an appropriate location for the proposal, in the line with the hierarchy. My observations on site, and of surrounding areas, were that the appeal site is a natural continuation of the town centre and is within walking distance of other services in the town, subject to the provision of additional pedestrian linkages.
- 7.5.4. The Retail Strategy for the Mid-West Region sets out a retail hierarchy for the region in order to guide the location, nature and scale of retail developments. Within the Retail Planning Guidelines, Shannon is identified as a Linked Gateway.
- 7.5.5. Section 7.4.2 of the CDP notes that the Council will encourage and facilitate the enhancement of both the town centre retail provision and the character of its environment in Shannon in order to improve the service to its local catchment. The CDP notes that there is an identified requirement for additional convenience and comparison retail floorspace to serve Shannon town and the surrounding hinterland.
- 7.5.6. Chapter 5 of the LAP refers to Shannon Town Centre and Retail and sets out objectives for same which include the support of the expansion of the town centre,

the need to create additional linkages and the need to create a sense of place, including the creation of a street along An Bothar Mor.

- 7.5.7. The planning application was accompanied by a Retail Impact Statement, which considers the impact on the vitality and viability of the town centre as a result of the proposed development. This report defines the site as an 'edge of centre' site, given its current location on the northern fringe of the existing core retail area.
- 7.5.8. Following the sequential approach to the location of retail development, it is stated that there are no available, suitable or viable sites within the core retail area, which have the capacity to accommodate a store of suitable size and form.
- 7.5.9. The planning authority did not raise an objection to the location of the proposed development *per se*, having regard to the sequential test, and did not identify a town centre site that was suitable for the proposed store. In their observations at planning application stage, Skycourt Management state that Site A (to the south-west of the existing Lidl store), would be suitable for the Aldi store. This was ruled out by the applicant, as it is stated it is not of a sufficient size. Skycourt Management, in their submission at application stage, state they have identified other suitable sites that were presented to the applicant. These are not explicitly identified however. As such, from the information on file, and from my observations on site, I concur that there are no suitable sites with the existing town centre for a store of this nature.
- 7.5.10. Following the sequential approach, given the lack of suitable town centre site, an edge-of-centre site should be considered, and such a site should be within easy walking distance of the primary retail core of the existing town centre. While the accessibility of the site is discussed in greater detail in Section 7.4, in summary, I consider the site fulfils this criteria, subject to the provision of additional pedestrian linkages.
- 7.5.11. Shannon is identified as a Tier 2 (Major Town Centre) Level 2 town within the Retail Strategy for the Mid-West Region 2010-2016. The extension of the town centre is supported and it is noted that 'walk to' and 'daily shopping' in particular should be delivered.
- 7.5.12. The Retail Impact Assessment included a 'Health Check Assessment' which notes the existing larger convenience units existing which include Dunnes Stores and Lidl, as well as a number of small convenience units within Skycourt Shopping Centre

and elsewhere within the town centre. In relation to the vacancy rates, the report notes that a total of 12 units were identified (out of approximately 55 units). This would correspond to a vacancy rate of 21%, which is in line with that cited by the observer (although with reserved and temporary leases excluded the observer states that it is 34%). The units identified as vacant were units of between 50 and 200 sq. m.

- 7.5.13. It is argued by the applicant that the proposal would strengthen the role and function of the town centre and will attract further customers to the town centre and will form part of the extended retail core, with benefits for the existing retail units and will result in reduced vacancies.
- 7.5.14. The RIA also included an assessment of the capacity for additional convenience retail floorspace within the catchment area.
- 7.5.15. It is concluded that, there is still sufficient available convenience expenditure within the catchment area, with the proposed turnover of the retail unit accounting for 30% of total available convenience expenditure by 2020. I note neither the planning authority nor the observer have disputed these figures and I have no reason to query same.
- 7.5.16. Having regard to the criteria as set out in Section 4.9 of the Retail Planning Guidelines, the proposed development would support the long term strategy for Shannon Town Centre as set out in the CPD, the LAP and Retail Strategy, in relation to retail provision.
- 7.5.17. It would also increase competition within the town centre, which would also be in keeping with national retail policy, and would also respond to consumer demand, given the under provision of convenience retail identified within the CDP. I do not consider that the provision of the convenience retail store, would diminish the range of services within Shannon Town Centre but rather would be complementary to same. This would, in turn, increase the attractiveness of Shannon Town Centre with a potential reduction in vacancy rates in the town.
- 7.5.18. The accessibility of the site is discussed in Section 7.4 of this report, including the need for an additional pedestrian crossing. In summary the site is located within walking distance of existing shops and services, and is also served by an adequate provision of cycle and car parking spaces. Subject to a condition requiring an

additional pedestrian crossing to be provided, as well as a link to the existing pedestrian crossing to the east, it will have sufficient ties with the existing town centre.

7.5.19. The proposal therefore, complies with the criteria as set out in 4.9 of the Retail Planning Guidelines 2012, and with the retail policies and objectives of the CDP including the Retail Strategy.

**7.5.20. Other Issues**

7.5.21. Flood Risk – A Flood Risk Assessment has been submitted with the application. This note that the surface run off from the development is to discharge into the public storm drainage system to the east of the site and will be minimised by using appropriate Sustainable Urban Drainage Systems.

7.5.22. Flood risk mapping for the area shows the proposed site is in Flood Zone A from coastal (tidal) flooding. However it is defended by the Shannon Estuary Flood Embankments including its pumped back drainage system.

7.5.23. The main flood risk to the site, taking account of the above flood defences, is from local fluvial/pluvial flooding by adjacent drawings in combination with local runoff. The proposed development is categorised as a ‘less vulnerable development’. The sequential assessment concludes that there are no suitable alternative lands adjoin the town centre or on lands at lower risk of flooding.

7.5.24. The site’s location with Flood Zone A means a justification test is required. The conclusions of same are set out in the Flood Risk Assessment and note that the proposal development demonstrate compliance with the criteria set out in the justification test in the Flood Risk Management Guidelines.

7.5.25. Having regard to the above, and having regard to other relevant information on file I do not consider that the proposal will increase flood risk or at risk of flooding, subject to conditions.

7.5.26. Foul Water/Surface Water Drainage – An Engineering report has been submitted with the application and I have had regard to same. This confirms that the proposed development can be accommodated by the Irish Water network. Foul water is to be discharged to the existing 300mm public foul sewer, approximately 50m to the east of the site. The proposal includes a connection to the foul sewer. Surface water is to

be discharged to the existing surface water culvert to the east of the site at a reduced, controlled rate and collected into an underground attenuation system. The system is designed for a 1 in 100 year storm event including a 20% allowance for climate change. It is then discharged to the public culvert via a Class 1 by-pass separator.

7.5.27. Having regard to the above, and to other relevant information on file, the foul water and surface water proposals are acceptable.

7.5.28. Archaeology – An Archaeological Assessment has been submitted with the application. This notes there are twelve recorded archaeological monuments with the 1km study area, although none are within 100m of the proposed development site. The nearest recorded monument is a fulachta fia (CL051-191002) located 360m to the west of the proposed development. The overall study area is of moderate archaeological potential. I consider this issue can be dealt with by way of condition.

7.5.29. Ecology – The appeal site is dominated by improved agricultural grassland and wet grassland, with hedgerow on the western, northern and eastern boundaries of the site. There is a drainage ditch that runs in a north-west/south-east direction through the south-western portion of the site. To the south of the site, along the boundary with An Bothar Mor, are large mature trees. The site has limited ecological value in my view. The site is not a designated site. It has been identified as being suitable for an extended town centre. As such I do not consider the site is a sensitive site, in terms of ecology.

7.5.30. I have, therefore, no objection to the proposed development in relation to any ecological impact.

## **7.6. Appropriate Assessment**

7.6.1. Legal protection is provided for habitats and species of European importance under the Habitats Directive 92/43/EEC, which established a network of designated conservation areas known as Natura 2000 or European sites, which include Special Areas of Conservation (SAC) under the Habitats Directive and Special Protection Areas (SPA) under the Birds Directive (Directive 2009/147/EC). Article 6(3) of the Habitats Directive requires Appropriate Assessment to be carried out for any plan or project not directly connected with or necessary to the management of a European site (or sites) concerned, but that it likely to have a significant effect thereon, on its



own or in combination with other plans or projects, in view of its conservation objectives.

- 7.6.2. The proposed development is not directly connected with or necessary to the management of any European site.

#### Stage 1 Screening

- 7.6.3. Stage 1 is concerned with determining whether a described development, not being a development directly connected with or necessary to the management of a European site, in itself or in-combination with other described projects or plans, has the potential to have significant effects on any European site.
- 7.6.4. A Screening report for Appropriate Assessment was submitted as part of the planning application. This screening report identified designated Natura 2000 sites within the zone of influence of the project and noted the nearest Natura 2000 sites are the Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA. While it is noted that while the site is located within the hydrological catchment of the Shannon Estuary, it is concluded that there would be no adverse impact from the proposal on this, or any other, Natura 2000 site.
- 7.6.5. There are 11 Natura 2000 sites within a 15km radius of the site and these are set out in the table below.

<b>Name (Site code)</b>	<b>Distance/Direction to closest boundary</b>
River Shannon and River Fergus Estuaries SPA (004077)	1.3km South
Lower River Shannon SAC (002165)	1.3km South
Lough Gash Turlough SAC (000051)	4.7km north-west
Ratty River Cave SAC (002316)	8.8km north-east
Curraghchase Woods SAC (000174)	10.1km south
Poulnagordon Cave (Quin) SAC (000064)	11.2km north-east
Old Domestic Building (Keevagh) SAC (002010)	12.3km north

Newhall and Edenvale Complex SAC (002091)	12.4km north-west
Kilkishen House SAC (002319)	12.5km north-east
Knockanira House SAC (002318)	14km north-west
Askeaton Fen Complex SAC (002279)	14.3 km south-west

7.6.17. There is a hydrological link, via surface water drainage and waste water, to the River Shannon and River Fergus Estuaries SPA (004077) and the Lower River Shannon SAC (002165) and as such these are have the potential to impact on these Natura 2000 sites as a result of surface water run-off and waste water. In my view, these are the only sites that have the potential to be impacted, given the nature and scale of the project proposed and the distance to the remaining Natura 2000 sites as set out above.

7.6.18. Conservation Objections for the two sites above are set out in the table below:

<b>River Shannon and River Fergus Estuaries SPA (004077)</b>	<b>Lower River Shannon SAC (002165)</b>
To maintain the favourable conservation condition of:	To maintain the favourable conservation condition of:
Cormorant (Phalacrocorax carbo) [A017]	Sandbanks which are slightly covered by sea water all the time [1110]
Whooper Swan (Cygnus cygnus) [A038]	Estuaries [1130]
Light-bellied Brent Goose (Branta bernicla hrota) [A046]	Mudflats and sandflats not covered by seawater at low tide [1140]
Shelduck (Tadorna tadorna) [A048]	Coastal lagoons [1150]
Wigeon (Anas penelope) [A050]	Large shallow inlets and bays [1160]
Teal (Anas crecca) [A052]	Reefs [1170]
Pintail (Anas acuta) [A054]	Perennial vegetation of stony banks [1220]
Shoveler (Anas clypeata) [A056]	

Scaup ( <i>Aythya marila</i> ) [A062]	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]
Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137]	Salicornia and other annuals colonising mud and sand [1310]
Golden Plover ( <i>Pluvialis apricaria</i> ) [A140]	Atlantic salt meadows ( <i>Glaucopuccinellietalia maritimae</i> ) [1330]
Grey Plover ( <i>Pluvialis squatarola</i> ) [A141]	Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) [1410]
Lapwing ( <i>Vanellus vanellus</i> ) [A142]	Water courses of plain to montane levels with the <i>Ranunculon fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260]
Knot ( <i>Calidris canutus</i> ) [A143]	
Dunlin ( <i>Calidris alpina</i> ) [A149]	
Black-tailed Godwit ( <i>Limosa limosa</i> ) [A156]	Molinia meadows on calcareous, peaty or clayey-silt-laden soils ( <i>Molinion caeruleae</i> ) [6410]
Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157]	
Curlew ( <i>Numenius arquata</i> ) [A160]	Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> ( <i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i> ) [91E0]
Redshank ( <i>Tringa totanus</i> ) [A162]	
Greenshank ( <i>Tringa nebularia</i> ) [A164]	<i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]
Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) [A179]	<i>Petromyzon marinus</i> (Sea Lamprey) [1095]
Wetland and Waterbirds [A999]	<i>Lampetra planeri</i> (Brook Lamprey) [1096]
	<i>Lampetra fluviatilis</i> (River Lamprey) [1099]
	<i>Salmo salar</i> (Salmon) [1106]
	<i>Tursiops truncatus</i> (Common Bottlenose Dolphin) [1349]

	Lutra lutra (Otter) [1355]
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- 7.6.61. In relation to surface water run-off, this to be discharged to the existing surface water culvert to the east of the site at a reduced, controlled rate and collected into an underground attenuation system. This is an intrinsic part of the project. As a result of these intrinsic aspects, I do not consider that there would be any significant effects on the Natura 2000 sites above, having regard to surface water.
- 7.6.62. In relation to waste-water, foul water is to be discharged to the existing 300mm public foul sewer, approximately 50m to the east of the site. The proposal includes a connection to the foul sewer. These waste-water services are an intrinsic part of the project. Waste-water will be ultimately treated at the Shannon wastewater treatment plant. From the evidence on file, in particular the evidence in relation to the upgrading of the Shannon wastewater treatment plant detailed within the AA Screening Report, I do not consider there would be any significant effects on the Natura 2000 sites above, having regard to surface water.
- 7.6.63. I therefore consider that it is reasonable to conclude that on the basis of information on the file, which I consider to be 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 of the European sites listed in the screening report and a Stage 2 Appropriate Assessment (and a submission of an NIS) is not therefore required.

## 8.0 Recommendation

- 8.1. I recommend that permission be granted for the reasons and considerations below:

## 9.0 Reasons and Considerations

Having regard to: -

- (a) The Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in April 2012,
- (b) The policies and objectives of the Clare Country Development Plan 2017-2023 and the Shannon Town Centre and Environs LAP 2012-2018,

(c) the pattern of development in the area;

(d) the nature, scale and design of the proposed retail development;

it is considered that, subject to compliance with the conditions set out below, the proposed development would be an appropriate form of development at this location, would comply with the scale and type of retailing identified for Shannon Town Centre, would not seriously injure the amenities of the area or of property in the vicinity, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 14<sup>th</sup> day of September, 2017, 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. The proposed retail building shall be set back at least 5m from the existing 300mm watermain to the southern boundary of the site, or within an acceptable distance, as agreed in writing with Irish Water. Revised plans indicating the required setback and details of any agreement with Irish Water relating to same, should be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** As per the requirements of Irish Water and in order to allow maintenance of the existing watermain.

3. Prior to the commencement of development, details of the following shall be submitted to, and agreed in writing with the planning authority:
- (a) A pedestrian crossing, across An Bothar Mor, linking the proposed development to the existing town centre to the south. The type and location of the pedestrian crossing shall be agreed in writing with the planning authority prior to commencement of development.
  - (b) A footpath to the north of An Bothar Mor, linking the site to the existing pedestrian crossing to the east of the site, at the junction of An Bothar Mor and Bealach Brii.

This infrastructure shall be provided either by the applicant, or provided on the applicant's behalf.

**Reason:** In the interest of pedestrian safety and in the interest of the proper planning and sustainable development of the area.

4. Details, including samples, of the materials, colours and textures of all the external finishes, including external glass, to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In this regard, samples shall be erected on site where required by the planning authority.

**Reason:** In the interest of the visual amenities of the area.

5. 109 number car parking spaces shall be provided within the site. The layout of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure that adequate off-street parking provision is available to serve the proposed development.

6. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

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

7. Comprehensive details of the proposed external lighting scheme to serve the development shall be submitted to, and agreed in writing with, the

planning authority prior to commencement of development. All external lighting shall be directed away from the public road and from residential properties in the vicinity. Lighting shall be minimised outside of business hours.

**Reason:** To protect residential amenities and in the interest of traffic safety.

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

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

9. The proposed shopfronts shall be in accordance with the following requirements:
  - (a) Signs shall be restricted to a single fascia sign using sign writing or comprising either hand-painted lettering or individually mounted lettering,
  - (b) lighting shall be by means of concealed neon tubing or by rear illumination,
  - (c) no awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,
  - (d) external roller shutters shall not be erected. Any internal shutter shall be only of the perforated type, coloured to match the shopfront colour, and
  - (e) no adhesive material shall be affixed to the windows or the shopfront.

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

10. Water supply and drainage arrangements, including the disposal of foul and surface water, shall comply with the requirements of the planning authority for such works and services. In this regard, detailed proposals for

the disposal of foul and surface water shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

11. The landscaping scheme as submitted to the planning authority on the 26<sup>th</sup> Day of June, 2017 shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

12. All service cables associated with the proposed development (such as electrical, telecommunications and television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

13. The developer shall ensure that access is made available to lands to the west and north of the site, as identified in the 'Proposed Site Layout Plan' (drawing no. 15126/P/004), submitted to the planning authority on the 26<sup>th</sup> Day of June, 2017.

**Reason:** In the interest of the proper planning and sustainable development of the area.

14. The applicant shall;
  - (a) Provide the Irish Aviation Authority with at least 30 days prior notification of any proposed crane operations on the site.
  - (b) Prior to the commencement of development, submit details to the planning authority, for agreement in writing, of a suitable crane marking and lighting scheme, as well as details of crane types,



including elevation of the highest point of crane.

**Reason:** In the interest of aviation safety.

15. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

16. All mitigation measures as set out in the Flood Risk Assessment prepared by Hydro Environmental Ltd dated June 2017 shall be implemented.

**Reason:** To minimise flood risk.

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

the proper application of the terms of the Scheme.

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

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Rónán O'Connor  
Planning Inspector

14<sup>th</sup> June 2018