



An
Bord
Pleanála

Inspector's Report ABP-301208-18

Development

Development of 2 no. 'drive thru' restaurant/takeaway units (gross floor area 746sqm.) to consist of (1) Unit 1 - Construction of a 138sqm restaurant/takeaway to include kitchen, serving area, waiting area and staff welfare facilities. (2) - Construction of a 302sqm restaurant/take-away to include kitchen, serving area, waiting area, seating area, male and female toilets and staff welfare facilities. (3) Construction of a 31sqm lobby area to service both restaurant/takeaways. (4) Construction of 2-lane drive thru takeaway facility associated with the food offer to include access, 2no, order points and 2 no. collection points. (5) All ancillary signage, site works, outdoor seating, boundary treatments, drainage systems and landscaping. Gross floor space of proposed works 476sqm.

Location

Cosmona, Loughrea County Galway

Planning Authority	Galway County Council
Planning Authority Reg. Ref.	17/1447
Applicant(s)	Aidan McGuinness
Type of Application	Aidan McGuinness
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Aidan McGuinness
Observer(s)	None
Date of Site Inspection	10/07/2018
Inspector	Gillian Kane

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1.0 Site Location and Description

- 1.1. The subject site refers to a vacant site, to the east of an existing car park serving the Loughrea Shopping Centre to the north of Athenry Road in the east Galway village of Loughrea.
- 1.2. The over grown, vacant site is separated from the car park by a series of wire fences. To the immediate north of the site is the residential housing estate Cois Furain and to the north of the residential housing estate The Maltings.
- 1.3. This undeveloped section of land is the subject of two other appeals before the Board: ABP-301212-18 and ABP-302111-18. Discussed in section 4.0 below.

2.0 Proposed Development

- 2.1. On the 4th October 2017 permission was sought for the development of 2 no. 'drive-thru' restaurant / take-away units (476sq.m.). Unit 1 (138sq.m.) comprises a kitchen / serving area, waiting area and staff area. Unit 2 (302sq.m.) comprises kitchen, serving area, waiting area, seating area, male and female toilets and staff welfare area. A 31sq.m. lobby area would serve both units. A two-lane drive-thru would include 2 no. order points and 2 no. collection points. The proposed development includes outdoor seating, signage and boundary treatments, all on a site of 0.13ha.
- 2.2. The application was accompanied by
 - Architectural Design Statement
 - AA Screening Report
 - Letter of consent to the use of existing access, access roads, parking and hardstanding areas from adjoining Commercial development
 - Planning Report

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 15th February 2018, permission for the proposed development was REFUSED for the following reasons:
 1. Having regard to the nature of the proposed development in such close proximity to residential properties, the traffic movements, noise, smells (in the absence of mitigation measures for same) and general disturbance

during night-time hours associated with the type of development proposed, the Planning Authority consider that the proposed development would seriously injure the amenities, or depreciate the value of property in the vicinity of the site and therefore the proposed development would be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development would conflict with the provision of existing parking spaces and traffic circulation areas of the adjoining commercial site and would give rise to conflicting vehicular and pedestrian movements in this area and on the development site. Furthermore, in the absence of any onsite parking provision and specific consent with regard to the utilisation of carparking associated with the adjoining commercial development, the Planning Authority are not satisfied that the applicant has demonstrated sufficient legal interest for same. Therefore if permitted as proposed, it is considered that the development would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise.
3. Having regard to the traffic and transport assessment and auto-tracking analysis of the subject site only, in conjunction with the absence of a Road Safety Audit, it is considered that the proposed development would materially contravene contrary to Objective TI10 and DM standard 11 of the Galway County Development Plan 2015-2021 and Objective TI17 of the Loughrea Local Area Plan 2012, would constitute a traffic hazard due to the potential for collision of vehicles and pedestrians utilising the subject site, the associated traffic movements through the existing carparking to the site and the cumulative impact in combination with the adjoining planning application (ref. no. 17/1448) and therefore would be contrary to the proper planning and sustainable development of the area.
4. In the absence of a pre-connection query form / evidence correspondence with Irish Water, it has not been demonstrated to the satisfaction of the Planning Authority that the public mains and public sewer has the capacity to cater for the additional loading / demand arising from the proposed development, in terms of water demand, waste water generation and surface water disposal. It is therefore considered that the proposed

development if permitted would be prejudicial to public health, has the potential to pose an unacceptable risk to water quality and European Sites including their conservation objectives and qualifying interests and would be contrary to the principles of proper planning and sustainable development.

3.2. Planning Authority Reports

3.2.1. Planning Reports: Dated 28/11/2017 Disposal to public sewer is not acceptable.

Grease traps have not been indicated on site. Planning Authority has insufficient information to screen out likely significant impacts on European sites, arising from the proposed development. No on-site car parking is proposed, applicant proposes to use car park of the adjoining shopping centre which has an over provision of 77 no. spaces. Boundaries oversail the existing traffic circulation area, Planning Authority has concerns about possible traffic conflicts arising from pedestrian movements through the vehicular circulation areas. Traffic and transport assessment, road safety audit or auto-tracking have not been provided. Planning Authority has concerns about the proximity to residential areas with regard to noise, light, odour, and traffic movements. Refusal recommended.

3.2.2. On the 28th November 2017, the applicant emailed requesting an extension of time until the 16th February.

3.2.3. On the 25th January the applicant submitted **unsolicited additional information**.

The report addresses three areas. It can be summarised as follows:

Impact on Residential Amenity

- Odour and Noise Assessments have been undertaken.
- The Odour Impact Assessment states that a high level of odour control will be required to be installed. Provided kitchen extraction units are designed in accordance with best practice specification, the impact of the proposed development on the odour sensitive receptors will not be significant.
- The Noise Impact Assessment states that the noise sources will be customers eating outside, drive-thru lane and customer order display-unit speakers. The result of the NIA is that the predicted specific noise levels at the nearest noise

sensitive locations will not result in an adverse noise impact. 2.1m high boundary wall proposed as a mitigation measure.

Traffic and Transport

- Letter of consent from land owner giving consent to the use of the lands was submitted with the application. A Traffic and Transport Assessment and a Road Safety Audit have been undertaken and are submitted as unsolicited further information. The assessment includes auto-track movements for the proposed development. It is submitted that the proposed development will not conflict with or reduce the existing car parking – which has a surplus of 77 no. spaces. The stage 1 RSA has highlighted the need for pedestrian routes to connect the existing footways and crossing points to the proposed development, this will form part of the detailed design stage. The TTA shows sufficient capacity on the road network.

Water Services

- Area Engineer for Loughrea confirms that there is sufficient capacity in the existing sewers and treatment plant to cater for the proposed development.
- The subject site overlaps with the site (08/2505: retail / commercial building and associated car parking) for which the permission has not been fully developed. The proposed development involves a decreased loading rate than that permitted.
- Planning permission 08/2505 was approved for storm water from the entire site (of which the subject application forms a portion) to be discharged to the public sewer on the main road. The currently proposed development has already been catered for in the sewers and attenuation tanks installed as part of 08/2505 and therefore will result in no increase in outflow to the public storm sewers. A hydrobrake flow control device limits the outflow from the site to 11.5l/s and will ensure that there will be no effect on the capacity of the existing sewers.
- Grease traps were included in the original proposal. An updated services layout shows the location of 2 no. internal grease traps in each of the proposed units.

3.2.4. **Second Planners Report 15/02/18:** Ambiguity regarding the actual location of kitchen extractor fans / stacks and lack of consideration of the cumulative impact with the adjoining proposed 17/1448 and existing development. The Odour Impact

Assessment is based on on-dated guidance and an inaccuracy in Table 2 (eaves). The proposed development should be refused, as it would result in an adverse impact on the residential amenities of nearby properties and would create a traffic hazard within and outside of the site. The principle of a drive-thru restaurant is not acceptable at this location.

3.3. **Third Party Observations**

- 3.3.1. One objection to the proposed development was submitted to the Planning Authority. The grounds of the objection refer to the cumulative effect of the subject proposal and the adjoining proposal and the impact on the residential amenity of the surrounding residential area.

4.0 **Planning History**

- 4.1.1. Planning Authority Reg. Ref. **08/2505**: Planning permission granted for the construction of a retail / commercial development comprising two buildings, including a supermarket (unit 1), department store (unit 2).
- 4.1.2. **ABP-302111-18**: Third party appeal currently before the Board by The Malting Residents against the decision of Galway County Council to grant permission to Aidan McGuinness for the construction of five number residential units and associated domestic garage together with the provision of vehicular and pedestrian access from the Athenry Road (N66) via 'The Maltings' residential development immediately south of the proposed site on a site adjacent to the Loughrea Shopping Centre and The Maltings residential development.
- 4.1.3. **ABP-301212-18**: First party appeal before the Board against the decision of the Planning Authority to refuse permission for the development of forecourt with pump islands consisting of: 1) The construction of a solid fuel store/repository. 2) Construction of a forecourt with 4 no. pumps and canopy cover. 3) Installation of 3 no. underground fuel storage tanks with a total fuel storage capacity 100,000 litres, associated pipeworks and overground fill points. 4) Construction of 3 no. car parking spaces and an electric car charging point. 5) Installation of air and water dispensers for vehicles. 6) All ancillary signage, site works, boundary treatments, drainage systems and landscaping. Gross floor space of proposed works 32sqm.

5.0 Policy Context

5.1. Loughrea Local Area Plan 2012-2018

- 5.1.1. The 2012-2018 plan was extended up to and including 24th July 2022. The subject site is located in an area zoned C2- commercial / mixed use. The objective for the zone is to “Promote the development of commercial and complementary mixed uses on suitable lands that can provide focal points for the provision of services to surrounding neighbourhoods/areas and opportunities for commercial enterprises, retail developments and employment creation and which do not undermine the vitality and viability of the town centre”.
- 5.1.2. Within C2 zones the following development management standards apply:
- Plot ratio 0.40 to 1.00
 - Site coverage 70%
- 5.1.3. With C2 zoned lands a drive-thru restaurant is open for consideration while restaurant use is permitted in principle. Note 2 in the LAP states that a “A use that is classified as Open for Consideration is one that the local authority may permit where it is satisfied that the suggested form of development will be compatible with the policies and objectives for the zone, will not conflict with permitted uses and conforms to the proper planning and sustainable development of the area, including the policies and objectives set out in the Plan”.

6.0 Natural Heritage Designations

- 6.1.1. The subject site is 0.5km north of the Lough Rea SPA and Lough Rea SAC.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. A first party appeal against the decision of the Planning Authority to refuse permission has been submitted by an agent on behalf of the applicant. The submission gives details on the background to the appeal, the planning history of the site and the policy framework supporting the proposed development. The grounds of the appeal can be summarised as follows:

Reason no. 1

- The proposed drive-thru restaurants will be closed during night-time hours, it will open between 07.00 and 23.00 Sunday to Thursday and until 01.00 on Friday and Saturday.
- The errors in the planner's report regarding the NIA and the OIA are addressed in Appendix 4-1.
- The OIA submitted as unsolicited additional information demonstrated that the odour impact on sensitive receptors will not be significant.
- Indicative location of kitchen extractor plant shown on drawing no. 3002A and 3003A in appendix 4-3. The exact location can be agreed with the Planning Authority prior to commencement.
- The noise impact from the proposed development has been shown to be low with the 2.1m high boundary wall as a mitigation measure. The constant daytime and evening traffic on the surrounding road network and the adjoining retail development will continue to dominate the noise climate. The noise generated from the proposed development will not significantly affect the existing noise levels.

Reasons no. 2 and 3

- The planning application was accompanied by a letter of consent "to use access, access roads parking and hardstanding areas for the purposes of constructing and operating the commercial development" The directors of that company are the landowners of the subject site. It is submitted that the Planning Authority's reason for refusal is inappropriate.
- A Traffic and Transport Assessment and a Road Safety Audit were submitted to the Planning Authority. The TTA concludes that the proposed development will be adequately accommodated by the existing access junctions and surrounding road network.
- The RSA did not identify any issues of concern.
- The TTA and the RSA established categorically that the proposed development would not constitute a traffic hazard nor would it result in in road and / or junction capacity issues.

Reason no. 4

- The applicant's engineers met with the Loughrea Area Engineer who confirmed that there is sufficient capacity in the existing public sewer and treatment plant to accommodate the proposed development.
- A pre-connection enquiry has been made to Irish Water (ref. no. 3246414399)
- The subject site overlaps with the site of a previous planning application that was not implemented. This permission was for a much larger development. Loading calculations clearly demonstrate the capacity in the treatment system for the slight increase in loading from the proposed development. A services drawing identifies the proposed connection to the public sewer.
- The storm water from the proposed development has already been catered for in the design capacity of the existing sewers and attenuation tanks installed as part of the 2008 permission. There will be no increase in the outflows to the public storm sewers.

7.1.2. The appeal submission states that the proposed development will result in the beneficial development of a vacant infill site within the settlement of Loughrea. The proposed development will create employment and economic development. The proposed development complies with the development plan and all other policy documents. The Board is requested to grant permission.

7.1.3. The appeal is accompanied by a number of Appendices. These can be summarised as follows:

- Appendix A: decision of Galway County Council
- Appendix B: letter of consent from adjoining development
- Appendix 4-1: Letter regarding the Odour Impact Assessment – states that it refers to the subject and the adjoining development. States that the OIA has assessed the cumulative impact of both developments. Regarding the DEFRA guidance, the report acknowledges that this has been withdrawn but states that it provides a useful risk assessment procedure which allows for the recommendation of modern effective odour control recommendations. The inaccuracy alleged by Galway City Council is not an inaccuracy – it refers to the discharge of the extractor fans / stacks at 1m above eaves levels at 15m/s.

- Appendix 4-2: Odour Impact Assessment. The OIA assumes that a high level of odour control is required to be installed for this proposal in accordance with DEFRA guidance risk assessment. The proposed kitchen extraction systems are designed in accordance with HCVA DW/172 Specification for Kitchen Ventilation Systems. It can be stated that the impact will not be significant.
- Appendix 4-3: Drawings of proposed restaurant and drive-thru, ground floor plans, section and elevations.
- Appendix 4-4: Noise Impact Assessment. The NIA has predicted the noise impact of the proposed restaurant and drive-thru on the closest residential neighbours. The specific noise sources include vehicle noise for eat-in customers, the drive-thru lane and the customer order display unit speakers. External plant has also been assessed. The NIA finds that the predicted specific noise levels at the nearest noise sensitive locations will not result in an adverse noise impact.
- Appendix 4-5: Traffic and Transport Assessment: The proposed development will be adequately accommodated by the existing access junctions and surrounding road network.
- Appendix 4-6: Stage 1 Road Safety Audit.
- Appendix 4-7: Ancillary report from Traffic and Transport Consultants. Key Findings – all junctions were established to remain within capacity with the proposed development in place up to the year 2035. The ancillary report took account of the cumulative impact of the proposed development on the adjoining site.
- Appendix 4-8: Letter from Consulting Engineers regarding capacity of the existing treatment plant. Includes details of the previous planning application and an email from Irish Water regarding a Pre Connection Enquiry.

7.2. **Planning Authority Response**

7.2.1. None on file.

8.0 **Assessment**

8.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I am satisfied that the issues raised

adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Traffic
- Impact on Residential Amenity
- Connection to Treatment System
- Appropriate Assessment
- Environmental Impact Assessment

8.2. Principle of Development

- 8.2.1. The subject site is located in an area zoned for mixed use commercial development (C2). According to the Loughrea LAP which has been extended to 2022, the development objective for C2 lands is to promote the development of commercial and complementary mixed uses on suitable lands that can provide focal points for the provision of services to surrounding neighbourhoods / areas and opportunities for commercial enterprises which do not undermine the vitality and viability of the town centre.
- 8.2.2. It is considered that the key phrases of the above objective for the proposed development are that the lands must be suitable, that the proposed development must be complementary and that it must not undermine the town centre.
- 8.2.3. In terms of the suitability of the land, I share the concern of the Planning Authority that the proposed development is in close proximity to two residential housing estates (Cois Furain to the north and The Maltings to the south). I note that Galway County Council has issued a notice of their intention to grant permission to the subject applicant for a further 5 no. houses to the immediate right of the proposed development. This permission is currently before the Board on appeal (ABP-302111-18). The issue of the impact of the proposed development on residential amenity is discussed in greater detail below.
- 8.2.4. The Loughrea Shopping centre lies to the east / south of the proposed development. The proposed development of a drive-thru and a sit-down restaurant is a complementary use to the retail development. As above, however, its complementarity to a residential use is discussed in greater detail below.

8.2.5. The planning permission for the Loughrea shopping centre (reg. ref. 08/2505) proposed a second building on that part of the site that forms the subject appeal site. The applicant states that this building was never developed but does not provide any detail of how this affected the compliance of the planning permission. Should the Board decide to grant permission, they may wish to seek further information – particularly with regard to the use of the permitted car park as it is the submission of the applicant that excess capacity exists.

8.3. **Impact on Residential Amenity**

- 8.3.1. The impact of the proposed development on the residential amenity of property in the vicinity of the subject site in terms of traffic, noise, smells and general disturbance formed the first reason of the Planning Authority's decision to refuse. In responding to this reason, the appellant submitted a noise impact assessment, an odour impact assessment and a traffic and transport assessment.
- 8.3.2. I note that a letter from the consultant who prepared both the Noise and the Odour impact assessments states that the reports took account of the subject application and that proposed on the adjoining site (concurrent appeal before the Board ABP-301212-18). Neither the NIA or the OIA address the proposed 5 no. residential units to the east of the subject site however. While permission for same was lodged after the submission of the current appeal to the Board, the author of the NIA was aware of the proposal as the dwellings are shown on drawings within the NIA.
- 8.3.3. Section 4.2.1 of the **Noise Impact Assessment** refers to six sources of noise: cars entering and existing the car park, cars entering and existing the drive-thru, the customer order units, air condensing units, kitchen extraction system and customers using the outdoor seating area. Section 2.2 of the report states that a noise monitoring survey was undertaken over a one-week period in January 2018 at the boundary of the proposed development site. The survey showed a background noise level of 55dB_{L_{Aeq}} / 46dB_{L_{A90}} arising from traffic noise. Night-time levels drop to 53dB_{L_{Aeq}} / 39dB_{L_{A90}} (results provided in Table 6 of the NIA). The NIA assumes that 25% of patrons will use the drive-thru' with 75% using the car park. I note that no evidence or rationale for this assumption is provided. Section 4.2.1 of the report refers to 'point sources' of noise, such as the kitchen extract systems, which will be located at a height of 6.6m – 1m above the eave height of the building. Figure 2A

shows the exhaust systems exiting through the roof in the centre of the proposed building. I note this does not correlate with drawing no. 3003A which indicated the extracts would exit on the eastern elevation. Figure 2A shows 4 no. air conditioning units on the eastern elevation. These proposed units are not shown on drawing no. 3003A.

- 8.3.4. In assessing the noise levels from the 'point sources', the NIA makes a number of assumptions regarding the likely equipment to be installed. Such assumptions are acceptable when they form part of a mitigation measure as they can be enforced by way of condition attached to permission. It is not appropriate to use assumptions however when assessing likely noise levels in such close proximity to noise sensitive receptors. This is especially the case where a number of the potential noise sensitive receptors have not been addressed in the NIA (i.e. the proposed residential dwellings to the immediate east). Further, I note that bin storage for the proposed two units has not been indicated on the subject drawings and the impact of noise arising from the filling and emptying of bins has not been taken into consideration.
- 8.3.5. Assessing noise levels from traffic, section 4.2.1 of the report states that the development and the proposed fuel store development will a negligible long-term impact. The noise impact from the drive-thru is stated to be inaudible with the windows of no. 27 The Maltings closed. A 2.1m high boundary wall is recommended as a mitigation measure.
- 8.3.6. The **Odour Impact Assessment** states that the nature of the proposed development is such that a ventilation / mechanical extraction system has been proposed. As the exact design details of the proposed restaurants are not known, the OIA is based on a worst-case scenario using best practice guidance. The report notes that the guidance referred to (DEFRA 2005) is out of date, but that it is nonetheless useful as a risk assessment tool. Based on the DEFRA guidance, the proposed development requires a high level of odour control due to the likely number of covers (over 100), the proximity to sensitive receptors (approx. 15m), the nature of the food to be served (high level of fried food) and the dispersion of discharge (stated to be 1m above eaves at 15m/s). Section 2.2 of the report states that due to the high-level odour control that will be installed the likely effect at the receptors in the vicinity will be 'slight adverse effect'. Further detail on the proposed odour extraction systems (four stage filtration system and discharge stacks) is given in section 3 of the report

and drawing no. 3003A shows the approximate location of the kitchen extracts on the eastern elevation of units 1 and 2 but not the location of discharge stacks. I note that Figure 2A of the Noise Impact Assessment shows kitchen exhaust system extracts in the centre of the proposed development rather than on the eastern elevation.

- 8.3.7. I note that the Environmental Health section of the Planning Authority did not comment on the proposed development. Further, I note that the odour arising from bin storage has not been assessed, nor has the location of bin storage been shown on the submitted drawings.
- 8.3.8. I am not satisfied that a robust and comprehensive assessment of the likely impact of the proposed development and that proposed on the adjoining sites has been undertaken. I agree with the conclusion of the Planning Authority that a degree of uncertainty, and lack of detail regarding the proposed development has been submitted to the Board. I am not satisfied that the cumulative impacts of the proposed development have taken account of the proposed residential development to the east, of which at least the author of the NIA was aware.
- 8.3.9. Given the sensitivity of a late-night (up to 1am on weekend nights) development in such close proximity to residential dwellings, it is considered that there is no room for error, omission or assumption. The findings of both the NIA and the OIA do not categorically demonstrate that there will not be a significant impact on the residential amenity of the adjoining residential areas. Drive-thru restaurants are open for consideration in C2 zones, where the proposed development will not conflict with the permitted uses. It is considered that the proposed development would conflict with the long-established residential use in the immediate area.

8.4. **Traffic**

- 8.4.1. The traffic and transport assessment refers to both the subject development and the proposed adjoining fuel store. An opening year of 2020 and a future year of 2035 are used as the basis of the report. In order to assume a worst-case scenario, it was assumed that all trips to the two developments would be new trips to the site. Additional traffic to be generated by the proposed drive-thru is estimated to be 16 no. in and 13 no. out at AM peak and 81 no. and 76 no. in and out at PM peak. The service station has estimated trip rates of 36 no. in and out at AM and 26 no. in and

out at the PM peak hour. I note that section 3.1 of the T&TA report is unfinished. The junction capacity tests for each of the examined junctions demonstrates sufficient capacity.

- 8.4.2. The report states that car parking requirement for the proposed drive-thru is 1 no. space per gfa resulting in a requirement of 27 no. spaces. While no parking has been proposed within the red line boundary of either of the development sites, the report states that there is spare capacity of 150 no. spaces within the shopping centre car park. These will be made available to the proposed developments.
- 8.4.3. It is not clear if the additional capacity within the shopping centre car park is due to the fact that the second building that was permitted was not built or for another reason. As noted above, the planning history behind the non-development of this second building is not clear. Should the Board decide to grant planning permission for the proposed development to use this excess car parking it is recommended that this uncertainty be clarified. Without that information, it is difficult to assess the impact of the proposed development on the wider Loughrea Shopping centre.

8.5. Connection to Treatment System

- 8.5.1. The Planning Authority's final reason for refusal referred to a lack of communication with Irish Water about the proposed connection to the public mains. In response, the appellant has submitted an email from Irish Water, acknowledging the applicant's pre-connection enquiry.
- 8.5.2. The appellant refers to the 2008 permission for the shopping centre which included a second building on the subject site. The appellant submits that it was demonstrated at that time that the public mains has the capacity to deal with a second set of development on the subject site and that the Planning Authority in approving that development accepted the capacity issues. The Board will note that the previous planning decision was made a decade ago and that the town of Loughrea has seen significant expansion and development in that time. Permitting a development on data from ten years ago is not recommended.
- 8.5.3. The appellant refers to a meeting with the Area Engineer who indicated that sufficient capacity exists. That submission has not been corroborated by the Planning Authority.

8.5.4. It is considered that it has not been demonstrated that the proposed development can be catered for by the existing public mains, without prejudicing public health. I retain a concern that the cumulative impact on the public sewer of three separate applications for development in a relatively restricted area has not been assessed comprehensively.

8.6. **Appropriate Assessment**

8.6.1. The subject site is located 0.5km to the north of the **Lough Rea SAC (site code 000304)** and **Lough Rea SPA (site code 004134)**.

8.6.2. Lough Rea is a hard water lake situated directly south of the town of Loughrea, Co. Galway. The lake is 2.5 km at its longest axis. The underlying geology of the area is of Carboniferous limestone and water transparency is very high. The lake, which is fed by springs and by a stream, reaches a maximum depth of 15 m. the qualifying interest for the SAC is [3140] Hard oligo-mesotrophic waters with benthic vegetation of Chara spp, otherwise described as 'Hard Water Lakes'. The conservation objective for this qualifying interest is to maintain or restore the favourable conservation condition of the hard water lake. Favourable conservation status of a habitat is achieved when: its natural range, and area it covers within that range, are stable or increasing, and the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and the conservation status of its typical species is favourable. The site is largely surrounded by intensively farmed pasture and consequently the main threat to the lake comes from agricultural run-off. The lake is also vulnerable to nutrient input from the town of Loughrea.

8.6.3. The qualifying interests for Lough Rea SPA are A056 Shoveler *Anas clypeata* and A 125 Coot *Fulica atra*. The conservation objective for the site is to maintain or restore the favourable conservation condition of the two bird species.

8.6.4. An AA screening report was submitted with the application. Section 2.2.2 provides details of best practice control measures incorporated into the project design which will limit the potential for impact during the construction phase. The screening report states that there will be no impact on the conservation objectives of any designated site and there is no need to proceed to a stage 2 NIS.

8.6.5. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area, no appropriate assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

8.7. **Environmental Impact Assessment Screening**

8.7.1. Having regard to nature of the development comprising extension to and alteration of an existing dwelling and the urban location of the site there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

9.0 **Recommendation**

9.1.1. It is considered that the proposed development of restaurant and drive-thru is not an appropriate use in such close proximity to a number of residential areas. Where two zones converge, it is best practice that the more sensitive zoning be given greater weight in consideration of impacts. While the larger area appears to accommodate the supermarket easily and without significant impact on the adjoining residential area, the proposed development is significantly closer to the boundaries of the residential estates. The noise and general disturbance buffer provided to the supermarket by the car park is not available to the proposed development, it being within metres of the boundary walls of private rear gardens.

9.2. It is considered that insufficient detail has been submitted regarding the proposed development and the possible impacts on the residential amenity of the adjoining properties, both existing and proposed. It is considered as three separate applications have been made on a relatively restricted site beside a large shopping centre and a number of residential areas, that this requires a strategic assessment of the cumulative impact of all proposed development on the immediate and wider area. It is recommended that permission be refused for the following reason

- 1 The proposed development of 2 no. restaurant / take-away units with drive-thru facility on a site zoned for mixed use commercial and retail development is unacceptably close to existing and proposed residential development. It is considered that the proposed uses are not a

complementary use on a suitable site as required by the C2 zoning objective of the Loughrea LAP which has been extended to 2022. The proposed development is considered to be contrary to the proper planning and sustainable development of the area

- 2 It has not been demonstrated that the proposed development, in addition to the development proposed on the adjoining sites can be safely accommodated by the existing public sewer network. The proposed development, if permitted would therefore be prejudicial to public health.
- 3 It has not been demonstrated that the subject site can safely satisfy the car parking requirement for drive-thru restaurants without compromising the adjoining Loughrea Shopping Centre. The proposed development if permitted would be contrary to the proposed planning and sustainable development of the area.

Gillian Kane
Senior Planning Inspector

31 October 2018