



An
Bord
Pleanála

Inspector's Report ABP-304701-19.

Development	Permission for the demolition of retail building and erection of two retail warehousing buildings (one with garden centre). Construction of car park and landscaping (revised development that previously granted permission) and all associated site development works.
Location	Riverview Commercial Park, Cloncollig, Tullamore, Co. Offaly.
Planning Authority	Offaly County Council.
Planning Authority Reg. Ref.	18/535.
Applicant(s)	Flanagan Securities Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellant(s)	Gabriel & Dympna Keeley.
Observer(s)	None.
Date of Site Inspection	23 rd August, 2019.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site lies to the south east of the Tullamore Town Centre, in proximity to the N52, which circles the town. The wider area comprise the Riverview Commercial Park and lies to the north of the R420 / Church Road. To the south of this road, lies the Tullamore Retail Park which includes a variety of shops. Access to both sites is via a roundabout. The Tullamore River lies to the north of the Commercial Park.
- 1.2. The site of the proposed development comprises an area of 1.44ha and is located to the southern area of the Park with the existing Dealz store also included in the site area. The area of the site adjacent to the public road remains undeveloped while the Aldi site includes the shop itself and associated car parking area. This area extends to 0.75ha. The subject site also includes the existing Costa Coffee building located to the east of estate road, at the entrance to the Commercial Park.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition of retail building and the erection of two retail warehousing buildings (one with garden centre), construction of car park and landscaping (revised development that previously granted permission) and all associated site development works, all at Riverview Commercial Park, Cloncollig, Tullamore, Co. Offaly.
- 2.2. The application included a number of supporting documents including as follows;
 - Planning Supporting Statement
 - Plans and particulars
 - Transportation Assessment Report & Parking Quantum Assessment (Transport Report)
 - Hydrology Report
- 2.3. Following a request for further information, the applicant reduced the gross floor area of units 1 and 2 and deleted the proposed garden centre reducing the total floor area. In this regard, the parking provision was increased, while the minimum parking requirement was reduced, with the shortfall at 31, excluding the 9 overflow / staff

parking spaces. The applicant submits that the Development Plan facilitates a reduction in car parking where complimentary uses are identified on the site.

- 2.4. Further to the above, the applicant submitted a revised design of unit 2, reducing the overall height of the building by 2m as requested by the PA. Unit 1 has also been reduced in size and set back in the site in line with the existing Costa Coffee building.
- 2.5. The response to the Further Information request has a number of enclosures, including an amended Transportation Assessment Report

3.0 **Planning Authority Decision**

3.1. **Decision**

The Planning Authority decided to grant planning permission for the proposed development subject to 10 conditions.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The planning report comprised the basis for the PAs decision to grant planning permission and considered the proposed development against a suite of policy documents, including national and local. The report also considered the third party and other technical reports submitted to the file as well as carried out AA screening. Following a request for further information, which sought information in relation to roads and traffic, parking and the visual impact of proposed unit 2, the Planning Report considered that the issues raised in the further information request had been addressed and permission is recommended subject to conditions.

3.2.2. Other Technical Reports

Chief Fire Officer: No objections subject to compliance with condition.

Environment Water Services: No objections subject to compliance with conditions.

Area Engineer: No objections subject to compliance with conditions.

Road Design: Further information required as Road Design considers that the proposed development is in the vicinity of a congested road network and that further, more detailed, modelling and assessment is necessary. Concerns are also raised regarding the shortfall of car parking spaces. The proposed development, together with existing permitted development requires 341 parking spaces while the development proposes 251 spaces, considerably less than the minimum required.

Following the submission of the response to the Further information request, the Road Design Section of Offaly County Council has advised satisfaction with the TTA as submitted revised / parking proposals.

3.2.3. Prescribed Bodies

Irish Water: No objections noted

3.2.4. Third Party Submissions

One third party submission is noted on the PAs file, from the current appellant. The appellant advises concerns with proposals to redevelop and extend the Commercial Park without addressing a large number of issues raised repeatedly without response. It is submitted that the development should not be allowed to proceed without these issues being dealt with.

The issues raised in the appeal are summarised as follows:

- Current issues include:
 - Common areas – these areas have never been taken in charge by the local authority. The manner in which these areas are being run cause real problems including the running of a circus a number of times a year. Property within the park was purchased on the basis that the common area would be taken in charge, which has not happened as there appears to be works needed and a cost attached to having it taken in charge.
 - Service Charges – the applicant forces all owners of properties in the park to pay extremely high levels of service charges without no control. The applicant has refused to establish an owner-management company for the Park, despite requests to do so, and it is submitted that they make a profit from the charges. A grant of

planning permission will endorse the manner in which the applicant treats the current occupants of the Park.

- Future problems include:
 - Sewage Treatment – it is submitted that there have been problems with sewage treatment at the Park, including overflowing tanks. The problems will become worse if permission for the proposed development is granted.
 - Construction – repair works to the water pumping station in the Park caused serious disruption to all the occupants. A major construction as proposed will affect occupants for years and there has been no consultation with them.
 - Water Pumping Unit – there are ongoing issues with noise from the water pumping unit. If the development increases the capacity of the pump, the noise pollution will certainly increase.
 - Traffic – since the objector took occupancy of their unit in 2000, there is additional traffic through the Park every year. The plans will lead to more traffic problems and the applicant has made no effort to engage with occupants or engage with any concerns regarding the plans.

3.2.5. Other Submissions

In relation to the issues raised in the third-party objection, the first party, in the response to the FI request, submitted that the issues raised by the third party are non-planning matters which are being addressed under the correct, and separate, legal procedures. The applicant is unaware of any issues being caused from the infrastructure on site and considers all to have capacity to accommodate the proposed development. It is acknowledged that temporary disturbance can be caused during the construction period associated with any development project. The site lies within a commercial area, has been zoned for development for a considerable time and has previously been granted permission for a similar form and quantity of development.

4.0 Planning History

The following is the relevant planning history pertaining to the subject site and wider Commercial Park:

PA ref 99/379: Planning permission granted, subject to 15 conditions, for a retail food store (Aldi)

PA ref 05/930: Retention permission granted to Smith Bros Ltd., for alterations to previously approved light industrial / warehouse building. Alterations comprise of addition of signage, addition of glazing and omission of windows to north west elevation, addition of signage and omission of windows to south west elevation.

PA ref 06/1024: Planning permission granted, subject to 5 conditions, for the construction of an extension to the existing Aldi store – as permitted under Reg Ref 99/379 by 337m². The extended store will be served by 191 car parking spaces.

PA ref 08/55: Planning permission granted, subject to 10 conditions, for the construction of new Aldi discount retail store to the south east of the existing building, construction of a new DIY store with a mezzanine floor and adjacent garden centre with ancillary service yard, loading area and plant rooms, alterations to existing car park layout, alteration to existing roads to form a new roundabout at the site entrance from the estate road, provision of building signage and provision of additional totem signage and all ancillary site development works. The existing Aldi discount retail store will be demolished following construction and opening of the new Aldi store.

This application was appealed to the Board but withdrawn prior to a decision issuing.

The grant of planning permission was extended under PA ref 13/050 and expired 29/01/2019. The new Aldi store was constructed but the DIY/Garden Centre was not. The road layout and roundabout have been constructed.

PA ref PL2/09/97: Planning permission granted to Arkencourt Ltd and subject to 14 conditions, for the demolition of the existing NCT Industrial Building and the construction of a retail warehouse building with ancillary service yard and loading area, plant rooms, car park, drainage and all associated site development works. Access will be via the realigned road and roundabout permitted under planning permission 08/55. This development was extended under PA ref 13/051 and now

expires on the 17th of November, 2019. It has not implemented to date and provides for 2 retail units.

PA ref 14/273: Permission granted, subject to 6 conditions, for the construction of a new café, c200m² and outdoor seating area etc. including revisions to existing car parking layout.

5.0 Policy and Context

5.1. Retail Planning Guidelines 2012

The aim of the Guidelines is to ensure that the planning system continues to play a key role in supporting competitiveness in the retail sector for the benefit of the consumer in accordance with proper planning and sustainable development. In addition, the planning system must promote and support the vitality and viability of city and town centres thereby contributing to a high standard of urban design and encouraging a greater use of sustainable transport. The retail design Manual accompanies the guidelines and is also of relevance in seeking to promote quality design in retail developments.

The Guidelines state that ‘a range of caps on the size of convenience and retail warehouse stores is required to ensure both competitiveness in the retail sector and strong city and town centres.’ Section 4.11.2 deals with retail parks and retail warehouses and provides for a number of requirements in terms of types of goods sold - limited to truly bulky household goods or goods which are not portable by customers travelling by foot, cycle, or bus, size of units – minimum of 700m² to maximum 6,000m² save for exceptional circumstances.

5.2. Design Manual for Urban Roads and Streets, 2012

This document was prepared by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government. The manual complements previous advice issued, including inter alia, Smarter Travel 2009, Traffic Management Guidelines, 2003. The Manual presents a series of principles, approaches and standards that are necessary to achieve balanced, best practice design outcomes with regard to street networks and individual streets.

5.3. Regional Planning Authorities the Midland Region 2012-2022 for

These Guidelines set out the planned direction for growth within the Midland Region up to 2022 by giving effect to national planning policy under the NSS. The Guidelines support the need to establish a strong spatial hierarchy centred on the linked gateway of Athlone, Tullamore and Mullingar, supported by the principal towns of Longford and Portlaoise.

5.4. Development Plan

The Tullamore Town & Environs Development Plan, 2010-2016 as extended until 2020 is the relevant policy document relating to the subject site, which is zoned Commercial, with retail warehousing being a use which is open for consideration. Table 14.2 deals with Car Parking Standards and requires that 1 space per 25m² of gross floor area is provided for Retail Warehousing.

5.5. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Charleville Wood SAC (Site Code: 000571) (pNHA Site Code 000571) which is located approximately 2.9km to the west of the site.

The Grand Canal pNHA, Site Code 002104, lies approximately 1.2km to the north of the site.

5.6. EIA Screening

Having regard to nature and scale of the development, together with the brownfield nature 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.

6.0 The Appeal

6.1. Grounds of Appeal

This is a third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The issues raised reflect those as submitted to the Planning Authority and are summarised as follows:

- Water service issues
- Disruption caused by construction
- Traffic management, including car parking issues.

It is considered that the submitted report does not set out any measures to reduce the impact of additional traffic on the local roads and the roundabout. The local road is identified by the County Council as one of the busiest routes in the town and currently experiences queuing. Any additional impacts on queuing will result in loss of business for existing operators in the Park. The fatal flaw in the submitted transport report is that it is based on the idea that there is not currently a problem with traffic congestion in the area. It is inappropriate that no condition in relation to car parking was included given the shortfall in spaces.

The appeal includes a number of enclosures including receipts for the unblocking and cleaning of sewers / drains.

6.2. Applicant Response

The first party has responded to the third-party appeal. The response provides a summary of the applicants case, including planning history, and refers to the PAs comments in terms of the NCT site, which the applicant advises he may proceed with the implementation of the remaining part of the extant permission. The response to the appeal is summarised as follows:

Water services

- It is submitted that the issues raised in the appeal relate to the appellants building specifically.

- A report from the applicants engineer demonstrates that there is capacity in the system to accommodate the proposed development. Neither IW nor OCC have raised concerns in this regard.

Disruption during construction

- The appellant has not provided evidence to substantiate this claim.
- Residential and general amenity issues are material planning matters.
- It is submitted that the construction works are temporary in nature.

Traffic Management

- NRB Transport Consultants assessed the road network.
- A negligible impact on local network is wholly appropriate within a town setting.
- OCC is satisfied that the local road network can accommodate the proposed development and that car parking is sufficient to meet needs.

It is submitted that the appellant has provided no clear planning reason why permission should not be granted. The response includes a number of enclosures.

6.3. **Planning Authority Response**

The Planning Authority initially submitted a response to the third-party appeal advising no further comments.

Following the submission of the response to the third-party appeal from the first party, the Planning Authority raised concerns in terms of comments made by the first party in relation to the NCT site. It is submitted that clarity is required to ensure compliance with the conditions of permission PL2/09/97.

The Planning Authority submitted no further comments following receipt of the first party response to their letter requiring clarification.

6.4. **Observations**

None.

6.5. Further Responses

6.5.1. Third Party Response to First Party Response to Third Party Appeal

The response seeks to counter the comments made and is summarised as follows:

- The extant permissions were made in 1999 and 2008. There has been great change in the area since these decisions.
- It is the belief of the third party that issues with sewage system have been brought to the attention of the applicant and are as a result of problems within the system and most likely to do with the pumping station.
- Serious concerns regarding traffic management remain and the report from TrafficWise makes it clear that they are right to be worried.

Enclosures with the response include a report from TrafficWise. This report submits that the Transportation Assessment Report is not a Traffic and Transport Assessment and does not meaningfully examine the transport related matters arising directly from the proposed development. It is further submitted that the report ignores the advice of the two appropriate guideline documents cited in the Offaly CDP and is not prepared in accordance with the guidelines.

It is further submitted that given the history of the site, the applicant appears to selectively implement planning permissions, with past failures to comply evident, and therefore it is impossible for third parties or the Planning Authority to know what will be built. The RFI Transportation Assessment Report fails to provide a robust and objective assessment of the pertinent transportation requirements, impacts and influences arising directly from the proposed development.

6.5.2. First Party Response to Planning Authority Response to First Party Response to Third Party Appeal

The First Party has sought to submit clarification in relation to the implementation of the extant permission, PL2/09/97 refers. It is submitted that it had been the intention of the applicant to retain the NCT building. Based on the comments of the Council, it is confirmed that when implementing the extant permission, the development will be implemented in its entirety and in accordance with conditions imposed on that permission or as otherwise discharged.

6.5.3. **First Party Response to Third Party Response to First Party Response to Third Party Appeal**

The first party responded to the third-party submission, including the report from TrafficWise. The submission is summarised as follows:

- Reference to Sections 138(a) and (b) of the Planning and Development Act which are considered to apply in this case.
- Section 127 of the Act is also referred to and submits that all information and documents contained within the appellants response should have been submitted with the original appeal.
- The submission addresses the numbers comments made in the Third-party submission and NRB addresses the report from TrafficWise also.

NRB Consulting Engineers comments on the TrafficWise report

- Raises concerns that a detailed submission has been made to the Board at this late stage in the planning process.
- A full transportation assessment report was prepared.
- The applicant has no objections to the inclusion of a condition to improve pedestrian crossing and linkages across the R420 if this is deemed appropriate.
- No RSA is required as there is no proposed alterations to the public road proposed.
- The existing roundabout on the R420 was subject to a full independent Road Safety Audit in consultation with OCC, when it was originally designed and constructed.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards
2. Roads & Traffic
3. Water Services
4. Other Issues
5. Appropriate Assessment

7.1. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards:

- 7.1.1. The subject site is located within the development boundaries of the town of Tullamore, Co. Offaly. The wider site has been developed as a retail warehouse park / commercial park with a variety of uses present on the site, including Aldi, Costa Coffee, NCT and Dealz towards the front of the site, and a variety of other business uses to the rear of the park site. The roadside area of the site comprises a car park and the proposed location of unit 1 is the only area of undeveloped land within the existing Commercial Park.
- 7.1.2. The Board will note that amendments were made to the proposed development in terms of heights and floor areas, including the omission of the proposed garden centre, in the course of the PAs assessment of the proposed development. The site is zoned for commercial uses including retail warehousing and, in this regard, I am satisfied that the principle of the proposed development is acceptable and in accordance with the zoning of the site.

- 7.1.3. In terms of compliance with national policy the Board will note the requirements of the Retail Planning Guidelines, 2012 as they relate to retail warehouse stores. Section 4.11.2 of the guidelines deals with retail parks and retail warehouses and provides for a number of requirements in terms of types of goods sold - limited to truly bulky household goods or goods which are not portable by customers travelling by foot, cycle, or bus, size of units – minimum of 700m² to maximum 6,000m² save for exceptional circumstances.
- 7.1.4. The proposed development will, if permitted provide for Unit 1, including three stores, 1A, 1B and 1C, with a floor area of 700m² each, while proposed unit B will have a retail floor area of 2,450m² and ancillary storage areas of 524m² and 397m². As such, the scale of the proposed units fall within the cap sizes dictated in guidelines. I am satisfied that the development is acceptable in principle.

7.2. Roads & Traffic

- 7.2.1. Roads and traffic issues, as well as car parking, are concerns raised by the third-party appellants. The Board will also note the submission of a report from TrafficWise on behalf of the appellant at the later stages of the appeal process. This report raises concerns in terms of the robustness of the Traffic and Transportation Assessment, including the response to the FI request, which is considered not to be a Traffic Impact Assessment in accordance with the guidelines. While I would agree that certain information appears to be lacking in terms of the assessment, I consider that the assessment of traffic generated by the proposed development is acceptable, subject to the consideration of pedestrians and other vulnerable road users. I will deal with parking further below separately.

Roads & Traffic:

- 7.2.2. The proposed development is to be accessed via the existing road network in the vicinity, and off one of the busiest roads in and around the town of Tullamore. During peak times, the road has been described as being congested. The TII's Traffic and Transportation Assessment Guidelines recommends that the use of threshold levels of traffic increase be applied with any exceedance of 5%, requiring further assessment. The submitted Traffic and Transport Assessment indicates that the

threshold analysis for the R420 will be 4% to the east of the roundabout in the PM peak.

- 7.2.3. In terms of the capacity of junctions, and in particular the roundabout on the R420, it is anticipated that the ratio of flow to capacity (RFC) in the opening year of 2021 in the PM peak, will be 0.56, and in the design year of 2036, will be 0.73. An RFC greater than 1.00 indicates that a junction is operating at or above capacity, with 0.85 considered to be the optimum RFC value. On the date of my inspection, I attended at the site between 4.45pm and 5.30pm and it was evident that there was an increase in traffic. While I had to queue in traffic, I did not experience any real significant inconvenience.
- 7.2.4. However, I have concerns regarding the lack of detail relating to pedestrians and other vulnerable road users using and moving around the site. Should the Board be minded to grant permission, and prior to the commencement of any development on site, I suggest that a full Traffic & Transport Assessment, to include a Mobility Management Plan, is required to be submitted to include clear proposals for pedestrian / cyclist movements through the site, as well as clear proposals to facilitate access for people with disabilities. I have other concerns regarding the potential for movement across the R420 between the Commercial Park to the north and the Retail Park to the south.
- 7.2.5. I would agree with the third-party appellant that the traffic assessment submitted focuses on car use and fails to consider pedestrians and cyclists in terms of traffic safety and potential impacts. It is noted and accepted that the R420 is one of the busiest routes in and around the town of Tullamore and while I noted the existing uncontrolled pedestrian crossing, particularly in the area of the roundabout which provides access to both the retail and commercial parks, I consider them to be inadequate in the context of the proposed development site, and the uses in the wider area. Should the Board be minded to grant permission in this instance, I consider that it is wholly reasonable and appropriate that this matter be considered and addressed. This can be dealt with by way of condition of planning permission and any proposals for improved pedestrian facilities should be agreed with the Planning Authority.

7.2.6. Overall, and while I acknowledge the submission of the third party appellant, I am generally satisfied that the proposed development is acceptable in terms of roads and traffic.

Parking:

7.2.7. Following a request for further information, the applicant reduced the gross floor area of units 1 and 2 and deleted the proposed garden centre reducing the total floor area by 496m². The existing development on the site requires the following car parking:

Aldi:	1560m ²	=	67.8 spaces ≈ 68 spaces
Costa Coffee:	194m ²	=	19.4 spaces ≈ <u>19 spaces</u>
	Total	=	<u>87 spaces</u>

7.2.8. In terms of the proposed development, proposed Unit 1 – which will provide for 3 separate businesses, with a floor area of 2112m² requires 84.5 spaces ≈ 85 spaces. The parking adjacent to Unit 1 proposes 85 parking spaces to the front (east) of the unit, with a further 9 spaces proposed to the north of the building for use as an overflow / staff car parking area. I am satisfied that adequate car parking is proposed to serve the reduced floor area Unit 1.

7.2.9. Proposed Unit 2 will have a stated floor area of 3569m², comprising 2450m² of retail floor area, 524m² storage area, 397m² warehouse area and 252m² of offices, stores, WCs, computer room, operations room and training room. The total car parking requirement for this building is 142.76 spaces ≈ 143 spaces. In the context of the above, 110 car parking spaces are proposed immediately adjacent to the building.

7.2.10. Having regard to the existing and proposed development, there is a requirement for a total of 315 car parking spaces to service the Commercial Park. The proposed site layout plan provides for a total of 281 car parking spaces, giving a shortfall of 34 spaces. The Board will note that the above figures do not include the proposed overflow / staff car parking area to the north of proposed unit 1, comprising 9 spaces. As such, the development, if proposed will result in a shortfall of 25 spaces.

7.2.11. The Board will also note that the applicant has argued that a reduced car parking provision should be facilitate at the subject site on the basis that complementary uses are proposed on the site taking into consideration daytime and night time uses and that there will be no significant increase in demand or pressure on existing on-

street or public car parking. It is considered that the reduction below development plan standards and dispensation from payment of contribution in lieu of alleged shortfall is wholly justified and it would not be reasonable of Offaly County Council to impose any restriction or obligation on the applicant in regards parking.

7.2.12. Section 8.16.2 of the Offaly County Development Plan deals with Car Parking Standards. I have considered this section of the Plan, and in particular, the potential for a reduction in the car-parking standards, including a dispensation from payment of contribution in lieu of a shortfall. While I note the comments of the applicant, and indeed, the comments of the Planning Officer, I would not agree that a situation arises that would suggest that the shortfall of 25 spaces is acceptable in this instance.

7.2.13. The applicant submits that there are a further c767 car parking spaces available in proximity to the subject site, being across the road at the Retail Park / Tesco site to the south of the R420. In addition, it is submitted that the proposed uses on the site would result in so significant a variance between day and night uses on site or that the proposed development, if permitted, would not give rise to an increase in demand or pressure on car parking. In order to support the reduced parking on the site, it is relied upon that multi-purpose cross-visits are likely, including grocery trips to both Aldi and Tesco for example. This compounds my concerns regarding pedestrian safety as discussed above.

7.2.14. Given the nature of the retail warehousing proposed, and the location of the site in the context of Tullamore Town Centre, I consider it inappropriate to dispense the necessity of providing or paying in lieu for any shortfall, car parking to service the proposed development. As such, should the Board be minded to grant planning permission in this instance, I consider it appropriate to include a condition requiring the payment of a contribution in lieu of the 25 parking space shortfall as a result of the proposed development.

7.3. Water Services

7.3.1. I note the submission of both the applicant and the appellant in relation to water services, and in particular, the waste water network. The site is serviced by way of a pumping station, which was installed as part of the parent permission for the

commercial park, to pump sewage through a rising main from the collector main to the Local Authority main sewer. It appears that the services for the site were installed while the actual buildings, and their service connections, were erected by the business operators. The third party submits that the pumping station, which is highlighted as the area of concern, is either underperforming or has inadequate capacity to accommodate the existing development it serves. It is clear from the receipts submitted in support of the appeal, that the appellant has had issues with regard to blockages within their site and building.

7.3.2. The Board will note the submission of the first party in relation to the pumping station. It is indicated that, following an assessment of the pump, it was found to be operating within its design parameters without any evidence of overloading, over filling or blockages. I also note the comments of the applicant with regard to the responsibility over the pipe network serving the buildings on site.

7.3.3. Both Irish Water and Offaly County Council have raised no concerns in terms of the proposed development and the capacity of the network to accommodate the development. I am satisfied that matters relating to the management of the wider park are not for the Board. In this regard, I am satisfied that the proposed development is acceptable and can be accommodated within the existing network.

7.4. Other Issues

7.4.1. Planning History

I raise this issue here due to the comments of the first party in relation to the implementation of extant permissions at the site, and the subsequent concerns of the Planning Authority in this regard. In this regard, the following is notable:

- PA ref 08/55 permitted the construction of new Aldi discount retail store and the construction of a new DIY store with a mezzanine floor and adjacent garden centre, as well as alterations to existing roads to form a new roundabout at the site entrance from the estate road. The existing Aldi discount retail store will be demolished following construction and opening of the new Aldi store.

In terms of the above, the Board will note that the new Aldi store was constructed and is operational. The existing Aldi store was not demolished, and the DIY store and garden centre has not been constructed in its place. The existing Aldi store has been repurposed and is currently occupied by Dealz and PepCo. Works to provide the roundabout and alterations to the road was also implemented under this planning permission. The grant of planning permission was extended under PA ref 13/050 and expired 29/01/2019.

- PA ref PL2/09/97 permitted the demolition of the existing NCT Industrial Building and the construction of a retail warehouse building. This development was extended under PA ref 13/051 and now expires on the 17th of November, 2019. The development provides for 2 retail units and it has not been implemented to date.

Essentially, the current proposed development site comprises parts of both of the above application sites:

- The proposed demolition of the old Aldi store and its replacement with a retail warehouse unit (Unit B) similar – but larger footprint than the previously permitted unit – part of the 08/55 site.
- The construction of a retail warehouse building – which will include 3 units – on the majority of the site of the 09/97 permitted development.

In this regard, I would note that the permission under 09/97 & 13/051, could not be developed if the current proposal is permitted and developed. In other words, the applicant could not choose to pick elements of either development and comply with conditions of planning permission. In particular, I would agree with the PA regarding potential concerns in terms of parking.

7.4.2. **Visual Impacts**

The proposed development, as permitted, provides for two retail warehouse buildings to be developed within the existing Commercial Park. Proposed unit 1 will be divided into three units and will rise to a maximum height of 7.5m. Unit 2 will be occupied as a single retail warehouse unit and will rise to a maximum height of 8.45m. Both buildings are single storey in their nature and propose the use of

contemporary materials, similar to those used in the Aldi store and the Costa Coffee building. The design includes the use of Kingspan Architectural panel, as well as vertical panels and rendered finishes with large areas of glazing proposed at the entrances to the buildings.

I have no objections to the proposed design of the buildings and consider that they reflect the style of the existing buildings within the wider commercial park.

7.4.3. Non-Planning Issues

The Board will note that the third-party appeal raises a number of non-planning issues with regard to the management of the Riverview Commercial Park. I don't propose to address these and I would be satisfied that the provision of Section 34(13) of the Planning & Development Act, 2000 as amended, which states 'A person shall not be entitled solely by reason of a permission under this section to carry out any development' is sufficient to ensure that any civil issues are rectified prior to the commencement of development on the site.

7.4.4. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission. The Board will note the arguments by the applicant in relation to car parking, and I refer to my assessment in this regard above. I consider it appropriate that should the Board be minded to grant planning permission in this instance, a condition requiring payment in lieu of the shortfall in car parking provision on the site, as provided for in Table 2 A of the Offaly County Council Development Contribution Scheme 2014-2020, should be included.

7.5. Appropriate Assessment

The site is not located within any designated site. The closest Natura 2000 site is the Charleville Wood SAC (Site Code: 000571) (pNHA Site Code 000571) which is located approximately 2.9km to the west of the site. The Grand Canal pNHA, Site Code 002104, lies approximately 1.2km to the north of the site.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

It is recommended that permission be **Granted** for the proposed development for the following reasons and considerations, and subject to the stated conditions.

9.0 Reasons and Considerations

Having regard to the nature, scale and use of the proposed development, the pattern of permitted development in the area, to the provisions of the Tullamore Town and Environs Development Plan 2010-2016 as extended until 2020, and to the layout and design as submitted, the Board considers that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities or properties in the area, would be acceptable in terms of servicing, 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 submitted on the 26th day of April, 2019, 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 range of goods to be sold in the development shall be limited solely to “bulky goods” (as defined in Annex 1 of the Guidelines for Planning Authorities Retail Planning issued by the Department of the Environment, Community and Local Government in April, 2012).

Reason: In order to prevent an adverse impact on the viability and vitality of the established retailing facilities within this area, and so as not to undermine the retail hierarchy of the area.

3. No individual retail warehouse unit shall be less than 700 square metres gross floorspace.

Reason: To comply with national policy, as set down in the Guidelines for Planning Authorities Retail Planning issued by the Department of the Environment, Community and Local Government in April, 2012.

4. No amalgamation of units or subdivision of any unit shall take place without a prior grant of planning permission.

Reason: To control the layout and scale of the development in the interest of protecting the vitality and viability of the area.

5. This order shall not be construed as granting permission for any additional floor areas at “mezzanine level” within the buildings hereby permitted. No mezzanine floor development shall be carried out without a further grant of planning permission.

Reason: In the interest of clarity.

6. Provision shall be made for loading bays within the development. Details of this provision, including swept manoeuvring paths, bay dimensions etc, shall

be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure a satisfactory layout for commercial vehicles, in the interest of traffic safety.

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

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

8. No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

9. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company for all units within the commercial park. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

10. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, access road to

the service area shall be in accordance with the detailed standards of the planning authority for such works.

Provision shall be made for improved pedestrian and cyclist movement through the site and across the R420. Details of such provision, including construction and demarcation, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of amenity, sustainable transportation and pedestrian safety.

11. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

12. Noise monitoring locations for the purposes of the construction phase of the proposed development shall be agreed in writing with the planning authority prior to commencement of any development on site.

Reason: To protect the amenities of property in the vicinity.

13. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

14. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to

commencement of development. This scheme shall include the following:-

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating;
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

14. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

15. 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 also include for the 25 no. car parking spaces shortfall proposed by the proposed development in accordance with Table 2 of the Offaly County Council Development Contribution Scheme 2014-2020.

The contribution shall be paid prior to 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.

16. The applicant or developer shall enter into water and waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

A. Considine

Planning Inspector

25th September, 2019