



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307744-20

<b>Development</b>	Demolition of warehouse and construction of four building blocks for commercial use
<b>Location</b>	Golden Island Road, Carrick O'Brien Road, Golden Island (Kilmaine), Athlone, Co Westmeath
<b>Planning Authority</b>	Westmeath County Council
<b>Planning Authority Reg. Ref.</b>	207040
<b>Applicant(s)</b>	Tiane Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	To refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Tiane Limited.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	25 <sup>th</sup> November 2020.
<b>Inspector</b>	Deirdre MacGabhann

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## 1.0 Site Location and Description

- 1.1. The 2.88ha appeal site is situated on the southern side of Athlone Town, east of the River Shannon and south of the R446. This Regional Road runs east-west through the town and in the vicinity of the site is Golden Island Road. The site lies immediately east of the Golden Island Shopping Centre and cinema complex. It is separated from the Centre by a minor road off the R446 that provides access to the Shopping Centre car park and the service yard to the rear of the centre.
- 1.2. To the east of the site is Carrick O'Brien Road. Development on the road includes a garage/tyre centre and Aldi store, the north east and south east of the site, respectively. Carrick O'Brien Road provides access to lands to the south of the town and east of the River Shannon.
- 1.3. The appeal site comprises:
  - Terraced warehouse units to the north of the site, facing Golden Island Road. Uses within the units include Mr Price, an outdoors shop, auto-factors, paint outlet, tyre depot, property sales and fresh and frozen foods outlet.
  - A large forecourt to the north of the site which is used as a car park. It is finished in loose gravel with low capped boundary walls.
  - A mixed use commercial/light industrial/office development to the south east of the site facing the minor road. It has car parking to the east and south of the building.
  - A brownfield site to the rear of the above buildings.
- 1.4. The River AI runs along the southern boundary of the site, in a westerly direction, and discharges into the River Shannon, c.450m to the south west of the site. A small number of ditches/watercourses cross the site and these also discharge into the River AI. Along the western boundary of the site is St. Mels stream. The northern part of this has been culverted.
- 1.5. The town centre (retail core) lies c.400m to the north west of the site. It comprises a compact form of medieval streets and Athlone Town Centre Shopping Centre which includes international comparison retailers. Pedestrian access to the town centre is facilitated by pedestrian crossing on Golden Island Road, north of the main entrance

to Shopping Centre. A bus stop is situated to the west of this crossing point on the southern side of the regional road and further east of it on the northern side of the regional road, with the nearest bus stop c.100m from the appeal site.

## **2.0 Proposed Development**

2.1. The proposed development comprises a 10-year permission for the demolition of the existing warehouse units on the site (4,600sqm) and the construction of four commercial blocks, A to D (10,992sqm). The existing commercial building to the south east of the site and its associated 22 no. car parking spaces will be retained. Four new blocks will be constructed, with the new blocks situated primarily on the edge of the site, facing the public roads and separated by car parking. These comprise:

- Block A (2,865sqm) – This is proposed to the north west of the site. It comprises a two storey building (maximum height 9.27m) with convenience supermarket (1,665sqm), with off-licence, bakery, cold storage etc. on the ground floor and plant room, storage areas, staff room, administrative offices and terrace on the first floor (1,200sqm). A HGV delivery/pick-up area is situated to the south of Block A. The building addresses Golden Island Road with double height glazing to the street and the entrance to the retail unit marked by a raised roof section and feature Y column.
- Block B (182sqm) – This small block is proposed to the north of the site, between Blocks A and C. It comprises a single storey building (maximum height 6.16m) for use as a café, with ancillary kitchen, toilet area and seating. An external terrace is proposed to the south and west of this smaller block. Materials comprise a mix of glazing and perforated metal cladding.
- Block C (3,247sqm) – This block sits on the NE corner of the site, facing Golden Island Road and Carrick O'Brien Road. It comprises a two storey building (maximum height 11.9m) with 4 no. retail units on the ground floor and offices above part of the building footprint (1,240sqm). The ground floor retail units comprise 1 non-bulky, comparison unit (1,575sqm), with part double height space, and 3 convenience units (each c.120sqm). The circulation core of the office building will be finished externally in a vertical

landscaped wall. At first floor the offices incorporate pop out bay windows clad in pre-patinised copper. Elsewhere the building is finished in a mix of glass and metal cladding.

- Block D (4,689sqm) – This large block lies to the south of the site, west of the commercial building which is to be retained. It comprises a single storey building (maximum height 12.25m) with 5 no. bulky-use comparison retail units, ESB substation and switchgear. Retail floor areas range from 445sqm to 1,562sqm. To the rear of this unit is a HGV delivery/set down area with access from Carrick O'Brien Road. Externally to the front, materials comprise dark metal vertical elements separated by curtain wall glazing. Elsewhere external finishes comprise silver grey insulated cladding.

2.2. The development includes provision of 267 car parking spaces and 165 bicycle spaces, trolley bay, hard and soft landscaping, signage and public lighting. To the south of the site a stub wall and flood embankment are proposed.

2.3. Access to the site will be from Carrick O'Brien Road and Golden Island Road. Pedestrian access, from external footpaths, run east-west and north-south through the development. Water supply will be from the public mains and wastewater will be discharged into the public sewer. Surface water will be disposed of into of St. Mels culvert which will be extended within the development site, with attenuated discharge to the River AI via hydrocarbon interceptor.

2.4. It is stated that the site is at risk of flooding and the Flood Risk Assessment Report provides details on the extent and frequency of past flooding and flood risk going forward. It concludes that the development relies on the protection provided by the Athlone Flood Relief Scheme, in particular for the pumping of surface water off site during storm conditions when levels on the River Shannon are high. It is stated that it is therefore necessary that the development be constructed in phase or after the FRS is complete.

2.5. With the planning application are the following technical reports:

- Planning Cover Report.
- Retail Impact Assessment.
- Traffic and Transport Assessment and Mobility Management Plan.

- Landscape Rational and supporting drawings.
- Engineering Services Report and supporting maps/drawings.
- Architectural Design Report.
- Visual Impact Assessment.
- Flood Risk Assessment.
- Appropriate Assessment Screening Report and Natura Impact Assessment.
- Ecological Impact Assessment.
- Construction and Environmental Management Plan.
- Plans and drawings.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. On the 3<sup>rd</sup> July 2020, the planning authority refused permission for the development on the five grounds. In summary these are:

1. By virtue of its predominant retail use (87%), prominent/strategic location and 'mixed use' zoning, the development does not provide an appropriate mix of uses to allow for sustainable and compact growth of the town. Development would contravene P-DU1 and O-LZ3 of the Athlone Town Development Plan 2014-2020 (ATDP).
2. Having regard to the availability of vacant retail warehousing units in the town, inadequate justification has been made for warehousing provision at the high profile site. Development would negatively impact on the plan led retail hierarchy and contravene P-RET2 and P-RET5 of the ATDP and RP2, GR4 and GR6 of the Athlone Joint Retail Strategy 2019-2026 (AJRS).
3. The proposed development, which includes bulky retail, is predominantly car dependent and centred on the provision of ancillary car parking, on the edge of centre site would be contrary to National Policy Objective 27, and increase unnecessary car journeys to the centre of Athlone.
4. The proposed development, coupled with its design, layout and overall arrangement of built form, will provide a generic standalone retail park

development, not befitting of the prominent and strategic location of the site or contributing to healthy public realm or placemaking. Development would be contrary to the Retail Design Manual, Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Region and ATDP.

5. Notwithstanding the Retail Impact Assessment submitted, having regard to the siting and scale of the proposed development on an edge of centre site, it is considered that the convenience shopping provided is excessive and the proposal does not form part of an integrated design solution for the site. The development would impact on the viability and vitality of the retail core, and be contrary to P-RET2 and P-RET10 of the ATDP and Objectives 4 and 8 of the AJRS, the Retail Design Manual and Guidelines for Planning authorities, Retail Planning (DoECLG, 2012).
6. Having regard to the nature and scale of the development on a strategic edge of centre site, the proposed development would contravene National Policy Objectives 6 and 11 (the regeneration of urban areas) of the National Planning Framework.

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

#### Planning Reports

- 3.2.1. There is one PA report in respect of the development (2nd July 2020). It refers to location of the site, pre-planning consultation, internal and external reports, observations by third parties, relevant planning policy and makes the following comments:
  - Retail Park, Block D - Three units are well below the 700sqm minimum gross floor area for retail warehouses set out in the Guidelines to Planning Authorities on Retail Planning. Their potential future use could be associated with less bulky goods and compete with the town centre.
  - Comparison Retail Unit (Non-bulky), Block C - Application does not comply with Policy GR3 of the AJRS as the floor plans for Block A do not detail the nature of the comparison component of the supermarket.
  - Land use zoning – Development is open for consideration in mixed use zoning of the site. Development conflicts with policy DU1 of the ATDP as it



fails to incorporate a mixture and intensity of uses on a strategic brownfield site of prominence within the town centre.

- Consolidating Development – High vacancy rates at existing retail warehouse parks in the town. Insufficient information submitted to justify need for further retail warehouse park in the town. Development conflicts with AJRS and policy GR6.
- Retail Impact – Having regard to predominant single land use, it is considered that the development will impact on the vitality and viability of the town centre and the potential to address vacancy rates in existing retail parks.
- Vitality and viability - Having regard to predominant retail use and extent of comparison and convenience floorspace on the edge of centre site and outside of the retail core and designated 'opportunity sites', development will impact on vitality and viability of Athlone's retail core (contrary to policy RP2 and GR4, AJRS).
  - Sequential test. Sequential test is poor in detail and analysis. Majority of sites discounted on grounds that they are inappropriate to accommodate the development or acquisition of lands would not be viable. Scale and location of the development has not been justified. Exclusion of existing retail warehouse units from the calculated floor areas within the catchment areas is not justified as existing retail warehouses are occupied by generally retail use and in a number of cases operate without the benefit of planning permission.
  - Quantitative assessment. The population growth rate used in the RIA is not realistic having regard to the RSES population projections. No reduction made for comparison shopping on site, in the established comparison catchment settlements. Applicant refers to high per capita growth scenario in estimation of expenditure in catchment and disregards the low growth scenario which is considered unrealistic. The proposal for a 2,021sqm net convenience floorspace equates to 59% and 47% respectively of the projected convenience floorspace for 2020-2026. This is considered to be a significant are of convenience floorspace located on an edge of centre site, outside of the retail core and opportunity sites. The 1,575sqm comparison floorspace equates

to 37% and 28% of projected comparison floorspace 2020-2026. Development includes 3 retail warehouse units for bulky goods, <700sqm, which are likely to be used for the sale of less bulky goods and directly compete with the comparison element of the retail core. It is considered that the scale of the development, at the location outside of the town centre and opportunity sites, has not been justified. Development presents a standalone retail development which has the potential to draw high street retailers out of the retail core and opportunity sites into the edge of centre site, will increase the need for car dependent journeys into the centre of the town and does not provide an appropriate mix of uses.

- Retail capacity. No justification for 10 year permission. Retail capacity for the town could be absorbed by the development for up to 10 years with consequences for the development of opportunity sites.
- Design. Landscaped edges address northern boundary. Soft landscaping absent to west of site and comprise car parking. Considered to be inappropriate given high profile view from Golden Island Shopping Centre. Layout of the development provides an independent retail development with limited street frontage/urban form that will contribute to the integrated and compact form of Athlone and placemaking. Main retailing activities centred inwardly and around an expanse of car park. Contrary to Retail Design Manual 2012. Treatment of western elevation of Block A and eastern and north eastern elevation of Block C provide limited urban form and streetscape enhancement. Layout provides little synergy and connectivity with Athlone town centre and Golden Island Shopping Centre. With design and scale of development, it will act as an independent retail park separated from the retail core. Due to size of some retail units, Block D, design and layout has the potential to accommodate some uses which are more suitably located in retail core or opportunity sites. Large extent of surface car parking and low density retail warehouse type development does not sufficiently provide for maximising use of lands. Development will comprise a standalone car dependent retail park. Development will provide for the regeneration of lands but is a missed opportunity for a high density development comprising a

significant mix of uses providing activity and security during the day and evening. Development provides limited environmental enhancement measures having regard to its sensitive setting in close proximity to the River Shannon.

3.2.2. The report recommends refusing permission for the development.

#### Other Technical Reports

- Fire Officer (undated) – No objections.
- EHO (19<sup>th</sup> June 2020) – No objections subject to conditions.
- Engineering Report (22<sup>nd</sup> June 2020) – Recommends applicant amend FFL of development to be 0.3m above the flood level identified in the Athlone FRS and carry out capacity assessments at junctions in closest proximity to the site.
- Environment (24<sup>th</sup> June 2020) – No objections subject to conditions including access to St. Mels culvert which the applicant proposes extending.

### **3.3. Prescribed Bodies**

- DCHG (24<sup>th</sup> June 2020) – No comments.
- IFI (26<sup>th</sup> June 2020) – Development is situated close to the River AI (salmonid river, with good numbers of brown trout, brook lamprey and other coarse fish species). Serious concerns about (a) building in the flood plain, and (b) the culverting of 125m of channel entering the main River AI at Golden Island, as it would not be conducive to maintaining the flood plain/natural riparian zone, would mask ongoing issues in the area and make detection and control of pollution within the watercourse more difficult. IFI would therefore favour the construction of stub and sheet piles as originally proposed in the Athlone Cell plan. If the development is permitted recommends three stage slit trap and petrol interceptor to car park, replacement of existing piped culvert under road to box culvert, restricted timescale for instream works, diffuse and angled lighting and consultation on CEMP (including for demolition works).

### 3.4. Third Party Observations

- Mr Price – To be keep updated on application.
- International Investment ICAV – Monitoring application.
- AGL Arcadia Management Company Ltd – Development proposal is primarily retail warehousing for bulky goods. Applicant's RIA does not adequately consider the existing provision of bulky goods retail warehousing retail space in the town. Arcadia Retail Park closest Retail Park to Golden Island has vacancy rate of 3,000sqm (30%) and is not referenced. Total retail warehousing space referred to in application is erroneous and understated. Inappropriate location of development leading to more pressure on Athlone's one way system. Car borne and 'weekly shop' retail should be located at the edge of centre near residential growth areas, relieving traffic pressure in the town centre and enabling successful pedestrianisation.
- Tesco Ireland - Development, with existing retail development, provides a dominant single land use which is incompatible with mixed use zoning of the site and would impact on vitality and viability of retail core. Opportunity sites should be prioritised for more retail development at a more appropriate scale. Inappropriate design at odds with NPF and RSES. Inadequate TTA (only to 2021), no Road Safety Audit, risk of overspill parking on adjoining lands. Development premature pending flood relief works. No justification for 10 year permission. Retail capacity of the town could be absorbed by the permission for 10 years. To be keep updated on application. (NB. Full observation not on file but referred to in PA report).

### 4.0 Planning History

#### 4.1. Relevant planning applications in respect of the history of the appeal site are:

- PA ref. 04/3040 (PL34.207457) – Permission granted by the Board for the demolition of the existing warehouse building and single storey annex and the development of a retail park (including 12 retail warehouse units from 700-4,321sqm). The decision was subject to 23 conditions including that the units

be used for retail warehouse activities only and specific exclusion of retail activity or uses which would normally be associated with the town centre.

- PA ref. 06/3017 – Permission granted in 2006 for the provision of 4 no. retail units to facilitate the relocation of existing tenants.
- PA ref. 07/3202 – Retention permission granted for modifications to PA ref. 06/3017.
- PA ref. 12/3003 – Permission was refused by the planning authority in 2012 for the demolition of the existing warehouse units to the north of the site and construction of a mixed use development (18,689sqm) in four blocks ranging in height from 2 to 4 storeys, to comprise comparison and convenience retail units, offices, café and gym and 408 car parking spaces and 280 bicycle spaces. The existing commercial building to the east of the site to be retained. Reasons for refusal were prematurity, flood risk, impact on town centre, traffic congestion/hazard, visual impact and impact on habitats and ecosystems of River Al.

## **5.0 Policy Context**

### **5.1. National Planning Policy**

National Planning Framework (Gov, 2018).

- 5.1.1. The National Planning Framework 2018 identifies Athlone as a key regional growth centre (section 2.1 and National Policy Objective 2b). Other National Policy Objectives (NPO) which apply to the proposed development are:

- NPO 6 – Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.
- NPO 11 - In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages,

subject to development meeting appropriate planning standards and achieving targeted growth.

- NPO 27 - Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.

Guidelines for Planning Authorities. Retail Planning Guidelines (DELG, 2005).

5.1.2. The Government's Guidelines for Planning Authorities, Retail Planning (2012) recognise the contribution the retail sector makes to the national economy and support its development commensurate with promoting the vitality and viability of town centres. The guidelines require development to follow the settlement hierarchy and to be appropriate to the scale and function of the settlement or part of the settlement in which it is located. Five key objectives, therefore, guide planning authorities in their assessment of retail development, ensuring that development is plan led, promoting town centre vitality through a sequential approach to development, securing competitiveness by enabling good quality proposals to come forward in suitable locations, facilitating a shift towards access by alternative transport modes and delivering quality urban design outcomes.

5.1.3. The Retail Planning Guidelines recognise that as the range of goods being sold from retail warehouse parks often includes non-bulky durables, there is potential for detrimental effects on town centres. It therefore recommends a presumption against further development of out of town retail parks unless additional need is demonstrated and tight control to ensure that truly bulky household goods are sold. The Guidelines state that planning authorities may consider imposing conditions preventing the construction or sub-division of units less than 700sqm, gross floorspace, in out of centre locations.

Retail Design Manual (DELG, 2012).

5.1.4. This companion document to the Retail Planning Guidelines provides urban design guidelines for retail development, with an emphasis on supporting the vitality and viability of town centres and urban place making.

Eastern and Midland Regional Spatial and Economic Strategy 2019-2031.

- 5.1.5. The Eastern and Midland Regional Spatial and Economic Strategy 2019-2031 supports the sustainable and compact growth of Athlone as a regional driver with a target population of 30,000 by 2013. The document refers to future development required to achieve this vision for Athlone including:
- The regeneration of lands in the town centre, to facilitate population growth and to strengthen the retail and commercial functions of the Regional Centre,
  - The delivery of enhanced public realm in the town centre,
  - Rejuvenation of opportunity sites,
  - Improving connectivity within the Regional Centre, including between Athlone Town Centre and Golden Island Shopping Centre, and providing opportunities to enhance public realm and contribute to overall placemaking.
- 5.1.6. The RSES, in section 6.5, recognises the significant contribution the retail sector makes to the economy and employment in the Region and to placemaking. Policies support the preparation of retail strategies and retail development, in accordance with the Retail Planning Guidelines.

## 5.2. Development Plans

### Westmeath County Development Plan 2014-2020

- 5.2.1. Chapter 12 of the Westmeath County Development Plan deals with urban areas and provides an overall aim to apply the principles of urban design to the management of such areas, to support the role of town centres and to create quality urban places where people want to live, work, visit and socialise. Athlone is identified as a Gateway town, for substantial development over the Plan period and beyond. Policy P-MUU1 promotes a mixture of uses in town centres.
- 5.2.2. Policies for retail development follow national guidelines and support a plan led approach to development, application of the sequential approach and an emphasis on high quality urban design in proposals for development.

### Westmeath County Retail Strategy 2019-2026 (WCRS)

- 5.2.3. The WCRS 2019-2026 was adopted in 2019 and forms Variation No. 5 Westmeath County Development Plan 2014-2020. The Strategy provides an assessment of

additional floorspace potential in the County sets out objectives for the County Retail Strategy. These include:

- To confirm the retail hierarchy in the County and the county and regional role of Athlone (Objectives 2 and 3),
- To sustain and enhance the vitality and viability of key towns (Objective 4),
- To reinforce the location of town centres as the location for new retail development (Objectives 6), and
- To encourage the re-use and regeneration of derelict land and buildings for retail use with due regard to the Sequential Approach (Objective 10).

5.2.4. The Strategic Policy Framework (section 7.2) directs major retail development in the County in accordance with the County Retail Hierarchy and provides guidance on the sequential approach. This guides new retail development, in the first instance, into the town centre, and then into edge of centre sites which are defined as those within 400m of the Retail Core. Only after all the options for town centre and edge of centre sites are exhausted should out of centre locations be considered.

5.2.5. Policy SRP2 refers to the planning authority's intention to define the Core Retail Area of Athlone and Policy RP9 promotes the major enhancement and expansion of retail floorspace and regional centre functions in the core of Athlone to reflect its role as a major and regional centre. The Strategy recognises that given the fine grain morphology of the Core Retail Area it would be difficult to achieve this objective in the core retail area and also directs development to Opportunity Sites identified in proximity to the retail core, with linked integration of these sites to the retail core (RP10). Strategic policies also support enhancing the public realm in the town and improving traffic congestion and opportunities for pedestrian and cyclists (RP12-15).

*Athlone Town Development Plan 2014-2020 (ATDP)*

5.2.6. Strategic aims of the ATDP reflect the broader policy context for the development of the town and include the continued growth and development of the town, respecting the primacy of the town centre and prioritising the improvement and enhancement of the public realm.

5.2.7. The appeal site is zoned 'mixed use' in the Athlone Town. The objective of mixed uses zoning policy O-LZ3 is to '*provide for, protect and strengthen the viability and*



*vitality of town centres, through consolidating development, encouraging a mix of uses and maximising the use of land, to ensure the efficient use of infrastructure and services’.* Land uses permitted within the zone include shops (local to major) and office development. Retail warehouses are open to consideration.

5.2.8. The overall aim of retail policies, set out in Chapter 4, is to sustain and improve the retail profile and competitiveness of the town by supporting, consolidating and environmentally enhancing the quality and choice of retail developments on offer. Map 4.1 illustrates the retail core considered in the Plan. Retail policies reflect national policy guidelines and support a plan led approach, application of the sequential approach, enhanced access by alternative transport modes and high quality in retail design. In section 4.15 it is stated that the town is well served by retail warehouse development and that applications for new retail development are required to be supported by evidence of need. As per the Retail Planning Guidelines, it is stated that individual retail warehouses should not be less than 700m<sup>2</sup> as they may undermine existing retail provision in the retail core and impact on the vitality and viability of town centres.

5.2.9. Section 5 of the Plan deals with the town centre and urban design. Policy P-UD1 adopts a design led strategy in assessing the impact of development on the town centre and Policy P-UD2 requires that new development positively contribute to the creation of streets and spaces. In section 5.9 of the Plan, it is stated that a balance and mix of uses needs to be provided in the town centre to maintain its character and vibrancy. In order to secure an appropriate mix of uses it is stated, in Policy P-DU1, that the following mechanism for will be applied:

*‘(a) No less than two separate planning uses will normally be allowed (i.e. retail/residential or retail/offices etc.).*

*(b) Where more than two separate uses are proposed, no one singular use will prevail in terms of >50% of the total gross floorspace’.*

5.2.10. Policies of the Plan also require new development to positively contribute to the placemaking (Policy P-PM1) and encourage the development of opportunity sites (P-OC1).

*Athlone Joint Retail Strategy 2019-2026 (AJRS), Variation No. 4, ATDP*

5.2.11. The Joint Athlone Retail Strategy 2019 (JARS) covers a geographical area that extends to the east and west of the River Shannon and includes Athlone town centre and part of Roscommon County that adjoins the town to the west. Where any discrepancy exists between the AJRS and the ATDP, policies and objectives of this plan supersede those of the ATDP. The Strategy provides an assessment of additional retail floorspace potential, with an indicative requirement for an increase in convenience and comparison floorspace over the period 2020 to 2026 (Table 7.2).

Policies and objectives of the Strategy include:

- To sustain and improve the retail profile and competitiveness of Athlone Regional Centre (Objective 1),
- To promote and encourage major enhancement/expansion of retail floorspace and regional centre functions in the centre of the town to reflect its Regional Centre role (Policy RP1).
- To reinforce the core area of Athlone as the priority location for new retail development, with quality of design and integration/linkage as underpinning principles (Objective 4).
- To align new retail development with public transport and non-car accessible modes (Objective 7).
- To encourage and facilitate the re-use and regeneration of derelict and vacant land and buildings for retail and other Regional centre uses (Objective 8).

5.2.12. The Strategy document defines the core retail area (Map 4) and provides a sequential approach with development in the core/centre of Athlone, followed by edge of centre sites (400m from Retail Core) and only after these have been exhausted should out of centre locations/sites be considered (strategic policy SRP3). Emphasis is also placed on enhancing the public realm and access by alternative transport modes (Policies RP2 – RP7).

5.2.13. Section 7.4.5 deals with retail warehousing parks and states that in view of the saturation of this market over the last decade, the priority is to secure regeneration of existing retail parks through the use of vacant land and buildings for bulky goods shopping. Policy GR6 precludes granting planning permission for out of town centre retail parks until 75% of existing vacant retail warehousing is occupied.

- 5.2.14. Section 7.5 of the Strategy document sets out criteria for the assessment of development proposals in excess of 1,000m<sup>2</sup> gross convenience and 2,000m<sup>2</sup> comparison floorspace. These include that the development increases the competitiveness of the town and does not cause an adverse impact on the centre of the town or an increase in the number of vacant properties in the Core Retail Area.

### **5.3. Natural Heritage Designations**

- 5.3.1. The appeal site lies c.500m to the east of the River Shannon which is designated as a proposed Natural Heritage Area, pNHA, and Special Area of Conservation, SAC (shared site code 000216) and a Special Protection Area, Middle Shannon Callows SPA (site code 004096).

## **6.0 Environmental Impact Assessment**

- 6.1.1. The proposed retail development located in the town of Athlone, comprises an infrastructure project, falling within class 10, Schedule 5, Part 2 of the Planning and Development Regulations, 2001 (as amended), 'urban development'. I do not consider that the development, which comprises a mix of office, retail and café uses could be regarded as a shopping centre. Notwithstanding this, if it were determined that the development did comprise a shopping centre, the development falls well below the threshold for mandatory EIA (10,000sqm gross floorspace) and the following comments on the need for EIA also apply.
- 6.1.2. The threshold for mandatory EIA in respect of urban development is development which would involve an area greater than 2ha in the central business district and 10ha in other parts of a built up area. In this instance, the appeal site is not in the town centre and with a site area of 2.88ha, the proposed development falls short of the threshold for mandatory EIA. Further, the development, which is relatively modest in size, does not require use of significant natural resources and will not give rise to significant waste products, pollution or nuisance. The development is located in an existing built up area on a brownfield site and potential impacts are unlikely to be extensive in terms of geographic area, magnitude or complexity. Surface water from the appeal site will discharge to a surface water body that outfalls to the River Shannon which is designated as a European site. However, this matter can be

addressed via appropriate assessment. Having regard to the foregoing there is no real likelihood of significant effects on the environment and the need for an environmental impact assessment can be excluded at preliminary examination.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

#### **7.1.1. Grounds of appeal address the reasons for refusal:**

- Refusal reason no. 1, mix of uses – Development is not located in the town centre, but is an edge of centre site and the planning authority's reference to Policy P-DU1 is not applicable. The development represents an appropriate mix of uses for the area and will provide a high quality commercial development on this prominent edge of centre site.
- Refusal reason no. 2, retail warehousing – The application site comprises an existing retail warehousing development (4,600sqm). There is a minimal increase in bulky retail warehouse provision at the site (4,660sqm). The proposed units will provide variety to the mix and size of retail types proposed as part of the development in conjunction with the existing Golden Island Shopping Centre. The development respects the retail function of the core shopping area, contributes to public realm and placemaking. It will redevelop a strategic brownfield site, at the edge of the town centre to create a retail development that will complement the adjoining development. The development is therefore consistent with policy P-RET 2 of the ATDP. The Retail Impact Assessment demonstrates that the development is consistent with Policy P-RET 5 of the ATDP, complies with the sequential approach and Policy RP2 of the AJRS. The comparison element of the development will be negligible and should be discounted as was accepted by the planning authority under PA ref. 20/7039. The development therefore does not contravene Policy GR4. The proposed development is not an out of town retail park but an edge of centre development. Policy GR6 of the AJRS therefore does not apply. The development with its mix of uses is not a standalone Retail Park.

- Refusal reason no. 3, increased car journeys – An element of car parking provision is needed given the edge of centre location of the site. Development would not increase car journeys to the centre of the town (edge of centre site). Car parking has been provided at the lower standard of parking requirements (Table 16, ATDP) to encourage more sustainable transport methods. The development also includes 165 cycle spaces, 51 in excess of ATDP requirements. The development therefore complies with NPO27. The type of development proposed by nature requires some degree of car parking provision. The development is situated adjacent to the busiest retail hub in the town (Golden Island Shopping Centre) and dedicated access and connectivity points will encourage commercial synergy.
- Refusal reason no. 4, design and layout – The design of the development was undertaken with a reference to the 10 urban design principles set out in the Retail Design Manual. The development is suited to the large brownfield site, adjacent to the retail core and can accommodate the larger footprint stores without negative effects on street patterns and urban grain. The development is located next to an existing busy hub and will be connected to it for synergy. The development will enhance the built and visual amenity at this location. The development represents a beneficial and sustainable use of land incorporating a mix of uses.
- Refusal reason no. 5, convenience retail element – The quantum of convenience floorspace proposed (3,293sqm) is not excessive and has been justified in the Retail Impact Assessment. As per the RPG, convenience elements of the development are appropriate for an edge of centre site. Contrary to RPGs, the PA recently granted permission for a similar development on an out of centre site (PA ref. 20/7039). The RIA and sequential test have demonstrated that the subject location is the most appropriate for the development. The development will support the long term strategy for the town, to extend and enhance the retail offer and will comply with Objective 4 of the AJRS. The RIA has considered the opportunity sites as per Objective 8 of the AJRS. There are no vacant units in the town to cater for the scale and format of the proposed development. The proposed

site is located within 400m of the Retail Core and is the most suitable location for the proposed development.

- Refusal reason no. 6, National Policy Objectives 6 and 11 – The proposed development will replace outdated low quality and low value retail warehousing buildings that are within 400m walking distance of the retail core and regenerate an area which is acknowledged as unattractive. Development can accommodate changing roles and functions and will generate employment in compliance with NPO6. The development includes a mix of uses which will sustainably support and connect to the surrounding area. The development will provide employment and accords with NPO11.

## **7.2. Planning Authority Response/Observations/Further Responses**

- None.

## **8.0 Planning Assessment**

8.1. Having had regard to the policy context for the development, examined the application details and all other documentation on file and inspected the site, I consider that the main issues for this appeal are:

- Consistency with zoning objectives.
- Justification for retail warehouse development.
- Car dependent nature of development.
- Design and layout.
- Impact on vitality and viability of retail core.
- Urban regeneration.

8.1.1. The appellant has sought a 10-year permission for the development on the grounds that it is dependent on the Athlone Flood Relief Alleviation Scheme (FAS). In this regard, I note that the appeal site is situated in Flood cell 8 'Golden Island' of the FAS which involves upgrading of various flood defence structures at Golden Island. These works flood defences works on the southern boundary of the appeal site. Whilst I would accept that the planning authority's concerns that a 10 year permission may have consequences for retail capacity of the town, I am satisfied that

the applicant has therefore put forward, in principle, justification for the duration of the permission.

## 8.2. Consistency with Zoning Objectives

- 8.2.1. The planning authority argue in their first reason for refusal that the development, with its predominant retail use, does not provide an adequate mix of uses and would be contrary to policy P-DU1 and zoning objective O-LZ3 of the ATDP.
- 8.2.2. The proposed development comprises 87% retail space, 11% office space and 2% café. Policy P-DU1 encourages a mixture of uses in the **town centre**, with no less than two separate planning uses being allowed and where more than two separate uses are proposed, no one singular use of >50% of total floorspace. The policy is set out in Chapter 5 of the Plan which refers to 'Town Centre and Urban Design' matters. In section 5.1 the town centre is stated to include *'the lands to the south of the railway line, lands to the east of the disused canal, the east and west banks of the River Shannon, and the area north of Castlemaine Street. The town centre area reflects the historic and commercial core of Athlone'*. Subsequently, the AJRS defines the retail core around this historic commercial area (Map 4) and refers to identified Opportunity Sites as edge of centre sites. I would infer from this that the appeal site, which lies outside the defined retail core and at a similar distance to the retail core as other Opportunity Sites, is outside of the defined town centre and that Policy P-DU1 does not apply.
- 8.2.3. With regard to zoning objective O-LZ3, this objective aims to *'provide for, protect and strengthen the vitality and viability of the town centre, through consolidating development, encouraging a mix of uses and maximising the use of land, to ensure the efficient use of infrastructure and services'*. As stated the proposed development comprises a predominantly retail land use, and whilst it does provide a mix of uses, as 87% of the proposed floorspace is retail, the mix of uses is not substantial or, for reasons stated below, sufficient to reflect the mixed use zoning of the site.

## 8.3. Justification for Retail Warehouse Development

- 8.3.1. The planning authority, in their second reason for refusal, state that there is inadequate justification to support the proposed retail warehouse development given

vacant retail warehousing in the town, and that it would negatively impact on the planned retail hierarchy and be contrary to policies of the ATDP (P-RET 2 and P-RET 5) and AJRS (RP2, GR4 and GR6).

- 8.3.2. The applicant argues that the development replaces existing retail warehouse units (4,600sqm), with minimal net increase in retail warehouse provision (4,669sqm). In principle, I would be minded to accept that there should be an allowance made for the existing warehouse development on the appeal site. However, I note that the planning authority state in their report that the existing warehouse units on the site are predominantly occupied by general retail use and which do not have the benefit of planning permission. Whilst this is a matter for the planning authority under their powers of enforcement, there is a lack of clarity regarding the nature of the existing development, and therefore the true 'additionality' of the proposed development.
- 8.3.3. The AJRS states that the retail warehousing market in the town is saturated with both unimplemented permissions and vacancies in existing retail parks/bulky goods developments. Recognising this, and the advice set out in the Retail Planning Guidelines which recommend tightly controlling the range of goods sold at retail parks to limit impacts on central areas, the strategy limits the development of new out of centre retail parks under Policy GR6 *'To not facilitate planning consent for new out of centre retail parks until 75% of existing vacant retail warehousing is occupied'*.
- 8.3.4. The Retail Planning Guidelines define a 'retail park' as a single development of at least three retail warehouses with associated parking. The proposed development is a mixed use development, which includes an element of retail warehousing, and is situated on an edge of centre site. I do not consider, therefore, that Policy GR6 strictly applies to the proposed development.
- 8.3.5. The proposed development includes 6 units for comparison retailing. Five of these units are for bulky comparison goods (Block D, retail units 1 to 5) and one for non-bulky comparison goods (Block C, retail unit 1). Units range in size, with three larger units comprising 1,328sqm, 1,633sqm and 1,703sqm (D1, C1 and D5 respectively) and 4 no. smaller units comprising 3 no. units of 546sqm (D2, D3 and D4).
- 8.3.6. In contrast to the requirements of policy GR3 of the AJRS, the applicant provides no information on the nature of the comparison component of the development.



Further, the three smaller units are less than 700sqm, the unit size the RPG state can be more easily accommodated in urban centres.

- 8.3.7. I note that in response to the appeal, in justifying the smaller comparison units proposed, the applicant states that the development will adjoin the Golden Island Shopping Centre and will form part of a larger conglomeration of retail development and a retail destination at the location. In this context it is stated that the units provide variety to the mix and size of retail types proposed as part of the planning application, in conjunction with the adjacent centre.
- 8.3.8. Having regard to the foregoing, I would be concerned that there is a real risk that the proposed retail warehouse component of the development, in particular the smaller units and non-bulky comparison unit would directly compete with retail space in the town centre and undermine the vitality and viability of the centre.
- 8.3.9. The appellant refers to policy GR4 and states that the proposed convenience store, like that recently granted permission by the planning authority under PA ref. 207039, will not include a large comparison element. PA ref. 207039 refers to a single storey discount supermarket (2,172sqm gross floorspace) and café proposed to the west of Athlone town. The file is currently with the Board for determination (ABP-307725). In principle, I would accept that this type of development, with short and often seasonal runs of comparison goods, does not include a substantial comparison element. Notwithstanding this, I do not consider that the applicant has adequately demonstrated the need for the development at the location or has adequately demonstrated that the development will not impact on the vitality and viability of the town centre.

#### **8.4. Car dependent nature of development.**

- 8.4.1. The planning authority consider, in reason 3 of the refusal, that the proposed use, bulky retail development, is predominantly car dependent and would increase unnecessary car journeys into the centre of Athlone, in contrast with National Policy Objective 27. This policy objective seeks to '*Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages*'.

- 8.4.2. The proposed development is situated on the edge of Athlone town centre and within 400m of the town centre (retail core). It is within walking distance of the town centre, bus stops on Golden Island Road and pedestrian and cyclist routes are provided in a north south and east west direction within the site, connected to adjoining footpaths. The development also provides a reduced number of parking spaces to encourage more sustainable modes, which are also encouraged by additional cycle space provision (page 33 appeal).
- 8.4.3. I would accept therefore that the development has provided for the integration of alternatives to the car into the development. However, it has not given priority to these modes in the form of the development. The development provides in the large part for the sale of bulky comparison goods (c.57% of gross retail floor area), which are car dependent and is principally designed around a central car park. The development also adjoins Golden Island Shopping Centre, and whilst this may provide for combined shopping trips, it would also add to the quantum of car parking in the area, exacerbating the dominance of this mode of transport and increasing the car journeys into the area of the site. This effect of the development would be contrary to NPO27 and objective 8 of the AJRS which aims to reduce dominance of access by private car.

## **8.5. Design and layout.**

- 8.5.1. The planning authority indicate in their 4<sup>th</sup> reason for refusal that the development provides a generic standalone retail park, is not befitting of its prominent and strategic location and fails to enhance the public realm or engender a sense of place and therefore conflicts with Retail Design Manual and policies of the RSES and ATDP.
- 8.5.2. The appeal site is situated on a highly visible site on an approach road to the Golden Island Shopping Centre and town centre (retail core). In a number of ways the design and layout of the development satisfies the details of the Retail Design Manual. The development is situated in an area of Athlone where there is no historic urban grain, it will significantly improve the visual appearance of the existing site, create a more active street frontage to Golden Island Road, provide an east west axis across the site and pedestrian connectivity to Golden Island Road, Golden

Island Shopping Centre (indirectly) and Carrick O'Brien Road and proposed external materials and hard and soft landscaping are high quality.

- 8.5.3. However, the development is also dominated by a single use (retail), is generic in form and layout, is largely inward looking, provides poor visual integration with adjoining development (e.g. western elevation Block a, north-eastern elevation of Block C) and little synergy with surrounding land uses or the retail core. In short I consider that the development fails to satisfy current government policy objectives, expressed in the National Planning Framework and Retail Design Guidelines, in respect of compact urban development and place making.

#### **8.6. Impact on vitality and viability of retail core.**

- 8.6.1. The planning authority's 5<sup>th</sup> reason for refusal states, notwithstanding the RIA, having regard to the siting and scale of the development on an edge of centre site and the proposals to provide for convenience shopping (which is considered excessive), the proposal does not form part of an integrated design solution for the site and would adversely affect the vitality and viability of the town centre and be contrary to policies of the AJRS and RPGs.

##### Sequential Test

- 8.6.2. The Retail Strategy for Athlone Town is set out in the AJRS. It promotes and encourages the major enhancement and expansion of retail floorspace and regional centre functions of the town, to reflect its role as a major Regional Centre/driver (Policy RP1). Within this context, the strategic approach for the location of retail development is in the retail core/centre of Athlone (or other identified centres in the Regional Centre) in the first instance, then an edge of centre site within 400m of the core and then more distance sites. The Strategy document recognises that it may be difficult to reach the overall objective of policy RP1 due to the fine grain morphology of the retail core. However, it is proposed that this matter can be addressed via the identified Opportunity Sites (Map of the AJRS).
- 8.6.3. The proposed development is situated outside of the identified Opportunity Sites identified in the AJRS and provides little integration with the retail core. Section 7.5 of the AJRS, Criteria for Assessment of Retail Proposals, states '*If a brownfield site within the core of Athlone or other main centre site in the Athlone Regional Centre*

*and its environs Retail Hierarchy is not being promoted in the application, it should be demonstrated that all the regional centre of Athlone or other main centres options in the Athlone Regional Centre and its environs Retail Hierarchy have been fully evaluated and that flexibility has been adopted with regard to the retail format’.*

- 8.6.4. the applicant has had sufficient regard to flexibility with regard to retail format in the consideration of Opportunity Sites to accommodate a mixed used development.
- 8.6.5. The applicant’s TIA maintains that the town centre does not provide any site(s) which could accommodate the proposed development and considers that none of the Opportunity Sites are either available or viable (Table 7, RIA). Given the nature, scale and form of the proposed development, I would accept that it is not readily suitable to the retail core. Similarly, I would accept that some of the Opportunity Sites would not be suitable to the accommodate the large format of development. However, many of these sites could be developed for mixed uses, and I do not consider that the applicant has had sufficient regard to flexibility of retail format or, therefore, that alternative sites have been objectively considered.

#### Quantitative Assessment

- 8.6.6. The applicant’s RIA identifies:
- The total expenditure likely to be available in the catchment of the proposed development for convenience and comparison shopping in 2024 (year of opening),
  - Turnover from existing centres in 2024, and
  - The residual expenditure, with and without the proposed development in 2024.
- 8.6.7. The RIA indicates capacity for both convenience and comparison retailing, with €915,756 residual expenditure for convenience goods and €85,878,696 for comparison goods (bulky and non-bulky) (Table 29, RIA). The RIA is predicated on the higher population growth rates adopted in the RSES and high per capita growth scenarios (expenditure). In practice, residual expenditure may be lower and retail impact higher than predicted.
- 8.6.8. The AJRS sets out in Table 7.2 an indication of the potential for additional convenience and comparison floorspace in the town, based on different population

growth scenarios. The proposed net convenient floorspace of 2,021sqm, represents 59% - 47% of potential comparison floorspace (Table 7.2 AJRS) and proposed net comparison floorspace, non-bulky, 1,575sqm, represents 37% to 28% of potential comparison floorspace (Table 7.2, AJRS). It is evident from this analysis that the development, in quantitative terms is acceptable and would contribute the overall objectives in the AJRS to promote and encourage major enhancement and expansion of retail floorspace and regional centre functions in the centre of Athlone, to reflect its role as a Regional Centre.

#### Retail Impact

- 8.6.9. Notwithstanding the above, the proposed development as a whole provides a substantial quantum of additional retail development at a specific location, in proximity to the town core. As stated the development lies outside of the identified Opportunity Site, provides little integration to the Core Retail Area and is situated directly adjoining Golden Island Shopping Centre. Notably, the appellant states that the development will benefit from synergy with the centre and enhance the existing retail destination at this location of the town. Therefore, despite the conclusions of the Retail Impact Assessment, I would have concerns, that a development of this scale on this site, which is not identified in the AJRS, would become a destination its own right and would have the effect of undermining the retail strategy set out in the AJRS and impact on the vitality and viability of the town centre, pulling the focus of retail development further south away from the retail core and reinforcing car dependent shopping patterns. In this respect, I would consider that the development is contrary to the Retail Planning Guidelines, the policies of the ATDP and AJRS.

#### **8.7. Urban regeneration.**

- 8.7.1. The planning authority's last reason for refusing permission states that by virtue of the nature and scale of the development on the strategic edge of the centre of Athlone, it would contravene National Planning Objectives 6 and 11 in the NPF. NPO 6 is an objective to regenerate towns as environmental assets that can accommodate changing roles, increased population and employment and enhanced levels of amenity and design. NPO 11 refers to meeting urban development requirements and a presumption in favour of development that can encourage more people and generate more jobs and activity within existing towns.

- 8.7.2. The proposed development will replace run down retail warehouse buildings on a prominent site on the edge of the retail core. The proposed development will be finished in high quality materials, and provide a mix of uses, albeit limited, including retail, café, offices and a small plaza. The proposed development will also provide employment and services for a growing population.
- 8.7.3. Notwithstanding these benefits, given the form of the development, notably its inward outlook, limited mix of uses, car dependence and generic format, I do not consider that the development adequately embraces the shift in government policy to make stronger urban places, to rejuvenate towns as environmental assets or the objective to encourage more people and generate more jobs and activity within existing urban centres (NPO 6 and 11).

## **9.0 Appropriate Assessment**

- 9.1. Submitted with the planning application is a Natura Impact Assessment and Appropriate Assessment Screening Report (Appendix 1, NIS). I refer to these documents in my assessment below.

### **9.2. European sites**

#### **Screening**

- 9.2.1. The appeal site lies c.500m to the east of the River Shannon which is designated as the River Shannon Callows Special Area of Conservation (SAC), site code 000216 and the Middle Shannon Callows Special Protection Area (SPA), site code 004096. The appeal site is hydrologically connected to these two sites by virtue of drainage ditches which cross the site, and which drain to the River AI, and by the River AI itself which runs across the southern boundary of the site and which discharges into the River Shannon, approximately 600m downstream of the site.
- 9.2.2. Other European sites lie in the wide area of the site (Figure 3.1 and 3.2, Appropriate Assessment Screening Report). All sites which lie upstream of the development, or which are physically removed from it and have no hydrological or other connection, are screened out in the applicant's Appropriate Assessment Screening Report. This approach seems reasonable as no effects on these sites are likely.

9.2.3. Approximately 60km downstream the River Shannon discharges into Lough Derg which is designated as an SAC and SPA (site codes 002241 and 004058 respectively). The applicant's screening report carries these sites forward for assessment in the NIS. However, given the distance of these European sites from appeal site, >60km, the scale and nature of the proposed development, significant effects on these sites are highly unlikely and I do not consider that it is necessary to carry forward for Stage 2, appropriate assessment.

### 9.3. Assessment

9.3.1. **Qualifying interests of European sites** are:

European Site	Qualifying Interests
River Shannon Callows SAC	<p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</p> <p>Lowland hay meadows (Alopecurus pratensis, Sanguisorba officinalis) [6510]</p> <p>Limestone pavements [8240]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Lutra lutra (Otter) [1355]</p>
Middle Shannon Callows SPA	<p>Whooper Swan (Cygnus cygnus) [A038]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Corncrake (Crex crex) [A122]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Lapwing (Vanellus vanellus) [A142]</p> <p>Black-tailed Godwit (Limosa limosa) [A156]</p> <p>Black-headed Gull (Chroicocephalus ridibundus) [A179]</p> <p>Wetland and Waterbirds [A999]</p>

9.3.2. **Conservation objectives.** Conservation objectives for the European sites are generic:

- River Shannon Callows SAC (site code 000216) – To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the site has been selected.

- Middle Shannon Callows SPA (site code 004096) - To maintain/restore the favourable conservation condition of bird species listed as Special Conservation interests for the SPA.

9.3.3. **Potential Effects.** The appeal site lies outside of the boundary of any European sites and no direct effects are likely e.g. by way of land take etc. Indirect effects may arise from the following components of the proposed development:

- **Construction** – During demolition and construction works there is potential for surface water to become contaminated with adverse effects on downstream habitats and species i.e. Alluvial forests, Otter, birds of conservation interest, wetlands and waterbirds. Impacts on terrestrial habitats will not arise, as there is no connectivity between the appeal site the habitats (Molinia meadows, lowland hay meadows, limestone pavements). Given the proximity of the appeal site to tributaries of the River Shannon there is also potential for disturbance of otters, birds of conservation interest and waterbirds.
- **Operation** – During operation surface water will discharge into St. Mels culvert, along the western boundary of the site, and subsequently to the River Shannon. Again, therefore there is potential for contamination of surface waters, with adverse effects on downstream habitats and species. Disturbance effects on mobile species are unlikely given the location of the development in an existing urban area and noise already associated with human activity.

9.3.4. **Mitigation.** Mitigation measures are referred to in Section 3.2.6 of the NIS and include:

- **Construction.** Standard construction practices to minimise pollution from hydrocarbons and hazardous materials, measures to prevent the disposal of wastewater, practices to avoid the release of cement based materials and site specific measures to prevent siltation of water bodies. These measures are further explained in the applicant's Construction and Environmental Management Plan. Specific pre-construction measures to prevent any adverse effects on otters, to include pre-construction survey to ensure that no otters have taken up residence in/close to the works area and implementation



of exclusion procedures as outlined in the TII/NRA Guidelines for the Treatment of Otters prior to the construction of national road schemes (2006). Specific measures to limit disturbance and for biosecurity for plant and machinery.

- **Operation.** Connection of the development to the urban waste water scheme. Management of surface water outflows from the site to St. Mel's culvert, including use of stormwater attenuation system and petrol interceptor.

9.3.5. **Likely effects (direct, indirect and cumulative).** As stated, the appeal site lies outside of the boundary of any European site and no direct effects will occur.

9.3.6. **Construction.**

#### Water quality

9.3.7. Within and alongside the appeal site are surface water bodies which discharge into the River Shannon. Mitigation measures referred to typically comprise standard construction practices. Subject to their strict implementation, significant effects on water quality are unlikely and significant effects on downstream habitats and species of conservation interest, Alluvial forests, otter, birds of conservation interest, wetland and waterbirds, are also unlikely.

#### Disturbance

9.3.8. In the course of the planning application, a comprehensive search for otter was undertaken along the drainage ditches within the site and the River AI, 150m upstream and downstream of the development. No evidence of otter was found. As otters are highly territorial, with spraints (droppings) marking their home ranges, this would infer that they are not active in the immediate area of the site. It is also stated in the NIS that the habitats within the site are suboptimal for the species, comprising rank agricultural grassland and buildings and artificial surfaces and I would agree with this assertion. Having regard to the apparent absence of otter from the area of the site, and to specific mitigation measures for otter which include pre-construction survey, indirect effects on the species as a consequence of disturbance during construction seem unlikely.

9.3.9. With regard to bird species of Special Conservation Interest associated with the Middle Callows SPA, the applicant states that the habitats on site are sub-optimal for these species and the field survey recorded no species using the habitats, either for

roosting or feeding, within the proposed development site or surrounding lands. It is also stated that the appeal site lies outside of the range likely to cause disturbance to species of conservation interest and bird species that do occur in the area are likely to have habituated to human activity. These assertions are reasonable, and I consider that significant effects on the bird species of conservation are unlikely as a consequence of construction works.

9.3.10. **Operation.** During operation, all foul water will be discharged into the existing public sewer which runs across the site. Surface water and stormwater will be directed through petrol interceptors prior to controlled discharge to St. Mel's culvert (Appendix 2, NIS). Under extreme storm conditions, surface water will be discharged through the proposed flood embankment to be constructed along part of the southern boundary of the site (dry side of embankment). Such events are likely to be infrequent and having regard to the modest size of the appeal site and the likely extent of flood water in such extreme events, significant impact on downstream water quality is unlikely. Having regard to the foregoing, I am satisfied that the proposed development is not likely to give rise to adverse effects on downstream water quality or associated habitats and species of European sites.

9.3.11. **Cumulative effects.** Section 7 of the NIS deals with the potential for cumulative and/or in-combination impacts arising from plans and projects. The report refers to policies in the Westmeath County Development Plan 2014-2020 that provide for the protection of water quality, biodiversity and species and habitats of conservation interest in the county. Section 7.2 identifies other development in proximity to the site which has planning permission.

#### Water quality.

9.3.12. Cumulative impacts on water quality are unlikely, given the absence of predicted effects in this instance, and the likely controls in place with other permitted development, as per the requirement of policies in the County Development Plan and ATDP.

#### Disturbance

9.3.13. There is a risk that concurrent development of sites could add to noise and disruption in the area, however, given the location of the appeal site and other development referred to in an existing urban area, the distance of the appeal site

from European sites, the absence of protected species on/near the site and the likely habituation of any species in the vicinity of the site to the urban environment, cumulative effects are unlikely.

#### **9.4. Appropriate Assessment Conclusion**

- 9.4.1. Having regard to the foregoing, I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of European site Nos. 000216 and 004096, or any other European site, in view of the site's Conservation Objectives.

#### **10.0 Recommendation**

- 10.1. I recommend that permission be refused for the proposed development.

#### **11.0 Reasons and Considerations**

1. Having regard to:

- The nature and scale of the development proposed, including the quantum of convenience and comparison floorspace and car parking,
- The location of the development, outside of the town centre and Opportunity Sites identified in the Athlone Joint Retail Strategy 2019-2026,
- The retail hierarchy as set out in the current Development Plan for the area, and
- The Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in April 2012,

It is considered that the development as proposed would be contrary to the retail policies as set out in the development plan and would negatively impact upon the vitality and viability of retail development in the town centre of Athlone and would consequently be contrary to the Retail Planning Guidelines. The proposed

development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. By reason of its generic form, dominant retail use and standardised design and layout, it is considered that the proposed development would be visually unsatisfactory and inappropriate in the context of the prominent location of the site on the edge of Athlone Town Centre. The proposed development would conflict with the provisions of Policy P-RET2 of the current Athlone Town Development Plan and its objectives to require new retail development to contribute positively to public realm and place-making, and to National Planning Framework Objective NPO 6 and NPO 11 in terms of their objectives to regenerate towns as environmental assets and encourage more people and generate more jobs and activity within existing towns, which objectives are considered reasonable. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Deirdre MacGabhann  
Planning Inspector

18<sup>th</sup> January 2021