



An  
Bord  
Pleanála

## Inspector's Report ABP307861-20

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<b>Development</b>	Construction of a Discount Foodstore Supermarket with Ancillary Off-Licence.
<b>Location</b>	Kilcolman Road (N60), Claremorris, County Mayo.
<b>Planning Authority</b>	Mayo County Council.
<b>Planning Authority Reg. Ref.</b>	19/1015.
<b>Applicant</b>	Lidl Ireland GmbH.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party.
<b>Appellant</b>	Lidl Ireland GmbH.
<b>Observers</b>	Kevin Barton.
<b>Date of Site Inspection</b>	18 <sup>th</sup> November, 2020.
<b>Inspector</b>	Paul Caprani.

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## 1.0 Introduction

ABP307861-20 relates to a first party appeal against the decision of Mayo County Council to issue notification to refuse planning permission for the construction of a discount foodstore supermarket and ancillary off-licence sales on the outskirts of Claremorris, County Mayo. Permission was refused for three reasons which related to the foodstore's location on an elevated site which would require significant excavation and fill, the proposal would adversely impact on the vitality, viability and attractiveness of the existing town centre of Claremorris and that the proposal would have an adverse impact on the capacity, safety and operational efficiency of the national road network in the vicinity of the site. An observation was also submitted supporting the decision of the planning authority.

## 2.0 Site Location and Description

- 2.1. The appeal site incorporates a rectangular parcel of land on the southern side of the Kilcolman Road (N60 National Secondary Route covering an area of 1.2216 hectares (3 acres). It is approximately 90 metres in depth and 120 metres in width. The subject site is located on the eastern environs of the town of Claremorris and the Kilcolman Road forms part of the N60 National Secondary Route which runs through the town linking Ballyhaunis with Castlebar. A covering letter submitted with the application indicates that the actual lands under Lidl ownership amounts to a slightly smaller area of 1.04 hectares in size. The larger site relating to the lands inside the red boundary of the site (1.2216 hectares) will facilitate additional enabling works including access road etc.
- 2.2. The site is currently under grass and forms part of a larger field located to the south of the Kilcolman Road. Lands contiguous to the eastern, western and southern boundary of the site are undeveloped. The R331 (Claremorris to Ballyhaunis Road) runs parallel to the Kilcolman Road to the south of the site. A residential enclave off the Ballyhaunis Road is located on lands to the south-east of the site. A GAA pitch is located to the west of the site and an Aldi Supermarket is located on the Kilcolman Road approximately 200 metres further west. A hotel and a small housing estate are

located opposite the site on the northern side of the Kilcolman Road. The site is currently used for agricultural purposes. The site is located between 500 and 700 metres from Claremorris Main Street.

### **3.0 Proposed Development**

3.1. Planning permission is sought for the following:

- The construction of a single storey (with mezzanine plant deck) monopitched discount foodstore with ancillary off-licence use with a gross floor area of 2,268 square metres and a net retail sales area of 1,420 square metres. The building is to be located near the southern boundary of the site away from the Kilcolman Road. A service delivery area is to be provided at the western end of the building at the south-western corner of the site.
- The provision of extensive surface car parking to the north and east of the main building. 143 car parking spaces are to be provided including a number of designated disabled spaces and family friendly spaces.
- The development is also to incorporate a number of freestanding and building mounted corporate signs together with freestanding trolley bays, soft landscaping, cycle parking and hard and soft landscaping. A new access road is to run along the eastern boundary of the site. The drawings submitted indicate that the new access road which links up with the Kilcolman Road (N60) to the north will form part of a distributor road which will serve lands to the south and east of the subject site. A new entrance to the Lidl supermarket is to be provided from this access road approximately 50 to 60 metres south of the junction with the N60 (Kilcolman Road).
- The building ranges in height from 5.01 metres to 6.739 metres. The external materials include a plaster render finish on the rear and side elevation and a white wall painted finish with Kingspan metallic sliver sheeting above along the front elevation. The entrance and eastern elevation of the building comprise of extensive glazing.

## 4.0 Planning Authority's Decision

Mayo County Council issued notification to refuse planning permission for three reasons which are set out in full below.

1. Having regard to the development proposed located on an elevated site above the main centre of Claremorris and in an elevated position above the National Secondary Road (N60), consideration is also given to the excavation required to provide an access road from the N60 and to the extent of excavation and fill necessary to accommodate the proposal at this elevated location. It is considered that if permitted, the proposed development would interfere with the character of the landscape at this location and would seriously injure the amenities of property in the vicinity. Therefore, the proposed development would be contrary to the proper planning and sustainable development of Claremorris.
2. Having regard to the development proposed, located at the edge of a town centre zoning, without an adequate link to the main commercial area of Claremorris, it is considered that the proposed development if granted, would have an adverse impact on the vitality, viability and attractiveness of the existing town centre of Claremorris, with (sic) if permitted would materially contravene Objective KTCS-05 of the Claremorris Area Plan, which states that *"it is an objective of the Council to support the role of the town centre as the dominant retailing and commercial area in Claremorris"*. Therefore, the proposed development would be contrary to the proper planning and sustainable development of Claremorris.
3. The applicant/developer has not established to the satisfaction of Mayo County Council that the proposed access onto the N60 which will facilitate the development of the retail food outlet and the possible future development of all lands at this location will not have a detrimental impact on the capacity, safety or operational efficiency of the road network in the vicinity of the site. Therefore, it is considered that the proposed development by itself or by the precedent by which a grant of planning permission would set for other relevant development, would adversely affect the use of a national road by traffic.

#### 4.1. Documentation Submitted with the Planning Application

- 4.1.1. The planning application was lodged on 20<sup>th</sup> December, 2019. It was accompanied by:
- 4.1.2. A Planning Report prepared by 'The Planning Partnership' on behalf of the applicant. This report sets out details of the proposed development, the rationale for the proposed development, details of the discount foodstore model and an analysis of the proposed development. This analysis essentially comprises of a retail impact statement. In terms of the sequential approach/alternative locations it is argued that the subject site is the preferred location. It is stated that inner town centre sites which would require site assembly are not a viable option. It is stated that an alternative site at Chapel Lane to the south-west of the subject site (and south-east of the town) was not considered suitable or readily available. It is stated that the level of net floorspace provision within the town is largely unchanged from 2008 (Tesco and Aldi stores opened in 2007). Notwithstanding this the population grew from 3,170 in 2006 to 4,308 in 2016. And it is expected to grow further to between 4,500 and 4,800 by 2020. The submission details the estimated catchment area based on a 20-minute drivetime. The estimated primary catchment population is estimated to be 18,259. The estimated available expenditure in this population catchment area is estimated to be just over €58 million. The estimate turnover per square metre of convenience floorspace is estimated to €11,000 (in 2011). The share of turnover by the proposed development is estimated to be 19%, with 81% of available expenditure in the catchment still being available to other retailers. It is argued that the analysis undertaken demonstrates that there is substantial capacity for additional floorspace within the catchment area. This is estimated to be €18.1 million per annum. It is suggested that even with the development constructed there would be most likely a remaining shortfall to meet the capacity requirements of the catchment of approximately €6.9 million. It is therefore concluded that there would be no discernible impact/diversion arising from the proposed development.
- 4.1.3. The report goes on to note the site is zoned town centre in the Claremorris Action Plan. The planning report also makes reference to traffic and transportation issues (the Board will note that a separate traffic and transportation assessment submitted with the application is referred to below). It concludes that the proposal will not give

rise to any material issues. Details of the Design Statement and Landscaping and Public Realm Issues are also detailed in the report. A screening for appropriate assessment was also undertaken where a Stage 2 Appropriate Assessment Screening was screened out. Finally, the proposal sets out details of planning policy as it relates to the site. In this regard reference is made to the Retail Planning Guidelines (2012) and the Mayo County Development Plan 2014 to 2020.

- 4.1.4. Also submitted with the application is a Traffic Impact Report prepared by Stephen Reid Consulting. It notes that the access junction on the N60 will be priority controlled with a right-hand turning lane on the N60 for eastbound arrival from the town centre. It states that adequate sightlines can be provided for the proposed access junction in accordance with DMURS for a 50kph road. It is proposed to service the site with a 16.5 metre articulated truck and the access has been tested using the autotrack package which is considered to be acceptable. The proposed development will generate a two-way total of 124 movements during the weekday AM peak and 216 movements during the weekday PM peak including any 'pass-by' and diverted existing shopping trips. The percentage impact on key N60 junctions to the east and to the west is less than 5% additional traffic on all arms with the exception of the section of the N60 serving the site which provides access to the site and therefore a greater increase occurs. The results of the junction analysis undertaken demonstrates that traffic to and from the proposed development can be accommodated on the surrounding road network.
- 4.1.5. Also submitted was a Road Safety Audit (Stage 1 and 2) prepared by Atkins. It identifies a total of five potential problems and sets out recommendations to address these issues.

#### 4.2. **Initial Assessment by Planning Authority**

- 4.2.1. A report from the **National Roads Office – Mayo County Council** states that the application does not raise any issues for the national road system that needs to be addressed or conditioned by that office.
- 4.2.2. A number of letters of objection were submitted the contents of which have read and noted.

- 4.2.3. A report from **Transport Infrastructure Ireland** it notes that the N60 Claremorris Relief Road Drainage Regime to which the applicant proposes to access was not designed to service the subject lands and additional zoned lands to the south. It is recommended that an alternative surface water outfall for these zoned lands should be designed. Insufficient information has been submitted with the planning application to demonstrate that proposals will not negatively impact on the N60 National Road Drainage Regime. TII does not support proposals for private development to discharge to national road drainage infrastructure. TII will not be responsible for the costs of any future mitigation repair or improvement required on the drainage regime to remedy any negative impacts arising from the private development proposal.
- 4.2.4. With regard to traffic and transport assessment, the cumulative impact arising from the development of all lands at this location appears to be incomplete and the availability of an alternative access onto the R331 is not explored. An alternative access to the R331 has the benefit of removing any conflict that may arise as a result of the interaction of local trips with those on the N60 National Road which by its nature is more strategic.
- 4.2.5. A report from the **Area Engineer of Claremorris Municipal District** makes a number of comments in relation to detailed design issues regarding traffic and transportation concerns.
- 4.2.6. An observation was submitted by **RGDATA** objecting to the proposed development and noting that planning permission currently exists for a discount retail store on a town centre site in Claremorris.
- 4.2.7. A report from the **Senior Archaeologist** recommends that an archaeological pre-development testing report has been submitted to the Planning Section under (P18/452). The archaeologist has read the report and concur that no archaeological site or monument will be affected by the proposed development. No further archaeological test is required.
- 4.2.8. A report from the **Roads Design Department** recommends a number of conditions be attached and further information is sought in relation to the detailed road and pedestrian layout associated with the development.
- 4.2.9.



#### **4.3. Additional Information Request**

4.3.1. The initial planner's report dated 14<sup>th</sup> February, 2020 notes the various submissions in terms of internal reports and third party submissions in respect of the proposed development. The initial report recommends additional information in relation to 15 separate points relating to:

- Further details regarding traffic and transportation assessments together with road safety audits to be submitted.
- Further details in relation to the internal layout including proposed turning lanes.
- Further details in relation to pedestrian footpath links and the provision of adequate car parking spaces to serve the development.
- Further details are also required in relation to articulated trucks manoeuvring within the public car park.
- Submit details indicating that there is adequate capacity in the surface water drainage pipe network to accept the surface water from the proposed development.
- An archaeological report shall be submitted.
- A revised retail impact assessment shall be submitted amending Section 2.2 which relates to the sequential approach/alternative locations as this does not take account of the development which was permitted under P17/1020 for a discount store on Chapel Street. It is noted that P17/1020 is a live permission and should be taken into full consideration in the retail impact assessment.

#### **4.4. Further Information Submission**

4.4.1. Further information was submitted on behalf of the applicant on 24<sup>th</sup> April, 2020. It included an updated Road Safety Audit and Traffic and Transportation Assessment which it is argued, demonstrates the acceptability of the proposed development from a road safety and transportation perspective.

4.4.2. Further drawings and information were submitted in respect of detailed road design aspects of the proposed development. It states the following:

- No kerb line adjustment along the N60 is required.
- An additional 2 metre footpath has been provided along the eastern side of the proposed access road
- A new pedestrian crossing to the proposed store.
- All are indicated in the revised site layout plan.
- With regard to internal footpaths within the car parking area, it is noted that these are not usually provided. Notwithstanding this a revised site layout plan has been provided which incorporates supplementary pedestrian link to the store entrance.
- It is stated that the proposed development requires up to 113 car parking spaces while 143 are provided. This includes for an appropriate level disabled parent and child and electronic vehicle charging spaces.

4.4.3. It is noted that delivery of waste collection vehicles will be relatively infrequent on site. Delivery vehicles will drive into the car park and reverse into the loading bay. The reversing into the loading bay will take place outside the main car parking area. A detailed public lighting assessment has also been carried out.

4.4.4. Full details of the pedestrian crossing on the N60 is submitted.

4.4.5. A surface water drainage report is submitted which provides details calculations and evidence to substantiate the claim that there is adequate capacity in the existing surface water drainage pipe network to accept a connection from this development.

4.4.6. An archaeology assessment was also submitted.

4.4.7. A revised retail impact assessment was submitted. It is confirmed that the previous assessment was undertaken having full regard to the existence of a permission for a food discount store at Chapel Lane. It is stated that the revised assessment is entirely unaffected/unchanged in terms of its conclusions i.e. that the subject application and the extant permission can both be implemented and that the site of which Reg. Ref. P17/1020 was granted is not suitable or viable for the proposed development notwithstanding that a permission exists on site. Therefore, whether a permission exists is of no material consequence as it was factored into the review of alternative sites and the estimated expenditure capacity of the town in any event.

4.4.8. The third-party submissions are noted on file. Most of these submissions argue in favour of the supposedly more suitable site at Chapel Lane. The applicant argues that it has been demonstrated that the site at Chapel Lane is in fact not a viable alternative location. Furthermore, the retail impact assessment illustrates that the proposed development can be developed in addition to as opposed to instead of the Chapel Lane site.

#### 4.5. **Further Assessment by Planning Authority/ Prescribed Bodies**

- 4.5.1. A letter from Transport Infrastructure Ireland continues to express concerns in relation to the surface water discharge, stating that the lands fall in opposite direction towards the regional road and not the N60 so there is little or no existing field drainage flows into the N60 surface network. Furthermore, no details are provided in relation to adjoining development lands in terms of attenuating surface water. Transport Infrastructure Ireland remains of the opinion that insufficient information has been submitted with the planning application to demonstrate that the proposal will not negatively impact on the N60 National Road. It also remains the position that Transport Infrastructure Ireland considers the Regional Route R331 to the south appears to be available to the subject application site and does not appear to have been explored in the further information response.
- 4.5.2. A further report from the Area Engineer for the Claremorris Municipal District states there is no objection to the proposed development subject to conditions.
- 4.5.3. A report from the Road Design Department recommends a total of seven conditions be attached.
- 4.5.4. On the 19<sup>th</sup> June 2020 new public notices were erected on behalf of the applicant indicating that significant further information was submitted.
- 4.5.5. A final planning report was prepared on foot of the further information submitted. The planning report concludes that the current proposal for Lidl at this location was effectively the same as the application permitted under P18/452 which was subsequently withdrawn. The developers did not engage in any pre-planning consultation to indicate previous issues highlighted had been addressed and overcome. These related to the elevation of the site, the out of town location and the impact on the national road network. These issues are still of concern. The edge of

town centre location of the proposed discount retail store without an adequate link to the main commercial core is contrary to Policy Objective KTCS-05. The concerns of Transport Infrastructure Ireland are also noted. On this basis planning permission was refused by the Planning Authority for the three reasons referred to above.

## **5.0 Planning History**

- 5.1. The planning application's website for Mayo County Council indicates that under Reg. Ref. 18/452 planning permission was sought for what is referred to in the Planning Authority's report, as an identical application. The application was lodged in June, 2018 and was withdrawn in January, 2019.
- 5.2. Another application of relevance relates to Reg. Ref. 17/1020 where planning permission was granted for the development of a discount store with a gross floor area of 2,264 square metres and a net floor area of 1,472 square metres together with car parking and ancillary works at a site on Chapel Lane (500 metres as the crow flies). To the south-west of the subject site planning permission was granted in June 2018 for this development.
- 5.3. Under Reg. Ref. 08/2102 planning permission was granted for the construction of a single storey retail development (7,075 sq.m) comprising of 1 anchor store 7 retail units ancillary circulation space and the provision of 283 surface car parking spaces together with ancillary works. This permission has expired.

## **6.0 Grounds of Appeal**

- 6.1. The decision of Mayo County Council was the subject of a first party appeal which is summarised below.
  - 6.1.1. The Board are requested to note that the subject site is located within the 50 kilometre speed limit and is zoned for town centre use. It is stated that the subject site is currently underutilised despite a previous permission for a substantial retail development on the subject site (This decision was granted in 2008 and has since expired). It is also stated that the proposed development will generate a relatively significant economic spin-off during the construction and operational stage. It is argued that the subject development represents a timely and proportionate

expansion of the discount foodstore sector. It is stated that the proposal has been the subject of a sequential approach with no preferable suitable available alternative location as being identified.

- 6.1.2. With regard to the specific concerns raised in the reasons for refusal, these are addressed in Section 3 of the grounds of appeal.
- 6.1.3. With regard to the elevated nature of the site it is stated that while the site is currently undeveloped it is urban in nature and surrounded by developed areas along the Ballyhaunis Road. The site however is sunken into the landscape and therefore will not have a significant impact. It is also suggested that many towns particularly in the west of Ireland have been settled on undulating topography without resulting in any particular constraint on development.
- 6.1.4. It is respectfully submitted that the proposed development would not require excessive amounts of cut and fill as only limited changes in existing levels are proposed. The proposed access road to the lands does entail an element of cut. However, this would not be excessive or unusual and does not constitute reasonable grounds for refusal.
- 6.1.5. Furthermore, it is not accepted that the proposed development would interfere with the character of the landscape. It is noted that the Municipal District Architect considered the proposed design to be acceptable from an architectural perspective and the Municipal District Architect's assessment contradicts the refusal set out in Reason No. 1. The landscape in visual terms, and in accordance with the criteria set out in the landscape appraisal, can be described as robust as it is located on lands surrounded by a built environment.
- 6.1.6. With regard to the distance to the town centre, it is stated that the subject site is only 175 metres from the existing Aldi store and c.300 metres from the Tesco anchored development in the north of the town. It is respectfully submitted that the proposed development is appropriately connected/linked to the town centre. While future development of surrounding undeveloped land offers further opportunities to create additional linkages.
- 6.1.7. With regard to the impact on vitality, viability and attractiveness of the existing town centre, it is argued that there is substantial capacity for additional floorspace within the catchment with a spare capacity for spending of €18.1 million per annum. It is

suggested that even with the development of the subject proposal, there would most likely remain a shortfall in the floorspace to meet the capacity requirements of the catchment. Even the extant permission under Reg. Ref. 17/1020 could also be absorbed within the catchment.

- 6.1.8. In terms of retail impact/trade diversion it is submitted that no discernible impact/diversion would arise given that the subject site is within the retail centre with which it is competing as opposed to drawing significant trade from other towns. The proposal is fully in accordance with the sequential approach on the basis that the site is zoned for town centre uses and has an extant permission<sup>1</sup> for a considerably larger retail development. It is also suggested that the development of the subject site would not rule out the development by others of the site in Chapel Lane. The applicants also considered Chapel Lane but for a number of reasons principally including physical constraint and economic viability the site at Chapel Lane is not considered to be suitable or readily available. The quality of link to the town centre is relatively poor with no apparent footpath connection for example. And while the site at Chapel Lane has permission, the implementability of the said permission in a manner that would facilitate an efficient and accessible operation is however limited in the applicant's detailed assessment. It is argued that the proposed development would therefore support the role of the town centre. It is noted that the Board granted planning permission for a Lidl development in a similar sized town with a similar catchment area at Bagnalstown in County Carlow.
- 6.1.9. Reference to the material contravention of objective KTCS-05 in the Mayo County Development Plan is unfounded. It is suggested that the wording of the objective is sufficiently vague and the proposal does not represent a fundamental departure from this objective. As such, the issue of material contravention does not arise. It is also suggested that the provisions of Section 37(2)(b)(ii) is applicable in this instance as there are conflicting objectives in the development plan as the subject site is zoned for town centre use. It is also suggested that the provisions of Section 37(2)(b)(iii) could apply which relates to government and regional guidelines and furthermore it is suggested that the provisions of Section 37(2)(b)(iv) could also be applicable as

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<sup>1</sup> Despite what is stated in the grounds of appeal, this permission has in fact expired.

Mayo County Council granted planning permission for an extension of retail floorspace at the Tesco anchored scheme at Sliverbridge under Reg. Ref. 19503.

- 6.1.10. With regard to impact on the national road, it is noted that the Area Engineer, the Roads Design Section and the National Road Design Office raised no objection to the proposed development from a road/transportation perspective. The planning application was accompanied by a Traffic Impact Report and Road Safety Audit both of which demonstrated the acceptability of the proposed development. It is stated that the applicant does not control sufficient land to create a link off the Ballyhaunis Road (R331) to the south. Furthermore, the site is located within the town and within the 50kph speed limit zone. Furthermore, it is submitted that the principles of DMURS should be applied to the subject proposal. It is also noted that An Bord Pleanála granted planning permission for a Lidl Shopping Centre in Sligo Town notwithstanding concerns expressed by Transport Infrastructure Ireland.
- 6.1.11. In relation to the issue of drainage, the confirmation by Mayo County Council that there is adequate capacity to facilitate the proposed development is noted. Furthermore, public (surface) drainage infrastructure is in place to service lands which are zoned for development and not solely the national road. Accordingly, it is submitted that there is no material constraint to development in terms of surface drainage.
- 6.1.12. Finally, it is stated that the proposed development will not create a precedent. It would follow an existing precedent granted under a previous permission on site Reg. Ref. 08/2102.
- 6.1.13. Also attached to the grounds of appeal is a report by SDS Design Engineers. This specifically deals with excavation and cut and fill requirements associated with the site and also surface water drainage discharge. The report concludes that the proposal has been designed in order to minimise the volumes of materials to be either removed off-site or imported into the site. It also concludes that there is sufficient surface water drainage capacity to service the proposed development.
- 6.1.14. A separate report in respect of the traffic impact specifically deals with the application of design standards for the right-hand turning lane leading into the site and compares TII Design Standards with DMURS Design Standards. It suggests that the carriageway widths proposed should be in keeping with DMURS standards and

that the design of the proposal was independently audited by experienced TII approved auditors. Should the Board consider it appropriate revised drawings could be submitted for compliance for alterations to the right-hand turning lane into the site.

## 7.0 Appeal Responses

It appears that Mayo County Council have not submitted a response to the grounds of appeal.

## 8.0 Observations

- 8.1. One observation was submitted on behalf of Kevin Barton by Planning Consultancy Services. It respectfully requests that the Board take the following into consideration in determining the application.
- 8.2. It is argued that the planning history pertaining to the site is irrelevant on the basis that the permission referred to expired in March, 2015. Furthermore, this related to a range of retail units and did not consist of a standalone retail development. This development was also granted prior to the adoption of the most recent Retail Planning Guidelines.
- 8.3. The proposed development located at the southern edge of the N60 Inner Relief Road is physically and visually disconnected from the town centre. There is no streetscape or roadside development along the entirety of the southern edge of the N60 Inner Relief Route. The proposed discount store shop entrance is located c.700 metres to the edge of the commercial core of Claremorris. The subject site is not located adjacent to any commercial development and would fall within the definition of 'outer centre' as defined in the Retail Planning Guidelines. As a consequence, therefore, the proposed development is likely to have an adverse impact on the vitality and viability of established city/town centres. The proposal is likely to siphon off car-based trips at the expense of the town centre's commercial core.
- 8.4. The applicant relies on the site's proximity to the Aldi store as justification to grant planning permission for the proposed development. However, it is argued that this Aldi store is located at the edge of the commercial centre and the subject site located 175 metres away is therefore considered to be out of centre.



- 8.5. It is also stated that there is clearly a retail site at Chapel Lane which has the benefit of a live planning permission. This would be suitable and available and viable to cater for a discount store. The development of the site at Chapel Lane would not doubt complement the established convenience retail offering of Supervalu and facilitate multi-purpose trips. The co-location beside Supervalu would result in a successful retail synergy in a central urban location.
- 8.6. The proposed development would fail to address the adverse impact on town centre and high vacancy rates associated with Claremorris Town Centre and as such would be contrary to the provisions of the core strategy. It is stated that Claremorris has alarmingly high vacancy rates. The proposed development at the out of town location would not reinforce the town centre as the primary shopping area.
- 8.7. It is also argued that the proposal represents inefficient and unsustainable use of zoned and serviced land and that the proposal in this instance would constitute a poor urban design intervention and therefore would be contrary to the retail design manual. The proposal would result in a low-density single storey floor plan and a large landholding dominated by a surface car park.
- 8.8. Concerns are also expressed in relation to roads and traffic issues. It is argued that the traffic impact assessment is flawed as it is not based on up to date traffic figures particularly on traffic counts since the new N17 has opened. The N60 Inner Relief Road experiences haphazard parking on both sides of the road when conferences, concerts and other large events are held in the McWilliam Park Hotel. No speed surveys were undertaken and it is argued that the speed limit is regularly exceeded. The proposal is located in close proximity to an interchange which is planned to be upgraded (the N17 Tuam to Galway dual carriageway) and there should be general presumption against large out of town retail centres particularly those located adjacent or close to existing newer planned national roads or motorways.

## 9.0 **Natural Heritage Designations**

- 9.1. The subject site is not located within or adjacent to a European site. The nearest European site include the Carrowkeel Turlough SAC (Site Code: 000475) which is located 7 kilometres south-west of the subject site and the River Moy SAC (Site Code: 002298) which at its nearest point is located 8.5 kilometres from the subject

site. The Lough Corrib SAC (Site Code: 000297) is located approximately 11 kilometres to the south-east of the subject site.

## 10.0 Policy Context

### 10.1. Retail Planning Guidelines

10.1.1. The Department of the Environment issued Guidelines for Planning Authorities on Retail Planning in April 2012. They state that enhancing the vitality and viability of town centres through sequential development is an overarching objective in retail planning. There are five key policy objectives.

- Ensuring plan-led development.
- Promoting town centres through sequential development.
- Promoting a competitive marketplace.
- Encouraging sustainable travel by locating shops in locations accessible by such modes.
- Realising high quality urban design.

10.1.2. A design manual was published with the guidelines. Section 2.5.2 states that the preferred location for new retail development is within city and town centres and only then should edge of centre sites be considered. The manual also notes that compact urban areas mixed use and high densities increase the customer base for local shops and services and reduce the proportion of shopping trips made by car in favour of walking, cycling and public transport.

### 10.2. Development Plan Provision

10.2.1. The site is governed by the policies and provisions contained in the Mayo County Development Plan 2014 – 2020. The previous Claremorris Area Plan has been incorporated into the Mayo County Development Plan. The lands in question are zoned town centre and retail use/convenience store is a permitted use under this land use zoning objective.

10.2.2. Specific objectives as they relate to Claremorris are set out below.

KTCS-01 – It is an objective of the Council to encourage development in the town of Claremorris in accordance with the land use zoning objective map set out in the development plan.

KTCS-05 – States it is the objective of the Council to support the role of the town centre as a dominant retailing and commercial area in Claremorris.

## **11.0 EIAR Screening Determination**

11.1. An EIA pre-screening determination notes that the proposed development constitutes a project for which EIAR is required. However, having regard to the size of the site in question and its location on the periphery of the built-up area, it is considered that an EIAR can be excluded by way of preliminary examination.

## **12.0 Planning Assessment**

### **12.1. Introduction**

I have read the entire contents of the file, visited the subject site and its surroundings, have had particular regard to the Planning Authority's reasons for refusal and the applicant's rebuttal of these reasons. I have also had regard to the contents of the observation contained on file. I consider that the Board can restrict its deliberations to the matters raised in the Planning Authority's reason for refusal namely:

- Impact of the Proposed Development on the Visual Amenities and Landscape Character of the Area
- The Extent of Cut and Fill Required to Facilitate the Proposed Development
- Proximity to Town Centre/Sequential Tests/Compliance with Retail Planning Guidelines
- Retail Impact Assessment
- Road and Surface Water Issues
- Other Issues

## **12.2. Impact of the Proposed Development on the Visual Amenities and Landscape Character of the Area**

12.2.1. The first reason cited by the Planning Authority in its reason for refusal stated that the proposed development would interfere with the character of the landscape due to the site's elevated position. The subject site is elevated above the N60 National Secondary Route. However, on closer inspection and in this regard, I refer the Board to the sectional drawings contained on file. It appears that the National Secondary Route incorporated a certain level of cut and fill so that a small ridge runs along the boundary of the route separating the roadway from lands to the north and south. The lands to the south of the roadway on which the subject site is located are not excessively elevated beyond the ridge and incorporate soft undulations throughout the site. Furthermore, the boundary along the roadway is well landscaped and it is not proposed to remove this landscaping (as it is located outside the boundary of the site) except where it is proposed to install the new access road serving the zoned lands to the south of the site. In addition to this the proposed building comprises of a relatively modest single storey structure rising to a maximum ridge height of 6.7 metres which is of a similar or lesser height to a modest two-storey house. The building will also be setback from the roadway which will further diminish the visual impact.

12.2.2. Finally, in relation to this matter the Board will note that the subject lands are zoned for development therefore it is assumed that at some point in the future the lands in question will accommodate some form of development. It is my considered opinion that it is not tenable to refuse planning permission for a single-storey structure on zoned lands on the basis that it would have an adverse impact on the landscape character of the area.

## **12.3. The Extent of Cut and Fill Required to Facilitate the Proposed Development**

12.3.1. The first reason for refusal also states that the amount of excavation required to provide an access road from the N60 and the extent of excavation and fill necessary to accommodate the proposal is not acceptable. In relation to this matter it is respectfully suggested that if the Planning Authority had concerns in relation to the amount of cut and fill required to accommodate the proposed development it should have requested further information in relation to this issue as part of its additional

information request. There are no details contained on file as to the amount of material to be excavated or imported in order to facilitate the proposed development. Furthermore, having inspected the site it is not considered that significant levels of excavation would be required in order to accommodate an access road to serve the lands in question. I would reiterate to the Board that the lands in question are zoned for development and therefore an access road would be required to facilitate any development on the said lands. I would agree with the applicant in this instance that it would not be considered unusual or excessive to provide an access road to serve the lands in question having regard to the topography of the site in the context of the adjoining road to the north. The report submitted as part of the grounds of appeal by SDS in the case of the new access road would be cut through the existing roadside embankment and this will constitute the main excavation works required to facilitate the proposed development. On the basis of the above therefore I consider it disproportionate to refuse planning permission on the basis that the proposal will give rise to excessive levels of excavation and filling on the subject site.

#### **12.4. Proximity to Town Centre/Sequential Tests/Compliance with Retail Planning Guidelines**

- 12.4.1. National and local retail planning policy favours town centres as the location for new retail development. The guidelines emphasise the need to promote town centres through sequential testing. While the proposal is located on lands designated as town centre in the current County Development Plan I would agree with the observer's submission on file that the applicant is in fact incorrect stating that there is an extant permission on the subject site. The Mayo County Council website clearly indicates that planning permission was granted for a retail development on the subject site in 2010. However, there is no indication that this planning permission was extended and therefore it would appear that the life of the permission has expired for some five years. It is also acknowledged that the subject site is located within the 50 kilometre speed zone. However, it cannot be reasonably argued in my opinion that the proposal is located within the core or indeed is contiguous to the core of the town centre of Claremorris. Having inspected the site and the area surrounding the site and notwithstanding the zoning designation, the subject site can be described at best as "edge of town" or at worst out of town having regard to the fact that a small area of land which is currently used as agriculture separates the

subject site from the GAA pitch to the west. The subject site is visually disconnected with the town centre and as pointed out in the observers submission there is no streetscape or indeed roadside development along the entirety of the southern edge of the N60 until the Aldi store is encountered closer to the town centre, some 170 metres from the subject site.

12.4.2. The grounds of appeal argue that an appropriate and robust sequential test was undertaken in coming to the conclusion that the proposal represented the preferred site. Having inspected the subject site and other sites within the town including an alternative site at the eastern end of Chapel Lane, I am of the opinion that the site in Chapel Lane would be a more appropriate site in the context of the sequential test and would constitute a more suitable site in the context of locating new largescale convenience stores closer to the existing town centre and commercial core. The site at Chapel Lane which already has the benefit of planning permission for a retail store is located c.200 metres east of where Main Street, Dalton Street, the Ballyhaunis Road and Mount Street converge within the town (town centre core). The site at Chapel Lane is located contiguous to an existing Supervalu and development of the site at Chapel Lane would in my view be more appropriate on the basis that it would consolidate and reinforce retail development along and adjacent to the Main Street. The site at Chapel Lane (which I reiterate already has the benefit of planning permission for a retail convenience store) would in my view be a much more suitable site in terms of fulfilling the overriding objectives of favouring town centres as a location for retail development.

12.4.3. The applicant in his grounds of appeal acknowledges that the site is closer to the town core than the appeal site but goes on to state that the quality of the link to the town centre however is relatively poor with no coherent footpath connection for instance. I have visited the site at Chapel Lane (photographs attached) and I note that there is, with the exception of that part of Chapel Lane that forms the frontage to the site, a continuous footpath linking Main Street with the subject site. The footpath along the northern boundary of the site can be developed as part of any planning permission. In fact, I note from the site layout plan under P17/1020 that it is proposed to incorporate a footpath along the northern boundary of the site contiguous to Chapel Lane. The lack of footpaths as suggested by the applicant does not serve as an impediment to developing the subject site in my opinion.

12.4.4. It also appears that the applicant in the case of P17/1020 was Lidl Ireland the same applicant as is the case in the current application and appeal before the Board. In applying and securing planning permission for a discount store on the Chapel Lane site suggests that the applicants were fully satisfied that the site at Chapel Lane was a suitable site in order to accommodate retail development. Indeed, the conclusion contained in the planning report submitted with Application P17/1020 considers that the Chapel Lane site “fully accords with all the requirements of the Retail Planning Guidelines and that dedicated pedestrian routes will be provided which guide customers to and from the shop in a safe manner”. The planning report also notes that “a concerted effort has been made to ensure that pedestrians can walk safely from Chapel Lane to the proposed development and that a new pedestrian route will be provided along the southside of Chapel Lane”. (Page 37 of Planning Report). The applicant therefore in my view has failed to demonstrate as to how the site at Chapel Lane, which is closer to the town centre and therefore more appropriate in terms of the sequential test, has subsequently become unsuitable for the development of a convenience foodstore. It is my considered opinion that the site at Chapel Lane which has the benefit of an extant planning permission is a more suitable site in terms of reinforcing and consolidating the town centre in accordance with national guidelines than the current application before the Board.

## 12.5. Retail Impact Assessment

12.5.1. The fact that there is an extant permission for a retail convenience shopping store on the site at Chapel Lane is a material consideration in determining the current application and appeal before the Board. The applicant has presented figures in the Retail Impact Statement which suggests that there is capacity for additional floorspace in the town of Claremorris. It is argued that presently, based on the figures presented in the Retail Impact Statement, there is a spare capacity for spending of c.€18.1 million per annum in the Claremorris Catchment Area. The proposed development currently before the Board on the N60/Kilcolman Road would utilise approximately €11.2 million of this spare capacity. The figures presented in the application therefore suggest that even with the provision of a retail store at Kilcolman Road there would still be a shortfall in the order of €6.9 million. However, were both sites developed for convenience shopping there would, based on the figures presented in the Retail Impact Assessment, be an overprovision of

convenience shopping floorspace within the town. Claremorris already according to the figures presented accommodates a Tesco at the Silverbridge Shopping Centre to the north of the town with a gross floor area of 2,396 square metres, a Supervalu at 1,170 square metres and an Aldi at 968 square metres. The figures presented also suggest that there are an additional 500 square metres of smaller convenience goods operators within the town. If permission was granted for an additional development on the Kilcolman Road this would result in the potential provision of two additional convenience stores providing an additional 4,500 square metres of gross floorspace and an additional net retail sales area of c.2,800 square metres. It is suggested therefore based on the figures presented by the applicant that if both convenience retail stores at Kilcolman Road and Chapel Lane were developed it would result in an overprovision of convenience floor retail space within the town. I have argued above that the site at Chapel Lane which has the benefit of an extant permission is more suitable in terms of consolidating retail and commercial land use within the town centre and therefore more preferable in terms of the proper planning and sustainable development of the area.

## **12.6. Road and Surface Water Issues**

- 12.6.1. The final reason for refusal states that the proposed access onto the N60 which will serve the proposed development and other development in the vicinity could have a detrimental impact on the capacity, safety and operational efficiency of the national road network in the vicinity of the site. The concerns expressed by the Planning Authority appear to be predicated on the submission made by Transport Infrastructure Ireland which notes that an alternative access onto the R331 to service the lands is available. The N60 is a national secondary route and plays an important strategic function in carrying traffic between Castlebar / Claremorris / Ballyhaunis / Castlerea/Roscommon and onto Athlone. It is acknowledged that the subject site is located within the confines of the settlement boundary of Claremorris and that lands contiguous to the section of the N60 within the confines of the town are zoned for development. However, as pointed out in the TII submission an alternative access is available to service the lands in question as the southern boundary of town centre zoned lands fronts onto the R331 Regional Route. The grounds of appeal state that the applicant does not have the sufficient legal interest to gain access onto the R331. It is considered more appropriate that an overall development strategy would be



prepared for the lands between the N60 and the R331 to the east of the town and that this strategy would incorporate a single distributor road serving the lands in question. In terms of protecting the capacity of more strategic routes providing an access onto the designated regional route to the south rather than the N60 to the north would be more preferable.

12.6.2. The TII submission also suggests that there is not sufficient capacity in the surface water drainage network along the N60 to cater for the drainage requirements associated with the development. In response the applicant states that prior to lodging the application the applicants engaged with the Engineering Department of Mayo County Council and the local authority confirmed that the proposed discharge rate would be acceptable and that the existing surface water pipe network in the area which range in size from 375 millimetres in diameter to 650 millimetres in diameter are available to cater for the proposed development. It appears therefore that there is sufficient infrastructure in place along the N60 to cater for any development of the proposed lands. If the Board are minded to grant planning permission in this instance it is suggested that surface water drainage arrangements could be addressed by way of condition.

## 12.7. Other Issues

12.7.1. Finally, I note that the second reason for refusal refers to the proposed development materially contravening Objective KTCS-05. If the Board are minded to grant planning permission in this instance and having regard to the wording of the reasons for refusal, the provisions of Section 37(2)(b) may apply in this instance. It is my considered opinion that the Board could overturn the decision of the Planning Authority based on the criteria set out under Section 37. Most notably the Board could have regard to the fact that the subject lands are zoned for town centre development and on this basis it could be reasonably argued that there are conflicting policies in the development plan as per the provisions of Section 37(2)(b)(ii). It appears rather curious that the Planning Authority would zone lands for town centre uses and then state that the development of the said lands would materially contravene an objective in the development plan which seeks to support the role of the town centre and commercial area within the town.

## 13.0 **Appropriate Assessment Issues**

- 13.1. The subject site is located a considerable distance from Natura 2000 sites in the vicinity. Furthermore, there is no hydrological connection between the subject site and the Natura 2000 sites referred to earlier in my report. The subject site will be served by public infrastructure including foul drainage, surface water drainage and water supply.
- 13.2. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. Having carried out a screening for appropriate assessment it is being concluded that the proposed development individually or in combination with other plans and projects would not be likely to have a significant effect on any Natura 2000 sites in the vicinity in view of their conservation objectives and an appropriate assessment is therefore not required. This determination is based on the distance of the proposed development from European sites in the vicinity and the lack of any hydrological connections to the site and the fact that the site is to be served by public infrastructure. In making the screening determination no account has been taken of any measures intended to avoid or reduce potentially harmful effects of the project on a European site.

## 14.0 **Conclusions and Recommendation**

Arising from my assessment above, I consider that An Bord Pleanála should uphold the decision of Mayo County Council primarily on the basis that there is an extant permission for a discount foodstore supermarket on a more suitable site closer to the town centre and the provision of an additional discount foodstore supermarket in conjunction with the development of the extant permission on Chapel Lane would result in the overprovision of convenience goods floorspace within the town of Claremorris. I therefore recommend that planning permission be refused based on the reasons and considerations set out below.

## 15.0 Reasons and Considerations

Retail development will only be considered where it can be demonstrated that there are no town centre or edge of town centre sites that are suitable, viable and available. The Board is not satisfied on the basis of the information submitted that the extant permission granted for a similar retail convenience foodstore outlet under Reg. Ref. 17/1020 at Chapel Lane does not constitute a more suitable edge of town centre site. The proposed development therefore would conflict with the Guidelines for Planning Authorities – Retail Planning prepared by the Department of the Environment, Community and Local Government in April, 2012 which requires that applications for retail development in edge of town or out of town locations should be assessed against the range of criteria, including the sequential test and that this test should be carried out in a realistic and defensible manner. Furthermore, the Board is not satisfied on the basis of the information submitted with the application that the proposed development in conjunction with the extant permission granted on Chapel Lane for a convenience foodstore under Reg. Ref. 17/1020 would not result in the overprovision of convenience retail floorspace in the town of Claremorris. The proposed development would, therefore, be contrary to the Guidelines for Planning Authorities on Retail Planning and would be contrary to the proper planning and sustainable development of the area.

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Paul Caprani,  
Senior Planning Inspector.

December 7th, 2020.